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Congressional Record

PROCEEDINGS AND DEBATES OF THE 92d CONGRESS, FIRST SESSION

SENATE—*Monday, July 26, 1971*

The Senate met at 12 o'clock noon and was called to order by Hon. ABRAHAM RIBICOFF, a Senator from the State of Connecticut.

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

Eternal Father, Ruler of men and nations, deliver us now from the clash and clamor of the world without, from the tumult and turbulence of our times, and from the confusion of many voices, that we may hear again Thy "still small voice." May this moment of reverence at this shrine of the patriot's devotion give us a sense of Thy presence throughout the day and an awareness of Thy guiding power. And should we lose sight of Thee, we beseech Thee not to lose care of us. Hold ever before our finite minds and our human endeavors the vision of the infinite and the eternal.

Make us unafraid of the world in which we live, prepared for sudden change and the rise of new problems and challenges.

O Thou Guardian of the traveler, be with the voyagers in space, keeping their minds keen and their spirits in tune with Thee.

We pray for all Thy children in this stricken world that peace and justice may come in our time, Thy kingdom come and Thy will be done on earth.

In the Redeemer's name we pray. Amen.

DESIGNATION OF THE ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. ELLENDER).

The second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., July 26, 1971.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. ABRAHAM RIBICOFF, a Senator from the State of Connecticut to perform the duties of the Chair during my absence.

ALLEN J. ELLENDER,
President pro tempore.

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

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States, submitting nominations, were communicated to the Senate by Mr. Leonard, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. RIBICOFF) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

THE JOURNAL

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

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

WAIVER OF THE CALL OF THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the call of the legislative calendar, under rule VIII, be dispensed with.

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

CROP INSURANCE COVERAGE FOR CERTAIN PERSONS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 290, S. 1139.

The ACTING PRESIDENT pro tempore. Is there objection?

There being no objection, the Senate proceeded to consider the bill (S. 1139) to amend the Federal Crop Insurance Act, as amended, so as to permit certain persons under 21 years of age to obtain insurance coverage under such act, which had been reported from the Committee on Agriculture and Forestry with an amendment, on page 1, line 9, after the word "on", strike out "the grounds he is under twenty-one years of age if such person is (1) over eighteen years of age, and (2) otherwise qualifies for insurance under this Act" and insert "the ground that he is under twenty-one years of age if such person is (1) over eighteen years of age, and (2) has a bona fide insurable interest in a crop as an owner-operator, landlord, tenant or sharecropper: *Provided*, That any such person who enters into a Federal Crop Insurance contract shall be subject to the same legal liability and have the same legal rights with respect to such contract as any person over the age of twenty-one years." "; so as to make the bill read:

S. 1139

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Crop Insurance Act, as amended (7 U.S.C. 1501–1519), is amended by adding at the end thereof a new section as follows:

"PERSONS UNDER TWENTY-ONE YEARS OF AGE

"SEC. 520. Notwithstanding any other provision of law, no person shall be denied insurance under this Act solely on the ground that he is under twenty-one years of age if such person is (1) over eighteen years of age, and (2) has a bona fide insurable interest in a crop as an owner-operator, landlord, tenant or sharecropper: *Provided*, That any such person who enters into a Federal Crop Insurance contract shall be subject to the same legal liability and have the same legal rights with respect to such contract as any person over the age of twenty-one years."

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, 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. 92–296), explaining the purposes of the measure.

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

SHORT EXPLANATION

This bill would require Federal crop insurance to be made available to persons between 18 and 21 years of age.

COMMITTEE AMENDMENT

The committee amendment, which was recommended by the Department of Agriculture, would remove the minor's disability and make him fully liable on such contracts.

COST ESTIMATE

The committee estimates that no appreciable additional costs would be incurred in carrying out the bill in any of the 6 fiscal years beginning with the current fiscal year. This estimate agrees with the estimate contained in the attached report of the Department of Agriculture.

DEPARTMENTAL VIEWS

The report of the Department of Agriculture recommending the enactment of the bill with the committee amendment is set out below.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

EXECUTIVE SESSION

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

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

The ACTING PRESIDENT pro tempore. The nomination on the Executive Calendar, under New Report, will be stated.

DEPARTMENT OF DEFENSE

The second assistant legislative clerk read the nomination of Frank P. Sanders, of Maryland, to be an Assistant Secretary of the Navy.

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

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

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

LEGISLATIVE SESSION

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

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

SUCCESSFUL BEGINNING OF APOLLO 15 FLIGHT TO THE MOON

Mr. SCOTT. Mr. President, at 9:34 this morning, three gallant astronauts left the surface of mankind's abode through all of the millennia of time and are soaring heavenward through the atmosphere toward destination moon. The hopes and prayers of the American people go with them. Our wishes for their success are great. Our hopes for their safe return are, of course, paramount.

For all who undertake these perilous missions, there is for the rest of us the period of the bated breath, the time of waiting, and the anticipation of its successful conclusion.

For those who dare the eagle's flight,
Be with them, Lord, through day and night.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the distinguished Senator from Indiana (Mr. HARTKE) is now recognized for 15 minutes.

(The remarks of Mr. HARTKE when he submitted Senate Resolution 156 and the ensuing discussion are printed in the Morning Business section of the RECORD under Submission of a Resolution Relating to Foreign Relations of the United States.)

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

(The remarks of Mr. FULBRIGHT are printed in the RECORD with Mr. HARTKE's remarks on the submission of Senate Resolution 156.)

TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of routine morning business for not to exceed 30 minutes, with a limitation to each Senator recognized of 3 minutes.

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

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

The second assistant legislative clerk proceeded to call the roll.

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

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

WOMEN'S POLITICAL CAUCUS AND HUMAN RIGHTS

Mr. PROXMIRE. Mr. President, the major groups in this country advocating greater rights for women have just completed a major political strategy meeting known as the Women's Political Caucus. I believe it is important to take careful note of the actions taken in that meeting in light of our inaction on the question of ratifying the Convention on the Political Rights of Women.

Regardless of the fact that they constitute over half of the population, women have been treated as second-class citizens in employment, education, and many other areas of national life. Today, American women are uniting in an effort to change their status. In the opening statement of the caucus, Gloria Steinem put it this way:

> We are gathering together, therefore, in a Women's Political Caucus. We share these beliefs: That the self determination of women, more than half the country, is much too large a goal to be partisan issue . . .

The goals of the vast majority of those fighting for equal rights for women are the goals of all Americans. We in the Senate have the opportunity to advance those goals, and to show our solidarity with them. The most obvious step in that effort is to ratify the U.N. Convention on Women's Political Rights, which has been languishing in the Foreign Relations Committee now for a number of years. Many other countries of the world have already approved it.

It contains no provisions which in any way violate existing provisions of national law; it provides only that women be accorded equality in matters of voting, running for political office and holding positions of public responsibility. It will advance the cause of rights for American women, the women of the rest of the world and in fact, the rights of all mankind. I urge its speedy report to and ratification by the Senate.

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

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

The second assistant legislative clerk proceeded to call the roll.

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

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

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The following letters were laid before the Senate by the Acting President pro tempore (Mr. RIBICOFF), and referred as indicated:

U.S. METRIC STUDY, INTERIM REPORT

A letter from the Secretary of Commerce, transmitting, pursuant to law, an interim report stemming from the U.S. Metric Study, prepared by the National Bureau of Standards (with an accompanying report); to the Committee on Commerce.

PROPOSED LEGISLATION TO AUTHORIZE ADDITIONAL FUNDS FOR ACTION

A letter from the Director of Action submitting proposed legislation authorizing additional funds for Action (with accompanying papers); to the Committee on Labor and Public Welfare.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. RIBICOFF):

A joint resolution of the Legislature of the State of California; to the Committee on Interior and Insular Afiairs:

"ASSEMBLY JOINT RESOLUTION No. 36

"Relative to the East Side Division of the Central Valley Project

"Whereas, The proposed East Side Division of the Central Valley Project is needed to meet existing ground water overdrafts in areas along the east side of the San Joaquin Valley; and

"Whereas, The East Side Division offers the only feasible means of delivering supplemental water to these areas to meet increasing domestic, municipal and industrial demands which are worsening the present overdraft condition; and

"Whereas, The East Side Division can be used to improve water quality conditions in the San Joaquin River System and can furnish water to enhance fish and wildlife habitat; and

"Whereas, Eighty-five to 90 percent of the water made available by the initial phase of the East Side Division would serve lands which are now developed; and

"Whereas, This facility would prevent further subsidence of lands on the east side of the San Joaquin Valley, and in so doing would prevent the further loss of ground water storage capacity and the possible

worsening of water quality as lower depths are reached; and

"Whereas, The project is economically and engineeringly feasible, there is a market for the water, and the project would be a worthwhile addition to existing Central Valley Project facilities; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to expedite the processing of, so as to authorize as early as possible, the proposed East Side Division of the Central Valley Project, along with other proposed additions to the Central Valley Project to the end that water can be made available to meet overall state demands; and be it further

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

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. COOK, from the Committee on the Judiciary, without amendment:

S. 79. A bill for the relief of the Glover Packing Co. (Rept. No. 92–303).

By Mr. BURDICK, from the Committee on the Judiciary, without amendment:

H.R. 3201. An act for the relief of Faith M. Lewis Kochendorfer; Dick A. Lewis; Nancy J. Lewis Keithley; Knute K. Lewis; Peggy A. Lewis Townsend; Kim C. Lewis; Cindy L. Lewis Kochendorfer; and Frederick L. Baston (Rept. No. 92–306).

By Mr. FONG, from the Committee on the Judiciary, without amendment:

S. 592. A bill to repeal the Emergency Detention Act of 1950 (title II of the Internal Security Act of 1950) (Rept. No. 92–304); and

S. 1418. A bill for the relief of William Phillips (Rept. No. 92–305).

EXECUTIVE REPORTS OF COMMITTEES

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

By Mr. JACKSON, from the Committee on Interior and Insular Affairs:

John W. Larson, of California, to be an Assistant Secretary of the Interior.

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 Mr. CRANSTON (for himself and Mr. TUNNEY):

S. 2342. A bill to create a Golden Gate National Recreation Area. Referred to the Committee on Interior and Insular Affairs.

By Mr. SPARKMAN:

S. 2343. A bill for the relief of Walter Anders. Referred to the Committee on the Judiciary.

By Mr. RANDOLPH (for himself and Mr. CHURCH):

S. 2344. A bill to amend the Foreign Assistance Act of 1961 to provide for international drug control assistance and to prohibit foreign assistance from being provided to foreign countries which do not act to prevent the illegal production, processing, or distribution of narcotic drugs used or intended to be used in the United States or by U.S. Armed Forces outside the United States. Referred to the Committee on Foreign Relations.

By Mr. HATFIELD:

S. 2345. A bill to amend the Internal Revenue Code of 1954 to allow an income tax deduction for donations of blood. Referred to the Committee on Finance.

By Mr. STEVENS:

S. 2346. A bill relating to manpower requirements, resources, development, utilization, and evaluation, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. CHILES:

S.J. Res. 140. A joint resolution to establish a temporary Cuban Refugee Study Commission. Referred to the Committee on the Judiciary.

By Mr. FULBRIGHT (by request):

S.J. Res. 141. A joint resolution to authorize appropriations for expenses of the Council on International Economic Policy, and for other purposes. Referred to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CRANSTON (for himself and Mr. TUNNEY):

S. 2342. A bill to create a Golden Gate National Recreation Area. Referred to the Committee on Interior and Insular Affairs.

Mr. CRANSTON. Mr. President, on behalf of myself and Senator TUNNEY, I introduced for appropriate reference, a bill to create a Golden Gate National Recreation Area.

Many people across the United States know that stretching northward from a point 20 miles north of San Francisco, 65,000 acres are now being transformed into the Point Reyes National Sea Shore confirmed to public use by the 86th Congress. The proposed bill, introduced today, will connect that National Seashore to a National Recreational Area stretching 50 miles down the coast from Point Reyes to the southern end of the city of San Francisco.

The establishment of this recreation area will help serve the congressional purpose of bringing the national parks to the people. It would provide an opportunity both for residents of the Bay area and for visitors to San Francisco to travel a short distance to enjoy the educational and recreational benefits of a national park area.

Presently 5 million people live in the San Francisco Bay area near the proposed national recreation area. Current population projects indicate that in the year 2020, the population of the area will reach 15 million. Putting this land aside for recreational use would bar high density development from still unspoiled Western Marin County, and save the San Francisco Bay area from many of the problems of urban congestion.

Historical precedent decrees open access to the five forts on both sides of the Golden Gate Bridge. The five old forts which overlooked the Golden Gate are rich in history and are scenically situated. The key fort is the world famous Presidio which dates back to Spanish California days 195 years ago. Established in 1776, it was taken over by the Mexicans in 1822, and became a U.S. post after it was taken—captured—by the Marines of the U.S. Portsmouth in 1846.

The other forts lining the bay are similarly rich in heritage. Fort Point was established by the Spanish in 1793 and was taken without a shot by Fremont and a small launch-borne party from Sausalito in 1846. Fort Mason, established in 1796 as the "Baterina, San Jose," was the official residence for commanding generals for the department of the West from 1865 to 1943. Preserving these forts in a national recreational area will keep intact these historical reminders of our past for the edification of future generations.

A national recreation area also will preserve in their pristine state large amounts of acreage with unique animal and plant life. Included in the park would be the Audubon Canyon Ranch which includes a second grove of redwoods that is a major nesting place for the great blue herons and American egrets. The redwoods are so located that visitors can walk a winding trail to an overlook from which to peer down on the nesting habits of the two rare species.

The rookerys are situated right next to the Bolinas Lagoon—one of the few remaining tidal basins in the whole regions. One hundred fifty bird species feed at this spot and many of them breed there. Last year 30,000 people came to watch and listen. They learned much about the food-chain sequence, and they saw first hand some clear links in a lagoon ecosystem, a revealing microcosm of the marine life cycle.

The Duxbury Reew would be another part of the Golden Gate recreation area. This reef creates a tidal pool where unique forms of marine life breed. These pools are inhabited by diverse and strange forms, some resembling the oldest fossils. No environment can boast more astonishing examples of successful survival adaptations: the sea star which can regrow several limbs; the acorn barnacle which secretes its own protective shell; the flower-like anemone whose tentacle cells paralyze small marine animals on touch and the chiton mollusk which has a tiny rasp for scraping algae off rocks. Protected by the reef, they can withstand the continual surge of Pacific breakers, being alternately drenched by the ocean and warmed by the sun. They are threatened only by extensive, indiscriminate collection by man. Inclusion of the reef in the recreation area will halt this wanton destruction and preserve the reef as an educational facility for all Americans.

Besides these ecological preserves, the Golden Gate recreational area will include vast stretches of land covered with redwoods, pine, and other vegetation to be explored and enjoyed by man. Much of the land is mountainous and will provide challenging opportunities for climbing and nature walks.

Finally the park will include areas

within the city of San Francisco that are in easy distance by foot or bus. These portions of the park will allow people rich and poor, old and young, to see close to their homes wild animal and plant life in their natural settings. Nature so close at hand can work wonders in making otherwise unbearable urban living refreshing, enjoyable and salutary to body and soul alike.

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

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

S. 2342

A bill to establish a national recreation area in San Francisco and Marin Counties, California

Be it enacted by the Senate and House of Representatives of the United States of America in Congress, assembled,

ESTABLISHMENT

SECTION 1. In order to preserve for public use and enjoyment certain areas of Marin and San Francisco Counties in California, many of which are surplus public lands, possessing unique natural, historic, scenic, and recreational values, and in order to provide for the maintenance of needed recreational open space necessary to urban environment and planning, the Secretary of the Interior (hereinafter referred to as the "Secretary") shall establish a national recreation area (hereinafter referred to as the "recreation area"). In the management of the recreation area, the Secretary shall utilize the resources in a manner which will provide for recreational and educational opportunities consistent with sound principles of land use planning based on a comprehensive, balanced, and coordinated plan of land use and management. In carrying out the provisions of this Act, the Secretary shall preserve the recreation area, as far as possible, in its natural setting, and protect it from development and uses which would destroy the scenic beauty and natural character of the area.

COMPOSITION

SEC. 2. (a) The recreation area shall comprise the following land areas together with adjacent submerged lands and adjacent water areas not to exceed one-quarter of a mile offshore as generally depicted on the map entitled "A Proposed Golden Gate National Recreation Area Boundary Map" Number— and dated—, which shall be on file and available for public inspection in the offices of the National Park Services of the Department of the Interior:

(1) those areas of Marin County commonly known as Marincello (2,138 acres), The Witter Ranch (923 acres), the Green Gulch Ranch (820 acres), the Slide Ranch (133 acres), the Gaddell property (150 acres), and the Banducci property;

(2) the following described property in Marin County, described generally as those parcels bounded on the north by Sir Francis Drake Boulevard; on the east by Sir Francis Drake Boulevard to its intersection with Samuel P. Taylor State Park on the northerly side thereof, thence along the westerly boundary of Samuel P. Taylor State Park to its intersection with the land of the Marin Municipal Water District known generally as the Kent, Lagunitas, Alpine, and Bon Tempi Lakes property, thence along the westerly boundary of said Marin Municipal Water District property to its intersection with Mount Tamalpais State Park, and thence along the westerly boundary of Mount Tamalpais State Park; on the south by the westerly and northerly boundary of Mount Tamalpais State Park; and on the west by State Highway Numbered 1 to its intersection with Sir Francis Drake Boulevard at Olema; and also including the land lying to the west of State Highway Numbered 1 which borders on the easterly side of Bolinas Lagoon; and excluding the property within the community of Stinson Beach;

(3) an area along the southern and easterly boundary of the Presidio including but not restricted to the Julius Kahn public playground. The site of the proposed El Polin Elementary School, and the area east of Arguello Boulevard including the Inspiration Point area, and the area southeast of the Babe Ruth Baseball Park extending to and past Presidio Boulevard to the Presidio boundary on the southeast; and

(4) that area commonly known as Sutro Baths (12.5 acres).

(b) There shall be transferred to the Secretary, without consideration, for inclusion in the recreation area, the following Federal lands:

(1) the former military posts known as Forts Barry, Baker, Funston, Cronkhite, and the former Navy Net Depot at Tiburon;

(2) Fort Funston, Fort Miley, and 3.4 acres of land adjacent to the United States Veterans Hospital administered by the United States Navy, Fort Mason, and the Fort Point National Historic Site;

(3) those portions of the Presidio of San Francisco, more specifically described as follows:

(A) the area bounded by San Francisco Bay on the north, Lyon Street on the east, Doyle Drive and United States Highway 101 to the point due north of the northwest corner of San Francisco National Cemetery, thence along Lincoln Boulevard to its intersection with El Camino Del Mar and the northern boundary of Baker Beach State Park on the south and the Pacific Ocean on the west;

(B) that area bounded on the north by Kobbe Avenue between Lincoln Boulevard and Washington Boulevard, on the east by Washington Boulevard to its western intersection with Compton Road, thence due south to the northern boundary of the United States Public Health Service hospital, thence along the boundary of said hospital to its intersection with 15th Avenue and the southern boundary of the Presidio of San Francisco; on the south by the southern boundary of the Presidio and on the west by Lincoln Boulevard. Any military housing and any military installation within the boundaries described in this subsection which is considered by the President to be vital to the needs of the United States is hereby excepted;

(C) those remaining portions of that area of the Presidio of San Francisco, known generally as Fort Scott, and described more particularly as that area bounded on the north by Lincoln Boulevard, on the east by Lincoln Boulevard to the intersection of Lincoln Boulevard with McDowell Avenue, and thence from said intersection to the easterly pillar of a gateway in the northwesterly side of San Francisco National Cemetery, thence from said easterly gate pillar southwesterly along the northwesterly side of the cemetery wall and its prolongation to an intersection with Park Boulevard, and thence along Park Boulevard to its intersection with Washington Boulevard, on the south by Washington Boulevard, and on the west by the Washington Boulevard, to its intersection with Kobbe Avenue, thence along Kobbe Avenue to its intersection with Lincoln Boulevard, and thence along Lincoln Boulevard; and

(D) the Presidio golf course.

SEC. 3. (a) The Secretary is authorized to enter into such agreements with the State of California and its political subdivisions as may be necessary to provide for the joint operation of any of the recreation area and any of the adjoining park lands owned by such State or political subdivision and for operation of joint tourist facilities, including ferries and other means of transportation.

(b) The Secretary is authorized to accept the donation by the State of California of any park or recreation lands immediately adjacent to the recreation area, if such donation is made without charge to the United States.

(c) The Secretary is authorized to accept the donation by the State of California of Angel Island, Bakers State Beach, James D. Phelan State Beach, Marin Headlands State Parks, and Seal Rocks State Beach.

(d) The Secretary is authorized to accept donation of the following properties from the city and county of San Francisco, its subdivisions, or the State of California and its lessees: The Marina Green, Marina Yacht Harbor, Aquatic Park, San Francisco Maritime State Historical Park, Ocean Beach, Lincoln Park (excepting the Palace of the Legion of Honor).

SEC. 4. The Secretary is authorized to set aside areas for such navigation aids as may be necessary on any part of the recreation area.

SEC. 5. Any acquisition of lands, waters, or interests therein shall not diminish any existing rights-of-way or easements which are necessary for the transportation of persons or materials to or from the Presidio of San Francisco or any military installations located completely within the recreation area.

SEC. 6. Any property of the United States bordering San Francisco Bay, or Suisun Bay, or the recreation area, which is declared surplus to the needs of the United States after the date of enactment of this Act shall, upon such declaration, become a part of the recreation area, unless the Secretary shall expressly declare that such property is not needed for the recreation area, in which case such property shall be disposed of in accordance with the otherwise applicable provisions of law.

SEC. 7. Real property required to be transferred to the Secretary by this Act, includes all right, title, and interest of the United States in and to any land beneath any navigable waters of the United States within or contiguous to such real property.

ACQUISITION

SEC. 8. (a) Within the boundaries of the recreation area, the Secretary may acquire land, water, and interests therein by donation, purchase with donated or appropriated funds, exchange, transfer, or by such other means as he deems in the public interest. Any Federal property within the recreation area shall be transferred by the agency having custody thereof, without consideration, to the administrative jurisdiction of the Secretary for the purposes of the recreation area.

(b) (1) As of the effective date of this Act, there is hereby vested in the United States all right, title, and interest in, and the right to immediate possession of, all real property within the boundaries of the recreation area, except real property owned by the State of California or a political subdivision thereof and except as provided in paragraph (3) of this subsection. The Secretary shall allow for the orderly termination of all operations on real property acquired by the United States under this subsection, and for the removal of equipment, facilities, and personal property therefrom.

(2) The United States will pay just compensation to the owner of any real property taken by paragraph (1) of this subsection. Such compensation shall be paid either:

(A) by the Secretary of the Treasury from money appropriated from the Land and Water Conservation Fund, including money appropriated to the fund pursuant to section

4 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–7), upon certification to him by the Secretary of the agreed negotiated value of such property, or the valuation of the property awarded by judgment, including interest at the rate of 6 per centum per annum from the date of taking the property to the date of payment therefor; or

(B) by the Secretary, if the owner of the land concurs, with any federally owned property available to him for purposes of exchange pursuant to the provisions of subsection (c) of this section; or

(C) by the Secretary using any combination of such money or federally owned property.

Any action against the United States for the recovery of just compensation for the land and interests therein taken by the United States by this subsection shall be brought in the Court of Claims as provided in section 1491 of title 28, United States Code.

(3) This subsection shall apply to ownerships of one acre or less only if such ownerships are held or occupied primarily for nonresidential or nonagricultural purposes, and if the Secretary gives notice to the owner within twelve months after the effective date of this Act, of the application of this paragraph. Notice by the Secretary shall be deemed to have been made as of the effective date of this Act. The district court of the United States for that district in which such ownerships are located shall have jurisdiction to hear and determine any action brought by any person having an interest therein for damages occurring by reason of the temporary application of this paragraph, between the effective date of this Act, and the date upon which the Secretary gives such notice. Nothing in this paragraph shall be construed as affecting the authority of the Secretary to acquire such areas for the purposes of this Act.

(c) If any individual tract or parcel of land acquired is partly inside and partly outside the boundaries of the recreation area the Secretary may, in order to minimize the payment of severance damages, acquire the whole of the tract or parcel and exchange that part of it which is outside the boundaries for land or interests in land inside the boundaries or for other land or interests in land acquired pursuant to this Act, and dispose of so much thereof as is not so utilized in accordance with the provisions of the Federal Property and Administrative Services Act of 1949, as amended. The cost of any land so acquired and disposed of shall not be charged against any limitation on authorized appropriations contained in this Act.

(d) The owner of improved property on the date of its acquisition by the Secretary under this Act may, as a condition of such acquisition, retain for himself and his heirs and assigns a right of use and occupancy of the improved property for noncommercial residential purposes for a definite term of not more than twenty-five years or, in lieu thereof, for a term ending at the death of the owner or the death of his spouse, whichever is later. The owner shall elect the term to be reserved. Unless the property is wholly or partially donated to the United States, the Secretary shall pay the owner the fair market value of the property on the date of acquisition minus the fair market value on that date of the right retained by the owner. A right retained pursuant to this section shall be subject to termination by the Secretary upon his determination that it is being exercised in a manner inconsistent with the purpose of this Act, and it shall terminate by operation of law upon the Secretary's notifying the holder of the right of such determination and tendering to him an amount equal to the fair market value of that portion of the right which remains unexpired.

(e) The term "improved property", as used in subsections (d) and (e), means a detached, noncommercial residential dwelling, the construction of which was begun before June 1, 1971, together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures accessory to the dwelling which are situated on the land so designated.

(f) The Secretary shall have, with respect to any real property acquired by him in that parcel described in section 2(a)(2) of this Act, authority to sell or lease the same to the former owner under such conditions and restrictions as will assure that it is not utilized in a manner or for purposes inconsistent with this Act or the Master Land and Water Use Management Plan described in section 9(b)(1) of this Act. Exercise of said authority by the Secretary, however, will not prevent him from acquiring such property at any future date should he deem the same necessary and appropriate to carrying out the purposes and provisions of this Act.

(g) In exercising his authority to acquire property by exchange, the Secretary may accept title to any non-Federal property within the boundaries of the recreation area, outside of such boundaries within the limits prescribed in this Act. Notwithstanding any other provisions of law, the Secretary may acquire such property from the grantor by exchange for any federally owned property under the jurisdiction of the Bureau of Land Management in California, except property needed for public use and management, which he classifies as suitable for exchange or other disposal, or any federally owned property he may designate. Such federally owned property shall also be available for use by the Secretary in lieu of, or together with, cash in payment of just compensation for any real property taken pursuant to this Act. The values of the properties so exchanged either shall be approximately equal or, if they are not approximately equal, the value shall be equalized by the payment of cash to the grantor or to the Secretary as the circumstances require. Through the exercise of this exchange authority, the Secretary shall, to the extent possible, minimize economic dislocation and the disruption of the grantor's commercial operations.

(h) Notwithstanding any other provision of law, the Secretary shall have the same authority with respect to contracts for the acquisition of land and interests in land for the purposes of this Act as was given the Secretary of the Treasury for other land acquisitions by section 34 of the Act of May 30, 1908, relating to purchase of sites for public buildings (35 Stat. 545), and the Secretary and the owner of land to be acquired under this Act may agree that the purchase price will be paid in periodic installments over a period that does not exceed ten years, with interest on the unpaid balance thereof at a rate which is not in excess of the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities on the installments. Judgments against the United States for amounts in excess of the deposit in court made in condemnation actions shall be subject to the provisions of the Act of July 27, 1956 (70 Stat. 624) and sections 2414 and 2517 of title 28, United States Code.

(i) All Federal lands and interest in lands in Marin or San Francisco Counties (with the exception of the Presidio of San Francisco) on the border of the San Francisco Bay or the Pacific Ocean and that heretofore or hereafter are declared excess to the needs of the United States shall be transferred to the administrative jurisdiction of the Secretary without a transfer of funds. If the Secretary expressly declares that such property is not needed for the recreation area, such property shall be disposed of in accordance with the otherwise applicable provisions of law.

(j) Notwithstanding other provisions of law, all rights, title, and interest in Federal lands in the Presidio of San Francisco that heretofore or hereafter are declared excess to the needs of the United States Army shall be transferred to the jurisdiction of the Secretary of Interior as a part of the Golden Gate National Recreation Area.

ADMINISTRATION

SEC. 9. (a) The Secretary shall administer the recreation area in accordance with the Act of August 25, 1916 (39 Stat. 535), and the Act of August 21, 1935 (49 Stat. 666), and the Act of September 13, 1962 (76 Stat. 538).

(b)(1) In the administration, protection, and use of the recreation area, the Secretary shall prepare and publish within twelve months after the date of enactment of this Act a master land and water use management plan (hereinafter referred to as the "master plan"), which shall include specific provisions for—

(A) use of the facilities on the San Francisco side of the recreation area to provide for the optimal benefits of public recreation, consistent with maximum retention and creation of open space; and

(B) protection of the Marin side of the recreation area in order to preserve the natural scenic beauty of the area.

(2) Within six months after the date of enactment of this Act the Secretary shall prepare and publish a tentative land and water use management plan (hereinafter referred to as the "tentative plan").

(3) In the preparation of the tentative and master plans the Secretary shall consult with the Planning Commissions and Boards of Supervisors of Marin and San Francisco Counties, and the San Francisco Bay Conservation and Development Commission.

(4) In the preparation of both the tentative and master plans the Secretary shall conduct public hearings regarding the terms, provisions, and effects of said plans. The public shall have the right to propose the provisions or contents of the master plan, and to present evidence and testimony with regard thereto at each hearing. The Secretary shall conduct such hearings in both San Francisco and Marin Counties.

(5) The Secretary shall commence implementation of the master plan immediately upon the publication of the same.

(6) The Secretary shall follow the same procedure outlined above as to any proposed amendments to said master plan subsequent to the preparation and publication of the same, noticing and holding public hearings thereon.

(c) The Secretary is authorized to issue such regulations as may be necessary to carry out the provisions of this Act.

(d)(1) There shall be no new construction of any building or structure in the area of the Presidio of San Francisco not described in section 2(b)(3)(A)–(D) of this Act without—

(A) prior written approval and consent of the Secretary; and

(B) prior demolition of a building or structure of the same or greater floor area on the same or an equivalent site.

(2) There shall be no change in the use of any building or area in the Presidio of San Francisco not described in section 2(b)(3)(A)–(D) of this Act, without the prior written consent and approval of the Secretary.

No part of the Presidio of San Francisco shall be relinquished by the United States.

(3) There shall be no change in the use of any building or area privately owned or leased within the designated boundaries of the recreation area without the prior written consent and approval of the Secretary.

(4) The Secretary in evaluating requests for consent and approval of proposed new construction or proposed changes in use shall consider any potential adverse effects on the environment within the boundaries of the recreation area and any potential impairment of the usefulness and attractiveness of the lands and waters within the designated boundaries of the recreation area.

SEC. 10. The recreation area shall be known as the Juan Manuel de Ayala National Recreation Area.

Mr. TUNNEY. Mr. President, I am pleased to join my senior Senator (Mr. CRANSTON) in introducing today the Golden Gate National Recreation Area legislation. There are few spots in the entire country which compare both in beauty and charm with the areas in San Francisco and Marin Counties which will be covered by the provisions of this bill. This legislation will assure that this marvelous region is preserved against the pressure of urban development and commercialization.

Included in the recreation area are some of the most beautiful and unspoiled lands in all California. The recreation area would begin at the south end of the Point Reyes National Seashore and would sweep southward between the coast and ridgetops, skirting the communities of Bolinas and Stinson Beach, to the Golden Gate. In San Francisco proper, the recreation area would split into two prongs, one segment following along the bayshore nearly to Fisherman's Wharf, and the other following the coast southward almost to the San Mateo County line. It will include all Federal and private property on the Marin coast, as well as approximately one-third of the Presidio, Crissy Airfield, and the golf course, and Forts Mason and Miley.

I am especially pleased that this bill will provide for the eventual transfer of all the Presidio lands to park status as part of the recreation area, whenever they are released by the Army. I think that this will help insure that this historic area will be forever reserved for the use of the public. In this connection, I am aware that questions have been raised about the precise relationship between the Presidio and the park, and about the best way to insure the park remains an unspoiled, protected area for all who visit San Francisco. I will follow the progress of this bill with the closest attention to this problem and will act whenever necessary to accomplish this goal.

Provision is also made for the inclusion of other lands in the Gold Gate headlands, should the city and State governments choose to donate them to the Federal Government. Thus, the bill would bring nearly 9,100 acres of land into the public domain for recreational uses in the future. As population and land-use pressures in the San Francisco Bay area increase, as inexorably they must, the value of these headlands retained as open space for public use can only grow.

At least as important as the recreational import of this bill, however, is the guarantee of indigenous wildlife preservation which it also implies. Urban development now threatens to disrupt or destroy the natural breeding grounds of literally hundreds of unique species of fish and wildlife. This bill recognizes this growing danger and intervenes to guarantee that these crucial coastal and tidal areas will be protected in their natural state.

Seldom does the Senate have such an opportunity to preserve, for the enjoyment of future generations, such splendid lands as are included in this bill. And, unfortunately, seldom is the need for prompt congressional action more critical than in this case.

Developers, Government agencies, private residents, and the military all have set their eyes on various sections of land covered by this bill. If the Congress acts decisively by adopting this legislation now, it can guarantee that the entire Golden Gate headlands and associated areas will be preserved in their natural state. Without such Federal action, now, no guarantee can be made that the open space will be retained. It is, therefore, with the greatest enthusiasm and optimism that I join in introducing this bill and recommend it to the closest attention of my colleagues. On behalf of Californians and all Americans, I urge the adoption of this bill at the earliest possible date.

By Mr. RANDOLPH (for himself and Mr. CHURCH):

S. 2344. A bill to amend the Foreign Assistance Act of 1961 to provide for international drug control assistance and to prohibit foreign assistance from being provided to foreign countries which do not act to prevent the illegal production, processing, or distribution of narcotic drugs used or intended to be used in the United States or by U.S. Armed Forces outside the United States. Referred to the Committee on Foreign Relations.

INTERNATIONAL DRUG CONTROL BILL

Mr. RANDOLPH. Mr. President, for myself and Senator CHURCH, I introduce, for appropriate reference, a bill to provide for an international drug control program.

I have for some time been deeply disturbed by the fact that so many of our young people have involved themselves in the so-called drug culture, that world of unreality, of irresponsibility, of crime, of despair. I know other Members of Congress share my concern.

The use of psychotropic and narcotic drugs has increased alarmingly. Children and youths from all economic and social backgrounds have been poisoning their bodies and their minds to such an extent that a drug epidemic now rages in our land. And it is revealed that at least 10 percent of the soldiers we have sent to serve in Southeast Asia are returning home as heroin addicts. A far higher percentage of these young men are frequent smokers of marihuana, or "pot," and users of amphetamines, barbiturates, mescaline, and LSD.

HEROIN ADDICTION INCREASING

The ravaging effects of drug abuse and drug addiction are great, yet we have only limited knowledge of the extent of the problem. We do know that there are at least 250,000 heroin addicts in America, but some experts say that the true figure is more than likely as high as 1 million users and addicts.

The addiction statistics for soldiers returning to this country from Vietnam have been widely quoted. It is said that there are between 30,000 and 40,000 young soldiers who have returned to this country with a heroin habit. But Dr. Joel Fort, a San Francisco authority on drug addiction, says that some 3 million soldiers have passed through Southeast Asia during the 10 years of American involvement in Vietnam, and that—

If just 10 percent of them turned on to heroin, that's 300,000 and that's a very conservative estimate. I think it is likely more than that.

Dr. Fort has urged the Federal Government to withdraw all military and economic aid from any government involved in heroin production. David Wellisch, coordinator of psychiatric services for the Haight-Ashbury Free Clinic agrees, and says:

We've had at least 200 returned veterans on heroin come to us in the last year. That's about 10 percent of everybody we've seen here. But it's not just the veterans, it's their wives too. And it's getting worse.

New York City has better drug abuse statistics than perhaps any other American city. There are 150,000 addicts in New York. It is reported that Central Harlem alone accounts for 40,000 of these.

In New York City 1,000 babies are born each year as heroin addicts, for a mother's addiction is passed prenatally to her children.

In many of our major cities and their suburbs, drugs have been introduced to very young schoolchildren. Heroin is even invading the elementary schools. I recall a news report not too long ago of a New York boy, age 9, who died from a heroin overdose.

The heroin plague is growing in New York and across the land—lives are being snuffed out, many more lives are being ruined forever.

ECONOMIC IMPACT OF DRUG ADDICTION

Aside from the personal and human tragedy of drug abuse and addiction, there is a terrible economic impact, which grows with each passing day. It takes money to support a drug habit, and much of it. The economic cost to this Nation is believed to run as high as $10 billion per year. The true dollar amount may be much higher. There are studies of New York City which indicate that theft solely by addicts living or operating in Central Harlem amounted to $2.3 billion in 1970. Since addiction is growing, this dollar figure will also grow.

CRIME AND THE ADDICT

Together with the economic impact of drug addiction is the crime associated with it. Experts now estimate that fully 50 percent of the crimes committed in our major cities today is drug related.

And what of the insidious, unseen crime of the evil provider of heroin and other drugs? Since the poppy grower receives about $25 per kilogram of opium gum, and since the street price of the processed and diluted heroin derived from that same amount of opium gum is approximately $200,000, someone is making a great sum of money by trading in human misery. Officials have strong reason to believe that the major beneficiaries of the trafficking in heroin and other drugs are organized crime, and the so-called syndicates. A new "sales promotion" gimmick of organized crime involves the provision of a free supply of heroin for 3 months. After this time, children will be "hooked," and the supplier has a new, assured source of revenue.

Organized crime is the major distributor and wholesaler of heroin in this country, and certainly we must attack the problem at that level. However, what of the producer, the processor, the shipper?

THE OPIUM POPPY AND HEROIN OVERSEAS

As I have said, each grain of heroin used in the United States is illegally imported here. Based on the findings of their worldwide study, Representatives MORGAN F. MURPHY and ROBERT H. STEELE submitted a comprehensive report entitled, "The World Heroin Problem," to the U.S. House Committee on Foreign Affairs. That report states:

> The bulk of the heroin entering the United States is grown in Turkey and processed in Marseilles.

Although experts estimate that some 80 percent of the heroin now being peddled in the United States comes from Turkey, most of the world's supply of illegal opium originates in the Far East. Thailand, Burma, and Laos account for more than half the world's crop of illegal opium, which is estimated to total from 1,250 to 1,400 tons.

Thus, the recent encouraging announcement by the Turkish Government that it was taking a number of significant steps to end the production of opium in that country, concluding with the total termination of opium poppy growing by the end of 1972, may have little impact on heroin production in the long run. Dealers in illegal opium will, undoubtedly, be quick to shift their operations to the Far East, which even now is becoming an increasingly important source of supply for those who smuggle heroin into the United States.

It is for this reason that the United States must immediately initiate an offensive on all fronts to totally eliminate the production of opium in the world. If we do not mount such an all out effort, I fear that subsequent piecemeal attempts to stem the importation of heroin into America will be as effective as holding back a tidal wave with a wall of sand.

The House Foreign Affairs Committee report states:

> Once the poppy pod is cut and the opium gum extracted and sold on the illegal market, the battle to prevent the end product, heroin, from reaching the addict is lost. The problem must be attacked at the source—in the poppy fields of the Near and Far East, principally in Turkey, Thailand, Burma, and Laos.

Because one of the most critical steps in eliminating heroin addiction in the United States is to dry up the source, I am introducing an international drug control measure today. I am pleased that the able Senator from Idaho (Mr. CHURCH,) who chaired the hearings in the Committee on Foreign Relations on the international drug traffic problem, is cosponsoring my proposal.

EXPLANATION OF PROVISIONS

Mr. President, it is my opinion, after reviewing all the pending legislation on international drug control, that none is as strong as it should be, particularly with respect to the impact of drugs on American troops stationed abroad. It is critical to the health and safety of this Nation's citizens that every possible effort must be made to eliminate the drug epidemic.

The concept of my proposal is not unique or complex. It involves both an inducement and a penalty for countries in which poppies, opium, morphine, heroin or other narcotic drugs are produced, processed, or distributed for use in the United States or by our Armed Forces stationed outside the United States. With some important modifications, my measure combines the provisions of S. 1188, introduced by Senator CHURCH, and bills introduced by other Senators.

It is my belief that these twin approaches to the problem are required if we are to hope for a worldwide curb on drug traffic. It is not sufficient, in my opinion, to provide economic assistance to countries whose cooperation we are seeking.

The first section of the bill requires the termination of foreign assistance to any country which does not take effective measures in cooperation with the United States to prevent narcotic drugs produced or processed in such country from unlawfully entering the United States or from being shipped or distributed for use by U.S. Armed Forces stationed overseas.

The second section of the bill authorizes the President to furnish assistance to any friendly foreign country to control or eliminate the production, processing or distribution of narcotic and psychotropic drugs.

Mr. President, this measure is only one important step this country must take if we are to wipe out the terrible blight of drug addiction that is sweeping like a plague across our land. The President's recent message on the subject contains other necessary initiatives. The capable and knowledgeable Senator from Iowa (Mr. HUGHES) and his Subcommittee on Alcoholism and Narcotics of which I am a member have developed, and will develop, other programs.

Is a generation of heroin addicts to be the end product of the American dream? Are we to find that this America of ours, full of promise and the potential for greatness among the greatest civilizations of history, is to tolerate a system which will produce millions of freaked-out, turned-on addicts, with no wills and decayed minds?

We cannot countenance such an eventuality. We have an absolute, immediate, imperative duty to do all that is necessary to stop this cancerous, narcotic evil from casting its black shadow over every corner of our land.

It is my understanding that the Committee on Foreign Relations will soon consider the foreign assistance bill in executive session. I am hopeful that committee members will incorporate my international drug control proposal—or one equally as strong—into the foreign aid measure which they report to the Senate.

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

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

S. 2344

A bill to amend the Foreign Assistance Act of 1961 to provide for international drug control assistance and to prohibit foreign assistance from being provided to foreign countries who do not act to prevent the illegal production, processing or distribution of narcotic drugs used or intended to be used in the United States or by United States armed forces outside the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 620 of Chapter 1 of Part III of the Foreign Assistance Act of 1961, as amended, is amended by adding at the end thereof the following new subsection:

"(v)(1) The Comptroller General of the United States shall review and determine every six months, beginning six months following the date of enactment of this subsection, (A) the effectiveness of measures being taken by each foreign country to prevent (i) narcotic drugs, partially or completely produced or processed in such country, from unlawfully entering the United States, and (ii) narcotic drugs, partially or completely produced or processed in such country, from being shipped or distributed for use by United States armed forces outside the United States, and (B) whether that country has undertaken appropriate measures to prevent any such narcotic drug from unlawfully entering the United States and from being shipped or distributed for use by United States armed forces outside the United States. The Comptroller General shall, within 30 days following the end of each six month period referred to in this paragraph, make a report to the Congress of his review and determinations. In making his review and determinations, the Comptroller General shall take into account any actions taken by the President under Section 481, Chapter 8, Part I of this Act, and the reactions and responses of foreign governments resulting from such actions.

"(2) Ninety days after the making of any such report to the Congress, any foreign country with respect to which the Comptroller General has reported a determination under paragraph (1)(B) of this subsection that such country has not undertaken appropriate measures to prevent any such narcotic drugs from unlawfully entering the United States or from being shipped or distributed for use by United States armed forces outside the United States, shall thereafter receive no further foreign assistance from the United States; *provided*, that if, upon subsequent review the Comptroller General determines that such country has taken such appropriate measures, foreign assistance may be resumed as provided by law.

"(3) The President is authorized to utilize such agencies and facilities of the Federal Government as he may deem appropriate to assist foreign countries in their efforts to prevent the unlawful entry of narcotic drugs into the United States and the shipment or

distribution of such drugs for use by United States armed forces outside the United States. The President shall keep the Congress fully and currently informed with respect to any action taken by him under this paragraph. In addition to providing such information as it develops, the President shall make a report to the Congress, on any action taken or not taken, on the same date as the report of the Comptroller General required by paragraph (1) of this subsection.

"(4) No provisions of this or any other law shall be construed to authorize the President to waive the provisions of this subsection.

"(5) For the purposes of this subsection—

"(A) 'narcotic drugs' has the same meaning given that term under section 4731 of the Internal Revenue Code of 1954; and

"(B) 'foreign assistance' means any tangible or intangible item provided by the United States government (by means of gift, loan, sale, credit sale, guaranty, or by any other means) under this or any other law to a foreign country, including, but not limited to, any training, service, or technical advice, any item of real, personal, or mixed property, any agricultural commodity, United States dollars, and any currencies owned by the United States Government of any foreign country."

SEC. 2. Part I of the Foreign Assistance Act of 1961 is amended by inserting immediately after Chapter 7 the following new chapter:

CHAPTER 8—INTERNATIONAL DRUG CONTROL ASSISTANCE

"SEC. 481. AUTHORITY.—(a) The President is authorized to furnish assistance to any friendly foreign country, on such terms and conditions he determines necessary, in order to encourage and enable that country to control or eliminate the production, processing, or distribution of narcotic and psychotropic drugs within its boundaries.

"(b) The President is authorized to furnish assistance to any international organization, such as the United Nations Special Fund for Drug Abuse Control, involved in efforts to control or eliminate the production, processing, or distribution of narcotic and phychotropic drugs.

"(c) Such assitance shall be used as follows:

"(1) To aid opium-producing nations in developing alternative crops and markets for such crops.

"(2) To provide new employment opportunities for those who become unemployed as the result of the limitation or eradication of opium production.

"(3) To strengthen the law enforcement and regulatory machinery of countries seeking to control the production, processing, and distribution of dangerous drugs.

"(4) To develop treatment, rehabilitation, and preventive education programs suitable to diverse cultures."

SEC. 3. The provisions of this Act shall be effective on the date of its enactment.

By Mr. HATFIELD:

S. 2345. A bill to amend the Internal Revenue Code of 1954 to allow an income tax deduction for donations of blood. Referred to the Committee on Finance.

Mr. HATFIELD. Mr. President, although less dramatic than many of the medical crises facing our Nation today, I am deeply concerned over the incidence of serum hepatitis contracted through blood transfusions.

It is estimated by the National Academy of Sciences that 30,000 people contract hepatitis yearly as a result of blood transfusions. To put it another way, one out of every 200 who receives a single-donor transfusion will contract hepatitis. This figure multiplies if the patient needs more than one transfusion. Over 1,500 deaths occur yearly from hepatitis received as a result of a blood transfusion.

In addition, there is a growing need to rely more heavily on commercial blood donors to meet the need for blood. Only 3 percent of the eligible American donors give blood to volunteer blood organizations. Blood is not available when it is needed by individuals, emergency organizations, or hospitals. This crisis could affect any of us at any time.

Paid donors unfortunately can include drug addicts, derelicts, and others who may be transmitters of hepatitis. It is, therefore, more and more crucial to increase the amount of blood contributed by volunteers. There is significant evidence, according to the American Red Cross that blood from volunteer donors carries only one-tenth the risk of hepatitis as that from commercial donors.

Presently there is no sure method for identifying hepatitis carriers. The best method for testing at the present time, is the "Australia" antigen test, which is only 20 to 30 percent effective. The only sure means of decreasing posttransfusion hepatitis is to increase the use of blood from sources known to have a lower risk.

I am sure than many of my colleagues have read about or know personally persons who have contracted hepatitis as a result of a blood transfusion, and are aware of the problem and its seriousness. Today, I am introducing legislation which would provide an incentive for individuals to donate their blood to a volunteer organization. This bill will amend the Internal Revenue Code of 1954 to allow an income tax deduction for donations of blood. A $20 deduction will be allowed for each pint of blood given, with a maximum of three pints per year, or $60 per year. This donation may come from the taxpayer, from his spouse, or from a dependent for whom he is entitled a deduction, each person being allowed three pints per year.

As my colleagues know, tax deductions are allowed for giving financial assistance to charitable organizations, such as the Red Cross and volunteer blood bank organizations. In my opinion, it would be consistent to allow donations for those who give their blood directly to the charitable organization.

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

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

S. 2345

A bill to amend the Internal Revenue Code of 1954 to allow an income tax deduction for donations of blood

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to additional itemized deductions for individuals) is amended by renumbering section 218 as 219, and by inserting after section 217 the following new section:

"SEC. 218. DONATIONS OF BLOOD.

"Allowance of Deduction.—In the case of an individual, there shall be allowed as a deduction an amount equal to $20 for each pint of blood donated during the taxable year to or for the use of a governmental unit referred to in section 170(c)(1) or an organization described in section 170(c)(2) by the taxpayer, by his spouse (if he is entitled to a deduction under section 151(b) for his spouse), and by a dependent for whom he is entitled to a deduction under section 151(e).

"(b) Limitation.—The deduction under subsection (a) for any taxable year shall not exceed $60 with respect to donations by any individual."

(b) The table of sections for such part is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 218. Donations of blood.
"Sec. 219. Cross references."

SEC. 2. Section 62 of the Internal Revenue Code of 1954 (relating to definition of adjusted gross income) is amended by inserting after paragraph (9) the following new paragraph:

"(10) Donations of blood.—The deduction allowed by section 218."

SEC. 3. The amendments made by this Act shall apply to taxable years ending on or after the date of the enactment of this Act, but only with respect to donations of blood made on or after such date.

By Mr. STEVENS:

S. 2346. A bill relating to manpower requirements, resources, development, utilization, and evaluation, and for other purposes. Referred to the Committee on Labor and Public Welfare.

MANPOWER TRAINING AND EMPLOYMENT ACT OF 1971

Mr. STEVENS. Mr. President, today I am introducing a bill to consolidate the many existing manpower programs and build upon solid accomplishments of the manpower program created by the Congress in the Manpower Development and Training Act of 1962, as amended.

In the past 9 years, we have seen the Congress establish a strong foundation for a national manpower program in the form of the Manpower Development and Training Act of 1962, or, MDTA, as amended. This program is widely commented by State and local officials, as well as by the thousands of individuals who have gained employment because of the training and services the act authorizes. The program has been termed the most successful manpower program yet enacted by the Congress, a view confirmed by a recent systems evaluation which has recently come to my attention. Under contract with the Department of Labor, North American Rockwell Information Systems Co.—NARISCO—concluded that MDTA institutional training is regarded by manpower professionals as being an "ongoing" program that "runs itself."

For a number of years, this program has effectively been used to meet the skill training needs of my constituents. It is no small achievement that the foresight of the original drafters of this legislation permitted a flexibility and breadth of program purpose, which has consistently responded to the needs of States as diverse in economy, natural resources and population as my own State of Alaska, on the one hand, and, say, the State of Florida or New York State on the other.

One of the most successful education and training ventures I have yet seen, the Alaska Skill Center, has been established in Seward. It is funded under MDTA and operated by the Alaska Department of Education in Juneau in

cooperation with the State department of labor and the economic development administration. This program is providing basic education, jobs skill training in four occupational clusters and hope to some 250 Alaskans who previously were unemployed or underemployed. Like my colleagues in this body, I need not emphasize the concern I have for the high rate of unemployment among my constituents. The Alaska Skill Center, which I personally have visited many times, is an important facet in our effort to bring greater employment opportunities to our citizens.

The Seward program is unique, as are the other 70 manpower training skills centers across the Nation, in that the education and training program is arranged in occupational clusters, an educational arrangement which has been broadly implemented under MDTA to an extent found in no other program. In my opinion, this program has provided greater flexibility in education program administration, and, more important, afforded greater occupational choice and skill exit levels for the trainees than any other yet devised.

I am convinced that the prime reason for success of the Alaska Skill Training Center stems from the legislation, the Manpower Development and Training Act, itself, in promoting the effective combination of agencies charged by the statute with responsibilities for manpower.

But I call to the attention of my colleagues the fact that the MDTA expires in less than 1 year. Although program disbursements may continue for an additional 6 months after that time, the effect of this termination date is already being felt. I should not wish to see the gains made during the past 9 years in my own State and throughout the Nation lost because we as a body failed to act, or failed to reach agreement on a program to meet the manpower needs of the 21st century—a time much closer than most realize. I am convinced that we must not destroy completely the existing manpower structures that have performed so successfully, and lose the manpower expertise built up in a multitude of State and local agencies. I do not say, however, that what the Congress has wrought should remain forever on the books. Obviously, the economic and manpower picture of the late 1970's is vastly changed since the MDTA was formulated in 1962. We have developed a much greater sophistication concerning manpower matters and we have a realization that "manpower" is a host of related functions, not one of which can be found in a single Cabinet-level Department.

For this reason, as well as others, I am today introducing S. 2346, the Manpower Training and Employment Act of 1971. It is intended to continue the basic intent and purposes of the Manpower Development and Training Act of 1962, as amended, by providing education and training opportunities to unemployed and underemployed individuals and by continuing to assist in the relief of skills shortages both in critical and in emerging occupations, and by making essential and timely improvements in the existing legislation.

Let me briefly outline the major provisions of S. 2346.

Title I establishes the National Manpower Advisory Council, and directs the Council to prepare an annual report pertaining to manpower requirements, resources, research, use, training and evaluation. It further sets forth provisions for evaluation, information, and research programs and for training and technical assistance.

Title II describes the various manpower training services and activities that may be conducted under the act, including the Job Corps now under the Economic Opportunity Act of 1964. It sets forth the requirements for State participation under the act, including the establishment of State manpower advisory councils; provides for a comprehensive manpower planning system at the State level; establishes State apportionment of benefits; describes participant eligibility and allowance payments, and describes the responsibilities of the Secretary of Health, Education, and Welfare and the Secretary of Labor.

Title III establishes a labor market information and job-matching program as well as career and employment development programs in both public and private agencies; career training through public service employment with public and private nonprofit agencies; and, an emergency employment assistance program to provide relief to designated job-distressed areas.

Title IV contains a number of miscellaneous provisions relating to the responsibilities of the Secretary of Health, Education, and Welfare and the Secretary of Labor in carrying out their duties under the act.

Basically, my bill reflects the principles of revenue sharing and decentralization as advocated by the administration. It further incorporates a permanent public service employment program to enable our fiscally hard-pressed State and local governments to keep up with expanding demands for public services. The Emergency Employment Act approved by our body on June 29, is a timely measure, but I point out to my colleagues that it is a 2-year legislation. What is to happen after that date? The Manpower Training and Employment Act of 1971 would assure that public service employment programs, utilizing to the maximum extent a career concept, would continue as one part of our national manpower program. Contrary to the emergency legislation now on the statute books, my bill would assure that individuals who go on public payrolls, are provided with the necessary education and training, not only to enhance their attachment to the labor force, but also to assure that quality public services would be provided. To reiterate, central to this provision of the Manpower Training and Employment Act of 1971, is the concept of career development, which is essential to a well-functioning public service employment program.

The existing administrative structures and manpower expertise developed through 9 years of program operations under the MDTA must not be lost in the rush to decentralize manpower program initiatives to State and local governments, as virtually necessary as this step is.

The Manpower Training and Employment Act of 1971 would provide for orderly institutional change without destroying the basic structure which forms the effective relationships among agencies with manpower resources. It would, however, provide for expansion of State and local agency manpower capability and responsibility.

As I previously noted, the success of the Alaska Manpower Training Skill Center is largely the result of effective interagency cooperation and relationships. I am particularly concerned lest the broad concerns and resources for human health, welfare and education vested in the Department of Health, Education, and Welfare be excluded by statute from the national manpower program. MDTA has been effectively administered by the Department of Labor and the Department of Health, Education, and Welfare, and their constituent State and local agencies—the State and local education and employment service agencies. Although jointly administered operational programs are rather unique in the annals of Federal legislation, program administrators in both Departments are constantly seeking ways to further remove administrative impediments to effective program operations. The benefits of their experience simply must not be lost. I share with many of my colleagues, who have already gone on record, a conviction that adequate structures for Federal interagency cooperation and coordination of manpower programs and resources do not now exist to the extent desirable. For this reason, my bill would provide for a National Manpower Advisory Council whose members would be appointed by the President and represent all Cabinet-level agencies having manpower responsibilities or expertise, as well as labor, management and the public. This Council would have "clout" and would assure adequate input of Federal resources to manpower problems in a total, coherent manner. The Council would not be, as is presently the case with the National Manpower Advisory Committee, the arm of any single agency or department. Its judgments would be independent of jurisdictional prejudices and prerogatives, and through it the Congress could more clearly identify program lines and fix or shift program responsibility. Even though the Manpower Training and Employment Act of 1971 continues joint agency responsibility, there are sufficient safeguards so that lines of accountability are clearly drawn.

Faced with the forthcoming expiration date of our key manpower legislation, the Manpower Development and Training Act of 1962, this body will, no doubt, in the very near future be required to consider how our national manpower program is to be restructured and consolidated. I know I am joined by most in this Chamber and by the other House in the conviction that such a reassessment

is timely and that rational consolidation of manpower programs is imperative.

The Manpower Training and Employment Act of 1971 which I propose, is a rational consolidation of manpower programs which would build upon and not destroy existing manpower structures and expertise. For these reasons I advocate the changes reflected in the Manpower Training and Employment Act of 1971, and commend this measure to my colleagues.

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

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

S. 2346

A bill relating to manpower requirements, resources, development, utilization, and evaluation, 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 "Manpower Training and Employment Act of 1971".

STATEMENT OF FINDINGS AND PURPOSE

SEC. 2. The Congress finds that there is critical need for more and better trained personnel in many vital occupational categories, including professional, scientific, technical, and apprenticeable categories; that even in periods of high unemployment, many employment opportunities remain unfilled because of the shortages of qualified personnel and, that it is in the national interest that current and prospective manpower shortages be identified and that persons who can be qualified for these positions through education and training be sought out and trained as quickly as possible. In addition, improved training and employment opportunities are vital to developing capacity for self-support by public assistance recipients, and the manpower system must assume special responsibility and accountability for training, placing, and upgrading these persons.

The Congress further finds that the skills of many persons have been rendered obsolete by dislocations in the economy arising from technological developments, foreign competition, relocation of industry, shifts in market demands, and other changes in the structure of the economy. With additional education and training, many of these persons could make a greater contribution to the national economy and share more fully in its benefits.

The Congress further finds that the problem of assuring sufficient employment opportunities will be compounded by the extraordinarily rapid growth of the labor force in the next decade, particularly by the entrance of young people into the labor force, that improved planning and expanded efforts will be required to assure that men, women, and young people will be trained and available to meet shifting employment needs; that in order to become qualified for reemployment or full employment many persons now unemployed or underemployed must be assisted in providing themselves with skills that are or will be in demand in the labor market; that the skills of many persons now employed are inadequate to enable them to make their maximum contribution to the Nation's economy; and, that it is in the national interest that the opportunity to acquire new skills be afforded to these people with the least delay in order to alleviate the hardships of unemployment, reduce the cost of unemployment compensation and public assistance, and to increase the Nation's productivity.

The Congress further finds that many professional employees who have become unemployed because of the specialized nature of their previous employment are in need of brief refresher or reorientation educational courses in order to become qualified for other employment in their professions.

The Congress further finds that there are great unfilled public needs in such fields as health, recreation, housing, neighborhood improvement and public safety, maintenance of streets, parks, and other governmental facilities, rural development, transportation, beautification, conservation, and other fields of human betterment and public improvement and that to meet these urgent public needs it is necessary to devote greater resources to public service and to expand public service employment at various levels.

The Congress further finds that it is essential to link together and coordinate the efforts of Federal, State, and local public and private agencies involved in performing manpower services; to develop new approaches for improved services and changes in traditional organization patterns used to assist economically disadvantaged and insufficiently trained individuals; and to coordinate the Nation's manpower needs and services as closely as possible with economic development, transportation planning, new residential housing, and other factors related to the development of new job opportunities.

The Congress further finds that technical, financial, and educational support provided to heretofore disadvantaged ethnic, racial, cultural, and linguistic groups, such as but not limited to that under the provisions of the Manpower Development and Training Act of 1962, as amended, to the Opportunity Industrialization Centers and SER, shall be continued under the intent and provisions of this Act.

It is therefore the purpose of this Act to require the Federal Government to appraise the manpower requirements and resources of the Nation; to develop and to apply the information and methods needed to deal with the problems of unemployment and underemployment; to develop new approaches for improved manpower services; and to establish a comprehensive and coordinated manpower program, designed to provide greater opportunities for education, training and related services necessary to assist individuals in developing their full economic and occupational potential, involving the efforts of all sectors of the economy and appropriate agencies at all levels of Government.

TITLE I—MANPOWER REQUIREMENTS, DEVELOPMENT, AND EVALUATION

NATIONAL MANPOWER ADVISORY COUNCIL

SEC. 101. (a) The President, after consultation with the Secretary of Labor, the Secretary of Health, Education, and Welfare, and the Director of the Office of Economic Opportunity, shall appoint a National Manpower Advisory Council.

(b) The National Manpower Advisory Council shall consist of fifteen members and shall be appointed, without regard to the civil service laws, for terms of three years, except that (i) in the case of initial members, five shall be appointed for terms of one year each and five shall be appointed for terms of two years each, and (ii) appointments to fill vacancies shall be only for such terms as remain unexpired. The Council shall include persons representative of labor, management, agriculture, public and private education, vocational education and rehabilitation, and manpower programs. The Council shall meet at the call of the Chairman, who shall be selected by the President, but not less than three times a year.

(c) The Council shall:

(1) establish national manpower goals and develop appropriate standards for programs and services designed to meet such goals;

(2) advise the Secretary of Labor and the Secretary of Health, Education, and Welfare concerning the administration of, preparation of general regulations for and operation of manpower programs and services supported with assistance under this Act;

(3) review the administration and operation of manpower training, services, and other activities provided under this Act, including the effectiveness of such programs and services in meeting the purposes for which they are established and operated, make recommendations with respect thereto (including recommendations for changes in the provisions of this Act and related manpower Acts), and make an annual report of its findings and recommendations as provided in section 102 of this Act; and

(4) conduct independent evaluations of programs carried out under this and related manpower Acts and publish and distribute the results thereof.

(d) Members of the Council who are not regular full-time employees of the United States shall, while serving on the business of the Council, be entitled to receive compensation at rates fixed by the President, but not in excess of $100 per day, 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, as authorized by section 5703 of title 5 of the United States Code for persons in Government service employed intermittently.

(e) The Council is authorized, without regard to the civil service laws, to engage such technical assistance as may be required to carry out its functions; to obtain the services of such full-time professional, technical, and clerical personnel as may be required in the performance of its duties; and, to contract for such assistance as may be necessary, and to this end not to exceed 1 per centum of the sums appropriated in any fiscal year to carry out title I, of this Act shall be available only for the activities authorized by this section.

(f) The President shall appoint a special assistant for manpower to serve on his staff; to coordinate the manpower activities of the various Federal departments, agencies, and commissions; to act as liaison with the National Manpower Advisory Council; to act as the President's principal advisor on manpower; and, to report and to make recommendations to the President and to the Congress on the manpower implications of the Federal budget and manpower programs generally.

MANPOWER REPORT

SEC. 102. The National Manpower Advisory Council shall transmit to the President and to the Congress within sixty days after the beginning of each regular session (commencing with the year 1972) a report pertaining to manpower requirements, resources, research, utilization, training, and evaluation. Such report shall include a complete and full report of the activities, findings, and recommendations of the Secretary of Labor and the Secretary of Health, Education, and Welfare in respect to their responsibilties under this Act; and, the findings and recommendations of the Council (including recommendations for changes in the provisions of this and related manpower Acts).

EVALUATION, INFORMATION, AND RESEARCH

SEC. 103. To assist the Nation in furthering technological progress while avoiding or minimizing individual hardship and widespread unemployment and to assist in expanding work opportunities and assuring access to those opportunities for all who desire them, (a) the Secretary of Labor shall:

(1) evaluate the impact of, and benefits and problems created by technical progress, and other changes in the structure of production and demand on the use of the Nation's human resources; establish techniques and methods for detecting in advance the potential impact of such developments; de-

velop solutions to these problems, and publish findings pertaining thereto;

(2) establish a program of factual studies of practices of employers and unions which tend to facilitate the mobility of workers or which impede mobility, including but not limited to early retirement and vesting provisions and practices under private compensation plans; the extension of health, welfare, and insurance benefits to laid-off workers; the operation of severance pay plans; and the use of both extended and short-term leave plans for education and training purposes. A report of these studies shall be included as part of the National Manpower Advisory Council's report required under section 102;

(3) appraise the adequacy of the Nation's manpower development efforts to meet foreseeable manpower needs and recommend needed adjustment to the National Manpower Advisory Council, including methods for promoting the most effective occupational use of and providing useful work experience and training opportunities for untrained and inexperienced youth; and

(4) promote, encourage, or directly engage in programs of information and communication concerning manpower requirements, development, and utilization, including prevention and amelioration of undesirable manpower effects from automation and other technological developments and improvement of the mobility of workers.

(b) The Secretary of Labor and the Secretary of Health, Education, and Welfare shall establish:

(1) a program of experimental, developmental, demonstration, and pilot projects, through grants to or contracts with public or private nonprofit organizations or agencies or through contracts with other private organizations for the purpose of improving techniques and demonstrating the effectiveness of specialized methods in meeting the manpower, employment, and education and training problems of worker groups such as the long-term unemployed, disadvantaged youth, displaced older workers, the handicapped, members of minority groups, veterans returning to civilian employment, and other similar groups. In carrying out this paragraph the Secretaries shall, where appropriate, consult with the Secretaries of Commerce and Housing and Urban Development and the Director of the Office of Economic Opportunity and other agencies. Where programs under this paragraph require institutional training, including but not limited to basic education, employability and communications skills, prevocational training, vocational and technical programs, and supplementary or related instruction for on-the-job training whether conducted at the jobsite or elsewhere, appropriate arrangements for such training shall be made by the Secretary of Health, Education, and Welfare in consultation with the Secretary of Labor. They shall also seek the advice of consultants with respect to the standards governing the adequacy and design of proposals, the ability of applicants, and the priority of projects in meeting the objectives of this Act;

(2) a special program of supportive services to families residing in rural areas provided that such services are necessary to (i) participate in education and training programs authorized under this Act or (ii) obtain employment. Such special supportive services may include but are not limited to:

a. a special program of mobile employment service units to provide recruitment, counseling, and referral to education and training programs or employment for persons residing in rural areas;

b. residential support for those persons referred to education and training programs when such programs are offered beyond a reasonable commuting distance from the person's home;

c. a special program of mobile health and education units to provide counseling, health and hygiene education, and referral of persons requiring health care to appropriate agencies for such service;

d. relocation payments and other special services as needed to assist unemployed individuals and their families to relocate to another area where a suitable job has been located; such assistance shall be limited to those persons who have participated in education or training programs offered under this Act before relocation or to those who have been accepted for on-the-job training with a reasonable expectation of continued employment upon completion of the on-the-job training by the employer;

e. a special program of follow-up services of up to one year, to heads of households who have participated in programs authorized under this Act and who have relocated in order to obtain full time employment; such services shall be established to assist families in adjusting to a new socio-economic environment and may include, but are not limited to problems of a health, education, housing, or family financial nature; and,

f. in addition to these special supportive services, participants shall be eligible for other education, training, and manpower services authorized under this Act.

(c) To further assess the effectiveness of various methods and approaches used in carrying out the purposes of the Act, the Secretary of Health, Education, and Welfare, after consultation with the Secretary of Labor, shall:

(1) arrange, through grants or contracts for the conduct of such research and investigations as give promise of furthering the education and training objectives of this Act; and

(2) provide, either directly or through grants or contracts for a system of continuing evaluation of all training programs conducted by public and private schools and training agencies and organizations, with assistance under this Act, including their impact on communities and participants, their implication for related programs, thet effectiveness of various methods and materials and the adequacy of their mechanism for the delivery of services and report the findings, including recommendations for corrective actions and their implications, of such evaluations to the National Manpower Advisory Council.

TRAINING AND TECHNICAL ASSISTANCE

SEC. 104.(a) In carrying out the provisions of this Act, the Secretary of Labor and the Secretary of Health, Education, and Welfare shall provide, directly or through grants, contracts, or other arrangements, training for specialized or other personnel and technical assistance, which are needed in connection with the programs established under this Act or which otherwise pertain to the purposes of this Act, including the provision of training and technical assistance to designated State and Area Manpower Advisory Councils. The Secretaries shall:

(1) plan for, establish, and maintain a program of training, including but not limited to in-service training and staff development, and technical assistance to public and private agencies, institutions, and employers in order to assist such organizations in sponsoring or operating programs more effectively and providing services under this Act, in the most effective and efficient manner possible;

(2) provide for the development and distribution of technical manuals, guides and other resources in order to assure the early dissemination of information concerning advances or improved techniques, developed both as a result of this Act and through other sources, related to manpower training, services, and activities and their delivery;

(3) shall plan, establish, and operate, directly or through contract, an information service, to make available to agencies, organizations, and other groups and persons concerned with manpower programs and services, information on resources, techniques, and concepts useful in the conduct of training programs under this Act. Such information shall include that derived from research experimental and demonstration programs, and the evaluated experience of Federal, State, and local operations. The information shall be so designed as to be helpful in the establishment and improvements of training programs and related activities covered under titles I, II, and III of this Act; and,

(4) make, upon appropriate request, the special assignment of personnel to public or private agencies and employers to provide technical guidance with regard to programs funded under this Act, but no such assignments shall be for a period of more than two years.

(b) Twenty-five per centum of the sums appropriated in any fiscal year to carry out title I in addition to 2 per centum of the sums appropriated in any fiscal year to carry out titles II and III of this Act shall be available only for training and technical assistance authorized by this section. In carrying out the purposes of this section, 50 per centum of the sums available shall be for the use of the Secretary of Labor and the remaining 50 per centum shall be for the use of the Secretary of Health, Education, and Welfare: *Provided*, That the use of such sums is jointly planned to avoid unnecessary duplication and waste.

TITLE II—TRAINING AND SKILL DEVELOPMENT PROGRAMS

PART A—MANPOWER TRAINING PROGRAMS AND SERVICES

PROGRAMS, SERVICES, AND ACTIVITIES

SEC. 201. The programs, services, and activities for which funds under this title may be expended shall include, but are not limited to the following:

(1) basic education, literacy training, communications and computation skills, and high school equivalency programs, which will assist individuals to become more employable or facilitate their participation in occupational training;

(2) outreach, counseling, testing, recruitment, referral to work or to training, placement, and followup services necessary to assist individuals to achieve success in employment;

(3) prevocational orientation to introduce those of limited experience to alternative occupational choices;

(4) institutional training, including cooperative occupational training programs, and on-the-job training for unemployed individuals, and underemployed individuals, including training of employed workers for the purpose of upgrading their skills and improving the use of available manpower;

(5) supportive services, including health, minor medical and dental services, physical examinations, the furnishing of prosthetic devices, child care, referral for family counseling, legal services, uniforms and tools required for entry level employment in occupations designated by the Secretary of Labor, bonding, licensing, and credentialling fees when required for employment within the area of training, relocation subsistence payments to assist individuals and their families who must move to another area in order to receive training or become employed after training, and other special services, including residential support, deemed necessary to assist individuals to become more employable or facilitate their participation in programs assisted under this title;

(6) work experience for unemployed and disadvantaged individuals, including the performance of socially useful work in public and private agencies or organizations in the fields of health, public safety, education recreation, streets, parks, and municipal main-

tenance, housing and neighborhood improvement, conservation and rural development, beautification, and other fields of human betterment and community improvement, including the establishment, operation, or strengthening of any such program;

(7) part-time employment, on-the-job training, or useful work experience for students in ninth through twelfth grades (and youths of equivalent ages) to assist them in remaining in or returning to school; and, with such employment opportunities developed in consultation with education authorities to enhance, to the extent feasible, the educational growth of such students;

(8) appropriate education, training, and related manpower services for persons in correctional institutions to assist them in obtaining suitable employment upon release, including the provision of such programs and after release from correctional institutions as special programs designed to aid in the rehabilitation process;

(9) appropriate education, training, and related manpower services for persons who have recently been or will shortly be separated from military service;

(10) appropriate education, training, and related manpower services for unemployed and underemployed persons residing in areas designated as redevelopment areas by the Secretary of Commerce under the Area Redevelopment Act or any subsequent Act authorizing such designation;

(11) appropriate education, training, and supportive services, including career restructuring and development, for upgrading persons who are unemployed or underemployed in respect to skill level or hours of employment; and

(12) retraining and refresher programs of education, training, and supportive services for persons, including professionals, paraprofessionals, and others, who are unemployed or will be unemployed because of the specialized nature of their previous employment because of technological, economic, or other changes in the economy and who need such programs and services to prepare them for employment for an occupation compatible with their previous education and skills.

ELIGIBLE INDIVIDUALS

SEC. 202 (a) Priority for selection shall be given to those unemployed or underemployed persons who cannot reasonably be expected to secure appropriate full-time employment without education and training.

(b) Special emphasis shall be given to the employment and training needs of persons who are from poor families using as an index of poverty the minimum income per household of a given size, composition, and farm or nonfarm status, as set forth by the Social Security Administration.

(c) Priority in providing training and employment opportunities among eligible persons shall be given to individuals who are heads of households. For purposes of this Act, the term "head of household" shall include any person who contributes more than one-half the support of one or more other persons.

(d) Out of school individuals sixteen years of age or older shall be eligible for participation in programs authorized by the Act: *Except*, That individuals less than sixteen years of age shall be eligible for participation only in programs authorized in section 201(7).

SELECTION OF TRAINEES

SEC. 203. (a) The Secretary of Labor shall establish standards and criteria for individuals eligible for participation in programs, services, and activities authorized by the Act. The Secretary shall provide a program for testing, counseling, and selection for the determination of eligibility for participation: *Except*, That individuals meeting the established standards and criteria may be referred to training by appropriate public and private agencies and organizations. Upon certification from the responsible training agency the Secretary of Labor shall make provisions for training and subsistence allowances and transportation allowances as may be appropriate.

(b) The selection of persons for training and services under this Act and for placement shall not be contingent upon such person's membership or nonmembership in a labor organization.

(c) Persons shall not be referred for training in an occupation which requires less than two weeks training, unless there are immediate employment opportunities in such occupation.

TRAINING ALLOWANCES

SEC. 204. (a) The Secretary of Labor may, on behalf of the United States, enter into agreements with States under which the Secretary of Labor shall make payments to such States either in advance or by way of reimbursement for the purpose of enabling such States, as agents for the United States, to make payment of weekly allowances to persons selected for training pursuant to the provisions of section 203 and undergoing such training in a program operated pursuant to the provisions of the Act.

(b) For the purpose of this section, a basic allowance shall be equal to 40 times the minimum hourly wage provided in section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended: *Provided*, That such basic allowance through June 30, 1972, in any State shall not be less than the amount of the average weekly gross unemployment compensation payment (including allowances for dependents) during the calendar year 1969 for a week of total unemployment in such State.

(c) For the purposes of this section, a dependent's allowance shall equal $5 per week for each dependent, to a limit of six dependents.

(d) Persons, except those specified in subsection (c), who are participating on a full-time basis in the following programs, (1) institutional training or, (2) other manpower development activities which are not compensated by an employer or subject to subsections (h) or (i); shall receive a basic allowance plus a dependent's allowance for his dependents as specified in subsection (c) for each week of full-time participation: *Except*, That no individual shall receive allowances under this subsection that are less than the unemployment compensation (including allowances for dependents) to which such persons would be entitled under any Federal or State unemployment compensation law if he were not participating in such activity.

(e) The following participants in full-time institutional training or other manpower development activities described in subsection (d) shall not be entitled to allowances provided in subsection (d):

(1) A public assistance recipient under programs assisted under titles I, IV, X, XIV, and XVI of the Social Security Act, who shall be paid, in addition to any public assistance payments to which he may be entitled, incentive payments of not more than $10 per week under regulations prescribed by the Secretary of Labor.

(2) A participant who is under eighteen years of age, or who is not the head of a household as defined in section 202(c) of this Act. Such participant shall receive a suitable weekly allowance, determined in accordance with rules prescribed by the Secretary of Labor, but not to exceed the basic allowance prescribed in subsection (b): *Provided*, That any allowance under this paragraph shall not be less than the unemployment compensation (including allowances for dependents) to which such person would be entitled under any Federal or State unemployment compensation law if he were not participating in such activity. An individual who is not subject to this paragraph at the commencement of the period shall not become subject thereto until the completion of such period.

(3) A participant receiving unemployment compensation under any Federal or State unemployment compensation law. Such participant shall receive for each week of training, allowances equal to the difference between (1) any allowance to which he would otherwise be entitled under subsections (d) or (e) of this section and (2) the unemployment compensation (including allowances for dependents) which he received for such week.

(4) A participant engaged in employer-compensated on-the-job training or work experience assisted under this title. The allowances of such participants shall be computed in accordance with subsection (d) or (e), as appropriate, and shall be reduced in accordance with rules and regulations prescribed by the Secretary of Labor, which shall take into account the hours of such work experience or on-the-job training and the amount of compensation therefor.

(5) A participant who is an inmate of a correctional institution. The allowances of such participants shall be computed in accordance with regulations prescribed by the Secretary of Labor.

(f) A participant engaged in the activities described in subsection (d) on less than a full-time basis shall receive a reduced basic allowance computed in accordance with regulations prescribed by the Secretary, and a dependent's allowance if participation is in excess of twenty hours each week. Public assistance recipients shall receive an incentive payment as provided in subsection (e). Such reduced basic allowance shall be computed taking into account (1) the hours of participation in such activity; (2) the allowance to which he would be entitled under subsection (d) or (e) if he were engaged in training on a full-time basis; (3) compensated work experience or on-the-job training assisted under this title in which the participant is engaged; and (4) unemployment compensation that the participant is receiving.

(g) No allowance under subsection (d), (e), or (f) of this section may be paid for any portion of a training period that extends beyond one hundred and four weeks.

(h) Workers in programs providing work experiences under this Act shall be compensated at a rate not less than the applicable minimum wage rate, but in no case less than the wage prescribed by section (b) of the Fair Labor Standards Act.

(i) Workers engaged in employer-compensated on-the-job training under this Act shall be compensated at a rate not less than the higher of (1) the applicable minimum wage rate, or (2) the prevailing wage paid to workers of like experience performing similar work in the locality.

(j) A participant undertaking training or work-experience or other manpower development activity described in subsection (d) on either a full-time or part-time basis, shall receive allowances for transportation and subsistence in addition to the applicable training allowance or wage. The amount of allowances provided under this subsection shall be determined in accordance with regulations prescribed by the Secretary of Labor.

(k) A participant who has successfully completed a program of full-time participation of not less than fifteen weeks' duration in institutional training or other manpower development activities described in subsection (d) shall receive, upon completion of his period of participation, a completion bonus which shall be equal to twice the allowance to which he is entitled under (d) or (e) for his last week of full-time participation during such period.

(l) Upon certification by the responsible

training agency that a person who has been referred for training does not have a satisfactory attendance record or is not making satisfactory progress in such training, the Secretary of Labor shall forthwith terminate his training and subsistence allowances, and his transportation allowances except such as may be necessary to enable him to return to his regular place of residence after termination of training, and withdraw his referral.

COMPREHENSIVE MANPOWER PLANS

SEC. 205. (a) The Secretaries of Labor and Health, Education, and Welfare shall jointly enter into an agreement with the Governor of each State under which a State Manpower Advisory Council will develop and administer a comprehensive manpower plan for the State. Such council shall be appointed by the Governor with the approval of the Secretaries and shall consist of representatives of the appropriate State agencies concerned with manpower programs and services, including the State education agency and the State employment service and, representatives of labor, management, rehabilitation, public and private agencies active in the manpower field and the public. Each such agreement shall:

(1) require each comprehensive manpower plan to set forth a long-range plan for programs and services to be carried on with assistance provided by this Act, for the State as a whole and by local planning area, extending over three years beginning with the fiscal year for which the comprehensive manpower plan is submitted, describing the present and projected needs for programs and services provided for in this Act, and setting forth the long-range program objectives;

(2) require each comprehensive manpower plan to set forth an annual program plan, for the State as a whole and by local planning area, which describes the content of, and allocation of Federal and State funds to programs, services, and activities to be carried out under the plan during the year for which Federal funds are sought, designates the agencies and organizations which shall carry out the plan and indicates how and to what extent such programs, services, and activities will carry out the program objectives set forth in the long-range program plan;

(3) require each State to officially designate its local planning areas, which shall include provisions for representation of all geographic areas within the State, and which shall be reviewed and approved by the Secretaries;

(4) require the establishment of Area Manpower Advisory Councils of the same membership and composition as the State Manpower Advisory Council: *Except*, That all mayors within the planning area shall be represented on the Council, such Councils shall be appointed under such procedures as are established by the State Manpower Advisory Council and which have been approved by the Governor and by the Secretaries;

(5) require the establishment of procedures to coordinate all local area plans into a State plan, to provide for circumstances where a local area fails to submit a plan, and to provide for appeal by Area Manpower Advisory Councils to the Secretaries: *Provided*, That such procedures shall be reviewed and approved by the Secretaries;

(6) require the use to the maximum extent feasible of public and private profit and nonprofit agencies and organizations, and of all the State and local agencies and organizations, which are capable of contributing to the program, with priority given to skills centers and other education and training programs operated or arranged through State and local education agencies;

(7) require the establishment and operation of a data system that will provide, in readily accessible form, statistical information sufficient to enable evaluation of the effectiveness of programs carried out under the plan and to determine means of improving their effectiveness;

(8) provide for the conduct of manpower programs, activities, and services in accordance with procedures, standards, and regulations established under the provisions of this Act;

(9) provide for the evaluation of programs, activities, and services assisted under this Act, and the publication and distribution of such reports including recommendations as to their effectiveness;

(10) provide for the distribution of funds to State Manpower Advisory Councils, Area Manpower Advisory Councils, and agencies and organizations providing programs, services, and activities under an approved plan; and

(11) provide for regularly scheduled meetings of the State manpower advisory council including the assurance that not less than one public meeting of the State manpower advisory council is held each year at which the public is given the opportunity to express views concerning manpower training, programs, and services.

(b) State manpower advisory councils are authorized to obtain the services of such professional, technical, and clerical personnel as may be necessary to enable them to carry out their functions under this section and to contract for such services as may be necessary to enable them to carry out their evaluation functions.

(c) From the sums appropriated pursuant to section 206(a) for any fiscal year, the Secretary of Labor and the Secretary of Health, Education, and Welfare are authorized to pay to each State manpower advisory council an amount equal to the reasonable amounts expended by it in carrying out its functions under the Act in such fiscal year, except that the amount available for such purpose shall be equal to 1 per centum of the State's apportionment under section 206(a), but such amount shall not exceed $300,000 and shall not be less than $150,000: *Except*, That for the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands, such amount shall not exceed $50,000 each.

(d) Where a State fails to submit a comprehensive manpower plan to the Secretaries within a reasonable time, or the Secretaries disapprove such a plan under the authority of subsection (e) of this section, the Secretaries of Labor and of Health, Education, and Welfare taking into consideration such local area plans as may have been developed, shall jointly formulate and carry out a comprehensive manpower plan in such State. Such program shall meet the requirements of the Act applicable to plans submitted by States: *Except*, That where the Secretaries have discontinued payments with respect to a portion of a plan under subsection (e) of this section, the program that they carry out directly shall provide the same types of programs, services, and activities as provided in the portion of the plan with respect to which payments were discontinued. In carrying out this section where a State has failed to submit a plan or the Secretaries have disapproved it, the State's apportionment may be used by the Secretaries to carry out a program in that State. In carrying out this section where the Secretaries have discontinued payments, the sums withheld may be used by the Secretaries.

(e) When the Secretary of Labor and the Secretary of Health, Education, and Welfare after reasonable notice and opportunity for a hearing to the Governor of the State that submitted a plan, finds: (1) that the plan has been so changed that it no longer complies with the requirements of the Act, or to the standards and guidelines prescribed pursuant to the Act; or (2) that in the administration of the plan there is a failure to comply substantially with any such requirement; the Secretaries of Labor and of Health, Education, and Welfare shall notify the Governor that no further payments will be made with respect to such plan (or in their discretion, further payments with respect thereto will be limited to portions thereof not affected by such failure), until they are satisfied that there will no longer be any failure to comply. Until they are so satisfied, the Secretaries shall make no further payments with respect to such plan (or shall limit payments to portions thereof not affected by such failure).

(f) The Secretaries of Labor and of Health, Education, and Welfare shall, in consultation with and with the concurrence of the National Manpower Advisory Council, prescribe such standards, rules, and regulations as they may deem necessary and appropriate to carry out the provisions of this part.

APPORTIONMENTS OF BENEFITS

SEC. 206. (a) For the purpose of effecting an equitable apportionment of Federal expenditures among the States in carrying out the programs authorized under part A of title II of this Act, the Secretary of Labor and the Secretary of Health, Education, and Welfare shall apportion 80 per centum of the funds available for such purposes in accordance with uniform standards and in arriving at such standards shall consider only the following factors: (1) the proportion which the labor force of a State bears to the total labor force of the United States; (2) the proportion which the unemployed in a State during the preceding calendar year bears to the total number of unemployed in the United States in the preceding calendar year; (3) the proportion which poor individuals residing in the State bear to the total number of poor individuals of the United States; (4) the proportion which the insured unemployed within a State bears to the total number of insured employed within such State; but in no event shall any State be apportioned less than $1,000,000: *Except*, That for the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands, such amount shall be $100,000 each.

(b) Fifteen per centum of the funds appropriated to carry out the purposes of part A of title II may be expended by the Secretary of Labor as he finds necessary or appropriate to carry out the purposes of title II: *Provided*, That where such programs require institutional training, the Secretary of Health, Education, and Welfare shall agree to arrangements for such training.

(c) Five per centum of the funds appropriated to carry out the purposes of part A of title II may be expended by the Secretary of Health, Education, and Welfare as he finds necessary or appropriate to carry out the purposes of title II: *Provided*, That prior to the development of preemployment training the Secretary of Labor shall concur that there is reasonable expectation of employment for such persons entering training.

(d) The Secretary of Labor and the Secretary of Health, Education, and Welfare are authorized to make reapportionments from time to time where the total amounts apportioned under this section have not been fully obligated in a particular State, or where the State or appropriate agencies in the State have not entered into the necessary agreements, and the Secretaries find that any other State is in need of additional funds to carry out the programs authorized by this Act: *Provided*, That no funds apportioned with respect to a State in any fiscal year shall be reapportioned before the expiration of the ninth month of such fiscal year and only upon fifteen days prior notice to such State of the proposed reapportionment.

(e) Where the Secretaries of Labor and Health, Education, and Welfare have approved a comprehensive manpower plan developed and submitted in accordance with the provisions of section 205 of this part,

the State shall have authority to approve all applications for programs and services that conform to such State plan.

PART B—DUTIES OF THE SECRETARY OF LABOR

GENERAL RESPONSIBILITIES

SEC. 211. In carrying out the purposes of this Act, the Secretary of Labor shall determine the skill requirements of the economy develop policies for the adequate occupational development and maximum use of the skills of the Nation's workers, promote and encourage the development of broad and diversified training programs, including on-the-job training, designed to qualify for employment the many persons who cannot reasonably be expected to secure full-time employment without such training, and to equip the Nation's workers with the new and improved skills that are or will be required. Whenever appropriate, the Secretary of Labor shall coordinate and provide for combinations of programs, to be pursued concurrently or sequentially, under this Act with programs under other Federal Acts, where the purposes of this Act would be accomplished thereby.

STATE AGREEMENTS

SEC. 212. (a) The Secretary of Labor is authorized to enter into an agreement with each State, or with the appropriate agency of each State, pursuant to which the Secretary of Labor may, for the purpose of carrying out his functions and duties under this title, use the services of the appropriate State agency, and, notwithstanding any other provision of law, may make payments to such State or appropriate agency for expenses incurred for such purposes.

(b) Any agreement under this section may contain such provisions as will promote effective administration, protect the United States against loss and insure that the functions and duties to be carried out by the appropriate State agency are performed in a manner satisfactory to the Secretary.

RULES AND REGULATIONS

SEC. 213. The Secretary of Labor shall prescribe such rules and regulations as he may deem necessary and appropriate to carry out his responsibilities under this Act.

PART C—DUTIES OF THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE

GENERAL RESPONSIBILITIES

SEC. 221. The Secretary of Health, Education, and Welfare shall, pursuant to the provisions of this title enter into agreements with States under which the appropriate State education agencies will undertake to provide training to equip persons referred to the Secretary of Health, Education, and Welfare pursuant to section 203. Such State agencies shall provide for such training through public educational agencies or institutions or through arrangements with private educational or training institutions where such private institutions can provide equipment or services not available in public institutions, particularly for training in technical and subprofessional occupations, for training the disadvantaged, or where such institutions can, at comparable cost, (1) provide substantially equivalent training, or (2) make possible an expanded use of the individual referral method, or (3) aid in reducing more quickly unemployment or current and prospective manpower shortages. Such agreements shall contain such other provisions as will promote effective administration (including provisions (1) for reports on the attendance and performance of trainees, (2) for immediate certification to the Secretary of Labor by the responsible training agency with respect to each person referred for training who does not have a satisfactory attendance record or is not making satisfactory progress in such training absent good cause, and (3) for continuous supervision of the training programs conducted under the agreement to insure the quality and adequacy of the training provided), protect the United States against loss, and assure that the functions and duties to be carried out by such State agency are performed in such fashion as will carry out the purposes of this title. The Secretary of Health, Education, and Welfare shall give preference to training and education provided through State vocational education agencies and other State education agencies. However, in any case in which he determines that it would permit persons to begin their training or education within a shorter period of time, or permit the needed training or education to be provided more economically, or more effectively, he may provide the needed training or education by agreement or contract made directly with public or private training or educational facilities or through such other arrangements as he deems necessary to give full effect to this Act.

RULES AND REGULATIONS

SEC. 222. The Secretary of Health, Education, and Welfare may prescribe such rules and regulations as he may deem necessary and appropriate to carry out his responsibilities under this Act.

PART D—AMENDMENTS AND REPEALS AFFECTING EXISTING LAWS

SEC. 231. (a) The Economic Opportunity Act of 1964, as amended, is further amended as follows:

(1) Subsection (e) of section 106 is repealed.

(2) Subsection (b) of section 115 is amended to read as follows:

"(b) The Director may enter into agreements with States to administer, assure, or assist in the administration of the programs provided in this part. The Director may, pursuant to regulations, pay part or all of the operative or administrative costs of such programs."

(b) Section 810(a) of the Economic Opportunity Act of 1964 is amended by striking the word "and" immediately preceding paragraph (3) thereof, by substituting a semicolon for the period at the end of the subsection, and by adding the following:

"and (4) with the approval of the Secretary of Labor, in Job Corps Centers operated under title II of the Manpower Training and Employment Act of 1971."

(c) Section 833(b) of the Economic Opportunity Act of 1964 is amended to read as follows:

"(b) Individuals who receive either a living allowance or a stipend under this title shall, with respect to such services or training:

"(1) for the purposes of subchapter III of chapter 73 of title 5 of the United States Code, be deemed persons employed in the executive branch of the Federal Government;

"(2) for purposes of the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.) and title II of the Social Security Act (42 U.S.C. 401 et seq.), be deemed employees of the United States, and any service performed by an individual as a volunteer shall be deemed to be performed in the employ of the United States;

"(3) for purposes of the Federal tort claims provisions in title 28, United States Code, be deemed employees of the Government; and

"(4) for purposes of the subchapter I of chapter 81 of title 5 of the United States Code (relating to compensation to Federal employees for work injuries), be deemed civil employees of the United States within the meaning of the term 'employee' as defined in section 8101 of title 5, United States Code, and the provisions of the subchapter shall apply except as follows:

"(A) In computing compensation benefits for disability or death, the monthly pay of a volunteer shall be deemed that received under the entrance salary for a grade GS–7 employee, and sections 8113 (a) and (b) of title 5, United States Code, shall apply to volunteers; and

"(B) Compensation for disability shall not begin to accrue until the day following the date on which the injured volunteer is terminated."

SEC. 232. (a) Title I, part A, of the Economic Opportunity Act of 1964, as amended (sections 101–118), is transferred to the Manpower Training and Employment Act of 1971 and inserted as sections 233 through 250, respectively, as amended by subsection (e) of this section.

(b) All references to part A of title I of the Economic Opportunity Act of 1964 or any provision thereof are hereby deleted from the Economic Opportunity Act of 1964. Any reference to part A of title I of the Economic Opportunity Act or any provision thereof in any other law of the United States shall be deemed to be a reference to title II of this Act or the corresponding provision thereof.

(c) So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, held, used, available, or to be made available in connection with the functions transferred by subsection (a) of this section as the Director of the Bureau of the Budget shall determine shall be transferred to the Department of Labor.

(d) Such further measures and dispositions as the Director of the Bureau of the Budget shall deem necessary in order to effectuate the transfer provided for in subsection (a) of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

(e) Sections 233–250 of this Act as transferred by subsection (a) are amended as follows:

(1) The word "title" shall be substituted for the word "part" wherever it appears.

(2) The word "Secretary" shall be substituted for the word "Director" wherever it appears.

(3) The words "Department of Labor" shall be substituted for "Office of Economic Opportunity" wherever they appear.

(4) Section 235(1) is amended by deleting all the words in paragraph (1) following "United States" and substituting the following: "or a native and citizen of Cuba who arrived in the United States from Cuba as a nonimmigrant or as a parolee subsequent to January 1, 1959, under the provisions of section 244(a) or 242(d)(5), respectively, or any person admitted as a conditional entrant under section 203(a)(7) of the Immigration and Nationality Act."

(5) Paragraphs (2) through (5) of section 235 are redesignated as (3) through (6), respectively, and the following new paragraph (2) is inserted:

"(2) has attained age fourteen but not attained age twenty-two at the time of enrollment;".

(6) The reference in section 235(5) to sections 104 and 105 are changed to "236" and "237", respectively.

(7) The reference in section 208(c) to section 609(3) is changed to "235(1)."

(8) The reference in section 239(b) to "part B of this title" is deleted and the following is substituted therefor: "title II of this Act and title I of the Economic Opportunity Act of 1964".

(9) Section 240 is amended by adding a new subsection (e) to read as follows: "(e) In conducting programs under this title, the Secretary shall consult with the Secretary of Health, Education, and Welfare with regard to institutional training provided for enrollees of the Job Corps".

(10) Section 241 is amended by adding a new subsection (c) as follows: "(c) Under such circumstances as the Secretary may determine, he may prescribe by regulation changes in the amount and method of pay-

ment of allowances and provision of expenses to correspond more closely to the methods and amounts prescribed in section 204 of this Act. Such changes may include provision of higher allowances to cover appropriate enrollee expenses and offsetting charges to enrollees for living expenses".

(11) Section 244(d), as amended, is further amended by deleting "the Department of Labor and".

(12) Section 244(e) is amended by inserting a comma after the word "feasible", by deleting the words "in accordance with section 637(b) of this Act", and by changing the reference to 109(c) to 241(c).

(13) Section 244(e) is further amended by striking out the comma and inserting a period in lieu thereof after "employment service offices" and deleting the words "and shall furnish copies of such records to the Secretary of Labor."

(14) Section 245(a) is amended by striking out the reference to section 608 and substituting in lieu thereof "section 605."

(15) Section 245(b) is amended by striking out both references to "part B of this title" and substituting in lieu thereof "Title I of this Act" and by striking out the reference to section 608 and substituting in lieu thereof "section 605."

(16) Section 246 is amended by striking out the last sentence.

(17) Section 247(c) is amended by striking out the word "Act" and substituting in lieu thereof "title".

(18) Section 249 is amended by striking out subsection (a) and the first sentence of subsection (b), and redesignating subsections (b) through (d) as subsections (a) through (c), respectively.

(19) A new section 251 is added to read as follows:

"ADDITIONAL AUTHORITIES

"SEC. 251. In addition to such other authority as he may have, the Secretary is authorized, in carrying out his functions under this title, to—

"(1) utilize, with their assent, the services and facilities of Federal agencies without reimbursement, and, with the consent of any State or a political subdivision of a State, accept and utilize the services and facilities of the agencies of such State or subdivision without reimbursement;

"(2) allocate and expend, or transfer to other Federal agencies for expenditure, funds made available under this title as he deems necessary to carry out the provisions hereof, including (without regard to the provisions of section 4774(d) of title 10, United States Code) expenditure for construction, repairs, and capital improvements; and

"(3) expend funds made available for purposes of this title, without regard to any other law or regulation, for rent of buildings and space in buildings and for repair, alteration, and improvement of buildings and space in buildings rented by him: but the Secretary shall not utilize the authority contained in this subsection—

"(A) except when necessary to obtain an item, service, or facility, which is required in the proper administration of this title, and which otherwise could not be obtained, or could not be obtained in the quantity or quality needed, or at the time, in the form, or under the conditions in which it is needed, and

"(B) prior to having given written notification to the Administrator of General Services (if the exercise of such authority would affect an activity which otherwise would be under the jurisdiction of the General Services Administration) of his intention to exercise such authority, the item, service, or facility with respect to which such authority is proposed to be exercised, and the reasons and justifications for the exercise of such authority."

SEC. 261. (a) The Manpower Development and Training Act of 1962, as amended (42 U.S.C. 2571 et seq.), is hereby repealed.

(b) Title I, part B of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2701 et seq.), is hereby repealed.

(c) Title V, part A of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2701 et seq.), is hereby repealed.

TITLE III—LABOR MARKET INFORMATION AND EMPLOYMENT DEVELOPMENT PROGRAMS

PART A—LABOR MARKET INFORMATION AND JOB MATCHING PROGRAM

SEC. 304. (a) The Secretary of Labor shall develop a comprehensive system of labor market information on a National, State, local, or other appropriate basis, including but not limited to information regarding:

(1) the nature and extent of impediments to the maximum development of individual employment potential including the number and characteristics of all persons requiring manpower services;

(2) job opportunities and skill requirements;

(3) labor supply in various skills;

(4) occupational outlook and employment trends in various occupations; and,

(5) in cooperation and after consultation with the Secretary of Commerce, economic and business development and location trends. Information collected under this subsection shall be developed and made available in a timely fashion in order to meet in a comprehensive manner the needs of public and private users, including the need for such information in recruitment, counseling, education, training, placement, job development, and other appropriate activities under the Economic Opportunity Act of 1964 as amended, the Social Security Act, the Public Works and Economic Development Act of 1965, the Wagner-Peyser Act, the Vocational Education Act of 1963 as amended, the Vocational Rehabilitation Act, the Demonstration Cities and Metropolitan Development Act of 1966, and other relevant Federal statutes.

JOB MATCHING PROGRAM

SEC. 302. The Secretary of Labor shall develop and publish on a regular, timely basis information on available job opportunities throughout the United States on a National, State, local, or other appropriate basis for use in public and private job placement and related activities and in connection with job matching programs conducted pursuant to this subsection. The Secretary is directed to develop and establish a program for matching the qualifications of unemployed, underemployed, and low-income persons with employer requirements and job opportunities on a National, State, local, or other appropriate basis. Such programs shall be designed to provide a quick and direct means of communication among local recruitment, job training and placement agencies and organizations, and between such agencies and organizations on a National, State, local, or other appropriate basis, with a view to the referral and placement of such persons in jobs. In the development of such a program, the Secretary shall make maximum possible use of electronic data processing and telecommunication systems for the storage, retrieval, and communication of job and worker information. The Secretary is authorized, for the purposes of carrying out programs authorized under this subsection to make grants to State or local agencies for the planning and administration of the program, including the purchase or other acquisition of necessary equipment.

PILOT PROJECTS

SEC. 303. (a) In carrying out the program described in section 302 during the period ending June 30, 1974, the Secretary of Labor shall develop and carry out, in a limited number of geographical areas, pilot projects designed to assess or demonstrate the effectiveness of reducing unemployment of individuals and to increase the mobility of unemployed workers by providing assistance to meet their relocation expenses. In carrying out such projects the Secretary may provide such assistance, in the form of grants or loans, or both, only to involuntarily unemployed individuals who cannot reasonably be expected to secure full-time employment in the community in which they reside, have bona fide offers of employment (other than temporary or seasonal employment), and are deemed qualified to perform the work for which they are being employed.

(b) Loans or grants provided under this subsection shall be subject to such terms and conditions as the Secretary shall prescribe, with loans subject to the following limitations:

(1) there is reasonable assurance of repayment of the loan;

(2) the credit is not otherwise available on reasonable terms from private sources or other Federal, State, or local programs;

(3) the amount of the loan, together with other funds available, is adequate to assure achievement of the purposes for which the loan is made;

(4) the loan bears interest at a rate not less than (i) a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding Treasury obligations of comparable maturity, plus (ii) such additional charge, if any, toward covering other costs of the program as the Secretary may determine to be consistent with its purposes;

(5) the loan is repayable within not more than ten years; and,

(6) of the funds appropriated for a fiscal year to carry out this Act, not more than $10,000,000 may be used for the purposes of this subsection.

(c) A report on the activities and achievements under this section shall be included in the report required under section 102.

FUNDS AUTHORIZED

SEC. 304. Not less than 2 per centum of the sums appropriated in any fiscal year to carry out titles I, II, and III of this Act shall be available only for carrying out the provisions of section 302 of this section.

PART B—CAREER AND EMPLOYMENT DEVELOPMENT PROGRAMS

SEC. 311. The Secretary of Labor and the Secretary of Health, Education, and Welfare shall stimulate and assist and, where necessary, develop, in cooperation with interested agencies both public and private, job development programs that will serve to expand employment by the filling of those service and related needs which are not now being met because of lack of trained workers or other reasons affecting employment or opportunities for employment. Such programs shall include activities designed to promote job restructuring and redesign for the purpose of providing more effective use of manpower, including the adoption of employment practices that will remove unreasonable barriers to employment, without reducing productivity, and expand the opportunities for upward mobility.

CAREER TRAINING THROUGH PUBLIC SERVICE EMPLOYMENT

SEC. 312. The Secretary of Labor and the Secretary of Health, Education, and Welfare shall carry out a program of training and career development under which Federal, State, and local government, and public and private nonprofit agencies provide jobs, services, education, and training to unemployed and underemployed persons to meet State, county, and other municipal needs for public services: *Provided,* That priority shall be given to creating jobs and training programs in environmental control, health, housing, and transportation.

FINANCIAL ASSISTANCE

SEC. 313. The Secretary of Labor shall enter into arrangements with eligible applicants in accordance with the provisions of this Act in order to make financial assistance available for the purpose of providing employment for unemployed and underemployed persons in jobs providing needed public services, and training and manpower services related to such employment which are otherwise unavailable. Such assistance shall be available for a period of not more than one hundred and four weeks.

ELIGIBLE APPLICANTS

SEC. 314. Financial assistance under this part shall be provided by the Secretary of Labor only pursuant to applications submitted by eligible applicants who shall be—

(a) units of Federal, State, and general local government; and

(b) other public agencies and institutions (including public service agencies and institutions of the Federal Government); and

(c) nonprofit hospitals and nursing homes, and Indian tribes.

APPLICATIONS

SEC. 315. An application for financial assistance for a public service employment program under this Act shall include provisions setting forth—

(1) assurances that the activities and services for which assistance is sought under this Act will be administered by or under the supervision of the applicant, identifying any agency or agencies designated to carry out such activities or services under such supervision;

(2) a description of the area to be served by such programs, and a plan for effectively serving on an equitable basis the significant segments of the population to be served, including data indicating the number of potential eligible participants and their income and employment status;

(3) assurances that consideration will be given to the filling of jobs which provide sufficient prospects for advancement or suitable continued employment by providing complementary training and manpower services designed to (A) promote the advancement of participants to employment or training opportunities suitable to the individuals involved, whether in the public or private sector of the economy, (B) provide participants with skills for which there is an anticipated high demand, or (C) provide participants with self-development skills, but nothing contained in this paragraph shall be construed to preclude persons or programs for whom the foregoing goals are not feasible or appropriate;

(4) assurances that due consideration be given to persons who have participated in manpower training programs for whom employment opportunities would not be otherwise immediately available;

(5) a description of the methods to be used to recruit, select, and orient participants, including specific eligibility criteria, and programs to prepare the participants for their job responsibilities;

(6) a description of unmet public service needs and a statement of priorities among such needs;

(7) description of jobs to be filled, a listing of the major kinds of work to be performed and skills to be acquired, and the approximate duration for which participants would be assigned to such jobs;

(8) the wages or salaries to be paid participants and a comparison with the prevailing wages in the area for similar work;

(9) the education, training, and supportive services (including counseling and health care services) which complement the work performed;

(10) the planning for and training of supervisory personnel in working with participants;

(11) a description of career opportunities and job advancement potentialities for participants;

(12) procedures for an annual review by an appropriate agency of the status of each person employed in a public service job under this title; and procedures pursuant to which, in the event that any such participant and the reviewing agency find that the participant's current employment situation will not provide sufficient prospects for advancement or suitable continued employment, maximum efforts shall be made to locate employment or training opportunities providing such prospects, and the participant shall be offered appropriate assistance in securing placement in the opportunity which he chooses after appropriate counseling;

(13) assurances that agencies and institutions to whom financial assistance will be made available under this Act will undertake analysis of job descriptions and a reevaluation of skill requirements at all levels of employment, including civil service requirements and practices relating thereto, in accordance with regulations promulgated by the Secretary;

(14) assurances that the applicant shall, where appropriate, maintain or provide linkages with upgrading and other programs under other Federal or federally supported manpower programs for the purpose of:

(A) providing those persons employed in public service jobs under this Act who want to pursue work with the employer, or in the same or similar work as that so performed under the agreement with opportunities to do so and to find permanent, upwardly mobile careers in that field; and

(B) providing those persons so employed who do not wish to pursue permanent careers in such field with opportunities to seek, prepare themselves for, and obtain work in other fields;

(15) assurances that all persons employed thereunder, other than necessary technical, supervisory, and administrative personnel, will be selected from among unemployed or underemployed persons;

(16) assurances that to the maximum extent possible, technical, supervisory, and administrative personnel shall be recruited from among fully qualified, unemployed or underemployed persons;

(17) ways in which the program shall, to the maximum extent feasible, contribute to the elimination of artificial barriers to employment and occupational advancement, including civil service requirements which restrict employment opportunities for the disadvantaged; and

(18) such other assurances, arrangements, and conditions, consistent with the provisions of this Act, as the Secretary of Labor and the Secretary of Health, Education, and Welfare deem necessary, in accordance with such regulations as shall be prescribed.

APPROVAL OF APPLICATIONS

SEC. 316. An application, or modification or amendment thereof, for financial assistance under this Act may be approved only if the Secretary of Labor with the concurrence of the Secretary of Health, Education, and Welfare determines that—

(1) the application meets the requirements set forth in section 315;

(2) the approvable request for funds does not exceed 80 per centum of the cost of carrying out the program in such application, unless the Secretary determines that special circumstances or other provisions of law warrant the waiver of this requirement;

(3) an opportunity has been provided to the Governor of the State and to the State manpower advisory council to submit comments with respect to the application to the applicant and to the Secretary; and

(4) an opportunity has been provided to officials of the appropriate units of local government and to the appropriate area manpower advisory council to submit comments with respect to the application to the applicant and to the Secretary.

SPECIAL CONDITIONS

SEC. 317. (a) The Secretary of Labor shall not provide financial assistance for any program under this Act unless he determines, in accordance with such regulations as he shall prescribe, that—

(1) the program will result in an increase in employment opportunities over those which would otherwise be available with priority given to disadvantaged and low-income groups in filling such opportunities and will not result in the displacement of currently employed workers (including partial displacement such as a reduction in the hours of nonovertime work or wages or employment benefits), and will not impair existing contracts for services or result in the substitution of Federal for other funds in connection with work that would otherwise be performed;

(2) persons employed in a public service job under this Act shall be paid wages which shall not be lower than (A) the Federal, State, or local minimum wage for the most nearly comparable covered employment, or (B) the prevailing rates of pay in the same labor market area for persons employed in similar public occupations;

(3) all persons employed in a public service job under this Act will be assured of benefits at the same levels and to the same extent as other employees of the employer and to working conditions and promotional opportunities neither more nor less favorable than such other employees enjoy;

(4) the provisions of section 2(a)(3) of Public Law 89-286 shall apply to such agreements;

(5) the program will, to the maximum extent feasible, contribute to the occupational development or upward mobility of individual participants; and

(6) every participant shall be advised, prior to entering upon employment, of his rights and benefits in connection with such employment.

(b) For programs which provide work and training related to physical improvements, special consideration shall be given to those improvements which will be substantially used by low-income persons and families or which will contribute substantially to amenities or facilities in urban or rural areas having high concentrations or proportions of low-income persons and families.

(c) Where a labor organization represents employees who are engaged in similar work in the same labor market area to that proposed to be performed under any program for which an application is being developed for submission under this Act, such organization shall be notified and afforded a reasonable period of time in which to make comments to the applicant and to the Secretary of Labor.

(d) The Secretary of Labor shall prescribe regulations to assure that programs under this part have adequate internal administrative controls, accounting requirements, personnel standards, evaluation procedures, and other policies as may be necessary to promote the effective use of funds.

ARRANGEMENTS FOR TECHNICAL ASSISTANCE

SEC. 318. Where training capabilities of the applicant under this part do not meet the requirements established by the Secretary of Health, Education, and Welfare, he shall provide or arrange for technical assistance to applicants in carrying out the provisions of this part.

ANNUAL REVIEW

SEC. 319. The Secretary of Labor and the Secretary of Health, Education, and Welfare shall conduct an annual review and evaluation of training programs and proj-

ects funded under the provisions of this part and shall report their findings to the National Manpower Advisory Council.

PART C—EMERGENCY EMPLOYMENT ASSISTANCE

SEC. 321. Special consideration will be given by the Secretary of Labor in consultation with the Governor of a State to give relief and designate labor areas, as defined by the Secretary of Labor, within the State a job distressed areas when there is an unusually high proportion of low-income families or where there is substantial and persistent unemployment or underemployment or if the annual average rate of unemployment in the labor area has been either (i) 50 per centum above the national average for three of the four preceding calendar years; (ii) 75 per centum above the national average for two of the three preceding calendar years; or, (iii) 100 per centum above the national average for one of the two preceding calendar years.

FINANCIAL ASSISTANCE

SEC. 322. (a) The Secretary of Labor shall enter into arrangements with the Governor of the State in order to make financial assistance available for the purpose of providing employment for unemployed persons residing in designated labor areas in jobs providing needed public services.

(b) Requests for funds shall not exceed 80 per centum of the cost of providing employment, unless the Secretary determines that special circumstances or other provisions of law warrant the waiver of this requirement.

(c) Such assistance shall be available for a maximum period of fifty-two weeks; however, labor areas that meet the criteria of section 321 at the end of such time may request additional assistance for a period of not more than fifty-two weeks: *Provided*, That for the purposes of determining eligibility for continued assistance, individuals employed under the provisions of this part shall not be counted as employed for the purposes of determining the annual average rate of unemployment. Requests for funds for such additional assistance shall not exceed 70 per centum of the cost of the program.

(d) Of the funds appropriated in any fiscal year for the purposes of carrying out Title III, not more than 20 per centum shall be available for the purposes of carrying out programs authorized under this part.

APPLICATIONS

SEC. 323. Each application for financial assistance shall be submitted by the Governor of the State in such form and contain such assurances as the Secretary of Labor may prescribe.

RULES AND REGULATIONS

SEC 324. In carrying out his duties under this part, the Secretary of Labor shall prescribe rules and regulations to assure that programs under this part have adequate internal administrative controls, accounting requirements, personnel standards, evaluation procedures, and other policies as may be necessary to promote the effective use of funds.

TITLE IV—MISCELLANEOUS

MAINTENANCE OF STATE EFFORT

SEC. 401. No training program which is financed in whole or in part by the Federal Government under this Act shall be approved unless the Secretary of Health, Education, and Welfare satisfies himself that neither the State nor the locality in which the training is carried out has reduced or is reducing its own level of expenditures for vocational education and training, including program operation under provisions of the Smith-Hughes Vocational Education Act, titles I, II, and III of the Vocational Education Act of 1946, and the Vocational Education Act of 1963, as amended, except for reductions unrelated to the provisions or purposes of this Act.

OTHER AGENCIES AND DEPARTMENTS

SEC. 402. In the performance of their functions under this Act, the Secretary of Labor and the Secretary of Health, Education, and Welfare, in order to avoid unnecessary expense and duplication of functions among Government agencies, shall use the available services or facilities of other agencies and instrumentalities of the Federal Government, under conditions specified in section 305(a). Each department, agency, or establishment of the United States is authorized and directed to cooperate with the Secretary of Labor and the Secretary of Health, Education, and Welfare and, to the extent permitted by law, to provide such services and facilities as either may request for his assistance in the performance of his functions under this Act.

(b) The Secretary of Labor and the Secretary of Health, Education, and Welfare shall carry out their responsibilities under this Act through the maximum use of all possible resources for skill development available in industry, labor, public and private educational and training institutions, State, Federal, and local agencies, and other appropriate public and private organizations and facilities.

APPROPRIATIONS AUTHORIZED

SEC. 403. (a) There are hereby authorized to be appropriated $75,000,000 for the fiscal year ending June 30, 1972, and for each fiscal year thereafter such amounts as may be necessary to carry out the provisions of title I.

(b) There are hereby authorized to be appropriated $450,000,000 for fiscal year ending June 30, 1972, and for each fiscal year thereafter such amounts as may be necessary to carry out the purposes of part A of title II.

(c) There are hereby authorized to be appropriated $75,000,000 for the fiscal year ending June 30, 1972, and for each year thereafter such amounts as may be necessary to carry out the purposes of parts B and C of title II.

(d) There are hereby authorized to be appropriated $115,000,000 for the fiscal year ending June 30, 1972, and for each year thereafter such amounts as may be necessary to carry out the purposes of part D of title II.

(e) There are hereby authorized to be appropriated $300,000,000 for the fiscal year ending June 30, 1972, and for each year thereafter such amounts as may be necessary to carry out the purposes of title III.

(f) There are hereby authorized to be appropriated $2,000,000 for the fiscal year ending June 30, 1972, and for each year thereafter such amounts as may be necessary to carry out the purposes of title IV.

ADVANCE FUNDING

SEC. 404. (a) For the purpose of affording responsible Federal, State, and local officials concerned, adequate notice of available Federal financial assistance for programs, services, and activities provided for under this Act, appropriations for carrying out this Act are authorized to be included in the appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation.

(b) In order to effect a transition to the advance funding method of timing the appropriation action, the provision of subsection (a) shall apply notwithstanding that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year.

LIMITATIONS ON USE OF APPROPRIATED FUNDS

SEC. 405 (a) Funds appropriated under the authorization of this Act may be transferred, with the approval of the Director of the Office of Management and Budget, between departments and agencies of the Government, if such funds are used for the purposes for which they are specifically authorized and appropriated.

(b) The Secretary of Labor and the Secretary of Health, Education, and Welfare are authorized to accept and use in carrying out the provisions of this Act funds appropriated to carry out other Federal statutes if such funds are used for the purposes for which they are specifically authorized and appropriated. To the extent that the provisions of this Act are inconsistent with the provisions of such other Federal statutes, the provisions of the latter shall govern except as provided under the Intergovernmental Cooperation Act of 1968.

(c) Any equipment and teaching aids purchased by a State or local education agency with funds appropriated to carry out the provisions of part A of title II shall become the property of the State upon certification of the Secretary of Health, Education, and Welfare that such equipment or teaching aids are no longer needed for the instructional programs authorized by this Act.

(d) No portion of the funds to be used under part A, title II of this Act shall be appropriated directly or indirectly to the purchase, erection, or repair of any building except for minor remodeling of a public building necessary to make it suitable for use in training under part A.

(e) Funds appropriated under this Act shall remain available for one fiscal year beyond that in which appropriated.

AUTHORITY TO CONTRACT

SEC. 406. (a) The Secretary of Labor and the Secretary of Health, Education, and Welfare may make such grants, contracts, or agreements, establish such procedures (subject to such policies, rules, and regulations as they may prescribe), and make such payments in installments and in advance or by way or reimbursement, or otherwise allocate or expend funds made available under this Act, as they may deem necessary to carry out the provisions of this Act, including necessary adjustments in payments on account of overpayment or underpayments. The Secretaries may also withhold funds otherwise payable under this Act in order to recover any amounts expended in the current or immediately prior fiscal year in violation of any provision of this Act or an approved State plan. Any funds so withheld shall be available for reapportionment by the Secretary of Labor and the Secretary of Health, Education, and Welfare in accordance with section 206: *Except*, That funds withheld during a fiscal year to cover amounts expended in a prior fiscal year shall be available for immediate reapportionment.

(b) The Secretary of Labor and the Secretary of Health, Education, and Welfare shall not use any authority conferred by this Act to assist in relocating establishments from one area to another. Such limitation shall not prohibit assistance to a business entity in the establishment of a new branch, affiliate, or subsidiary of such entity if the Secretary of Labor finds that assistance will not result in an increase in unemployment in the area of original location or in any other area where such entity conducts business operations, unless he has reason to believe that such branch, affiliate, or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where it conducts such operations.

ACCEPTANCE OF VOLUNTARY SERVICES

SEC. 407. The Secretary of Labor and the Secretary of Health, Education, and Welfare are authorized in carrying out their functions and responsibilities under this Act, to accept voluntary and uncompensated services, notwithstanding the provisions of sec-

tion 3679(b) of the Revised Statutes (31 U.S.C. 665(b)).

DEFINITION

SEC. 408. For the purposes of this Act, the term "State" includes the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

EFFECTIVE DATE: TRANSITION PROVISIONS

SEC. 409. (a) This Act shall take effect July 1, 1971.

(b) Notwithstanding the repeals made by section 209, in order to permit an orderly transition from programs carried out under the provisions of law repealed, to programs carried on under this Act, the Secretary of Labor and the Secretary of Health, Education, and Welfare may continue to use the authority provided in such repealed provisions of law for such period of time as may be necessary, but not in excess of two years beyond the effective date of this Act.

TERMINATION OF AUTHORITY

SEC. 310. (a) All authority conferred under title II of this Act shall terminate at the close of June 30, 1975.

(b) Notwithstanding the foregoing, the termination of title II shall not affect the disbursement of funds under, or the carrying out of, any contract, commitment, or other obligation entered into prior to the date of such termination: *Provided,* That no disbursement of funds shall be made pursuant to the authority conferred under title II of this Act after December 30, 1975.

By Mr. FULBRIGHT (by request):

S.J. Res. 141. Joint resolution to authorize appropriations for expenses of the Council on International Economic Policy, and for other purposes. Referred to the Committee on Foreign Relations.

Mr. FULBRIGHT. Mr. President, by request, I introduce for appropriate reference a joint resolution to authorize appropriations for expenses of the Council on International Economic Policy, and for other purposes.

The joint resolution has been requested by the Office of Management and Budget and in keeping with our regular committee procedures, I am introducing it in order that there may be a specific proposal to which Members of the Senate and the public may direct their attention and comments.

At the same time, I feel I should express some preliminary thoughts about this request—thoughts which are largely skeptical in character. We on the committee have constantly been deploring the erosion of legislative initiative and control and the parallel increase in the powers of the executive branch. This proposal seems at first glance to reproduce the process which has taken place with the expansion in numbers and strength of the NCS staff. That process has been attended by certain unfortunate byproducts: power has been further concentrated in the President's office; the regular executive departments and agencies have been bypassed or downgraded; the influence and oversight functions of Congress have been weakened; and the claim of "executive privilege" is being made with ever-greater frequency. There is no provision for any limit on the funds that can be authorized for this activity, there is no requirement that the important personage to be Executive Director is to be confirmed by the Senate. I hope these thoughts are without foundation, but I am dubious.

I ask unanimous consent that the joint resolution together with the letter to the Vice President dated July 15, 1971, be printed in the RECORD at this point.

I reserve my right to support or oppose this legislation and propose amendments to it.

There being no objection, the joint resolution and letter were ordered to be printed in the RECORD, as follows:

S.J. RES. 141

Joint resolution to authorize appropriations for expenses of the Council on International Economic Policy, and for other purposes

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That there are hereby authorized to be appropriated such sums as may be necessary for expenses of the Council on International Economic Policy (referred to hereafter as the "Council"), established by memorandum of the President dated January 19, 1971.

SEC. 2. The Executive Director of the Council is authorized—

(a) to appoint and fix the compensation of such personnel as he deems necessary without regard to (1) the provisions of title 5, United States Code, governing appointments in the competitive service, and (2) the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and to general schedule pay rates: *Provided,* That, except as provided in subsections (b), (c), and (d) of this section, no person shall receive compensation in excess of the rate now or hereafter provided for GS–15;

(b) to fix the compensation of one officer at a rate of basic compensation not to exceed the rate now or hereafter provided for Level IV of the Federal Executive Salary Schedule;

(c) to fix the compensation of two officers at rates of basic compensation not to exceed the rate now or herafter provided for Level V of the Federal Executive Salary Schedule;

(d) to fix the compensation of eight employees at rates of basic compensation not to exceed the rate now or hereafter provided for GS–18; and,

(e) to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code, at rates not to exceed the daily equivalent of the rate now or hereafter provided for GS–18.

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., July 15, 1971.

HON. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed for your consideration and appropriate reference is a draft of a proposed joint resolution, "To authorize appropriations for expenses of the Council on International Economic Policy, and for other purposes."

The Council on International Economic Policy was established by memorandum of the President dated January 19, 1971. The purposes of the Council are to provide a clear, top-level focus on international economic issues, to achieve consistency between international and domestic economic policy, and to maintain close coordination of international economic policy basic foreign policy objectives.

The President's memorandum names the Secretaries of State, the Treasury, Agriculture, Commerce, and Labor, the Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, the President's Assistant for National Security Affairs, the Executive Director of the Domestic Council, and the Special Representative for Trade Negotiations as members of the Council, which the President chairs. The President subsequently designated Ambassador at Large David M. Kennedy as a member of the Council.

The memorandum also provides for an Executive Director of the Council to be responsible for organizing the general secretariat of the Council and supervising the staff work. Under direction of the President he develops the Council's agenda and assures timely consideration of international economic policies. The Executive Director also serves as Assistant to the President for International Economic Affairs and is compensated from the White House Office appropriation account.

In addition to authorizing appropriations for necessary expenses of the Council, the proposed resolution would authorize the Executive Director to appoint and fix compensation for other personnel of the Council, including one position at a rate of basic compensation not in excess of that for Level IV of the Executive Schedule; two positions at rates not in excess of Level V; and eight positions at rates not in excess of GS–18. The resolution would also authorize the use of services of experts and consultants.

The President's announcement of the creation of the Council noted that "More than 60 . . . units and coordinating bodies throughout the executive branch have responsibility for certain limited portions of foreign economic affairs. Presently, no single high-level body holds the responsibility for the development of international economic policy and its relations to domestic economic policy. The Council will have this responsibility."

I urge early and favorable consideration of the enclosed draft resolution.

Sincerely,

(S) GEORGE P. SHULTZ,
Director.

Enclosure.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 1899

At the request of Mr. FONG, the Senator from Indiana (Mr. BAYH), the Senator from California (Mr. TUNNEY), the Senator from Florida (Mr. GURNEY), and the Senator from Michigan (Mr. HART) were added as cosponsors of S. 1899, a bill to permit visitors from designated countries to enter the United States for a period of up to 90 days without obtaining a visitor's visa.

S. 2108

At the request of Mr. CRANSTON, the Senator from Pennsylvania (Mr. SCHWEIKER) was added as a cosponsor of S. 2108, the Veterans Drug and Alcoholic Treatment Rehabilitation Act of 1971.

S. 2148

Mr. MATHIAS. Mr. President, I ask unanimous consent that the Senator from Michigan (Mr. GRIFFIN), the Senator from New Mexico (Mr. MONTOYA), and the Senator from Kansas (Mr. PEARSON) be added as cosponsors of S. 2148, the Juvenile Delinquency Prevention and Rehabilitation Act of 1971, bringing to 29 the number of cosponsors of this legislation.

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

Mr. MATHIAS. The addition of my

three distinguished colleagues, I believe, reflects a recognized sense of urgency in the Senate for the resolution of the problem of juvenile delinquency and highlights the importance for early and favorable consideration of this significant legislation.

S. 2161

At the request of Mr. HARTKE, the Senator from Wyoming (Mr. MCGEE) and the Senator from Iowa (Mr. HUGHES) were added as cosponsors of S. 2161, a bill to amend chapters 31, 34, and 35 of title 38, United States Code, to increase the vocational rehabilitation subsistences allowances, the educational assistance allowances, and the special training allowances paid to eligible veterans and persons under such chapters.

S. 2258

At the request of Mr. GRIFFIN, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of S. 2258, the Motor Vehicle Air Pollution Control Acceleration Act.

S. 2310

At the request of Mr. BAKER, the Senator from Tennessee (Mr. BROCK) and the Senator from New York (Mr. BUCKLEY) were added as cosponsors of S. 2310, Revenue Code of 1954, to extend tax benefits and exclude from income tax the military pay of those members of the Armed Forces who are prisoners of war or in a missing status.

SENATE JOINT RESOLUTION 108

At the request of Mr. CRANSTON, the Senator from Wyoming (Mr. MCGEE) was added as a cosponsor of Senate Joint Resolution 108 to declare a U.S. policy of achieving population stabilization by voluntary means.

SENATE RESOLUTION 156—SUBMISSION OF A RESOLUTION RELATING TO FOREIGN RELATIONS OF THE UNITED STATES

(Referred to the Committee on Foreign Relations.)

THE SENATE AND THE TREATY POWER

INTRODUCTION

Mr. HARTKE. Mr. President, negotiation of a treaty is constitutionally to be shared by the Senate and the President. The Constitution of the United States assumes that the President and the Senate will be associated throughout the entire process of making a treaty.

The Senate resolution which I offer today is designed to restore the Senate to its rightful constitutional place in the treatymaking process of the United States and, thereby, facilitate a speedy end to our involvement in the Indochina war.

The Senate should require the President to submit to the Senate for advice and consent the nomination of the man he wishes to send as chief negotiator to the Paris peace talks; and it should further instruct that negotiator to proceed in his negotiations along the lines already approved by this body in the form of the Mansfield Amendment to the Military Manpower Procurement Act of 1971, adopted June 24.

My resolution accomplishes this purpose.

The full text of the resolution reads as follows:

RESOLUTION AFFIRMING THE CONSTITUTIONAL PREROGATIVES OF THE SENATE WITH RESPECT TO THE FOREIGN RELATIONS OF THE UNITED STATES

Whereas no treaty may be constitutionally negotiated by the President without the prior advice of the Senate, and no person may perform ambassadorial duties of a particular position unless such person is nominated to such position and the Senate advises and consents to his nomination: Now, therefore, be it

Resolved, That—

(1) the Senate advises, with respect to the negotiations being conducted at the meetings being held in Paris on Vietnam, that the United States should agree to withdraw within nine months of the passage of this resolution all of its military forces from Indochina if reliable arrangements are made for the timely return of American prisoners of war held by the Government of North Vietnam and forces allied with such Government; and

(2) the President is required by section 2 of article II of the Constitution to submit to the Senate for its advice and consent the nomination for appointment of any person he selects to conduct such negotiations on behalf of the United States.

HISTORICAL PERSPECTIVE

Mr. President, the Senate has been very attentive to the point of limiting the war power of the President.

However, in its preoccupation with the constitutional warmaking powers, the Senate has, by and large, neglected its constitutional power to make peace, which is the treatymaking power.

Writing in 1969, in a book entitled "You and Your Senator," I pointed out that:

The Senate (may) be posed against the President in dramatic confrontation because of the treaty making power of the Constitution . . ."

Jealous of its responsibility as a partner in treaty making the Senate has insisted on its right to deliberate a treaty with due regard for all the considerations attached to it, relying on the executive's advice and information, but feeling free to accept or refute provisions as its independent authority deems wise. From the start, the Senate has made it clear that it prefers to deliberate freely—and without pressure presence of the President or his representatives.

During the course of the debate on the Indochina war, the Senate questioned the extent of the President's power to make war. It has examined scholarly writings on the constitutional limitations of the war power and it has examined the history of the exercise of that power. The result of this study and this debate, caused the Senate to pass the National Commitments Resolutions, which attempts to restore the warmaking powers to the proper constitutional boundaries.

Now we have before us further proposals that would reaffirm by law the limits of Presidential action that could involve American forces in hostilities. These efforts on the part of the Senate have shown that the Congress could end the existing war by cutting off the funds for waging it, if the Congress should choose to do so. Also these efforts will help the Nation avoid future wars.

The power to make treaties is an important one. Yet in recent years there has been a neglect on the part of the Senate to exercise its responsibilities under the Constitution in relation to the treatymaking power. In all likelihood, this neglect springs from the acceptance by the Senate of an erroneous view of its constitutional role.

Everyone concedes that the President and the Senate must agree before a treaty can be made. The only question really at issue is whether the two parties shall have the right to be equally informed. Forrest R. Black said in 1931 in his article, "The United States Senate and the Treaty Making Power" that:

There are two widely divergent schools of thought as to the respective (constitutional) roles of the President and of the Senate in making treaties:

The Washingtonian (interpretation) views the role of the Senate as an integral part of the treaty making function, which may be exercised at any stage of negotiation; the other (interpretation) the Wilsonian, considers the function of the Senate merely to give sanction to a treaty that is already drafted . . . (and) would make the word "advice" mere surplusage.

The Wilsonian view also contends that the President may appoint and send envoys to a peace conference without the advice and consent of the Senate.

In all likelihood, as I have said, the Senate's neglect of the treatymaking power springs from the acceptance by this body of an erroneous view of its proper constitutional role. This is the view that governs our present participation in the Vietnam peace talks and the SALT talks. It effectively excludes the Senate from participation in the formulating of negotiating policies for the United States in areas of the most crucial importance to the Nation. The Senate's role in treatymaking, in other words, has been relegated to the very last stage, when—and if—the executive submits a signed treaty for ratification.

I have characterized this view as erroneous. The evidence of our national history overwhelmingly refutes the "Wilsonian" view both as to its constitutionality and its pragmatic value as a method of formulating national policy. In support of this judgment I shall introduce into the RECORD essays by two men who have inquired deeply into the foundations of our constitutional system. These scholars have concluded that President Woodrow Wilson's exclusion of the Senate from the post-World War I treatymaking process was a unique and tragic aberration from the practice that had prevailed through the first three-quarters of this Nation's history. The evidence they offer from actual practice and from the plain meaning of the words of the Constitution itself is incontestable. The Senate was fully intended to have—and until 1919 at least did have—a part of major role to play in the formulation as well as the ratification of international agreements to which the United States was a party.

TREATIES—A CONSTITUTIONAL RESPONSIBILITY

The drafters of the Constitution, as we all know, left a number of points deliberately ambiguous so that future generations could respond with some degree of flexibility to conditions unforeseeable in 1787. This is not the case with the treatymaking clause. Article II, section 2 says:

He (the President) shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two-thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, . . . whose Appointments are not herein otherwise provided for.

That language could hardly be more precise. Senator Rufus King of Massachusetts, who was one of the authors of that very section of the Constitution, emphasized the intent of the treatymaking clause in a speech to the Senate in 1818. He said:

To *make* a treaty, includes all the proceedings by which it is made, and the advice and consent of the Senate being necessary in the making of treaties, must necessarily be so, touching the measures employed in making the same. The Constitution does not say that treaties shall be *concluded*, but that they shall be *made* by and with the advice and consent of the Senate: none therefore can be made without such advice and consent; and the objections against the agency of the Senate in making treaties, or in advising President to make the same, cannot be sustained, but by giving to the Constitution an interpretation different from its obvious and most salutary meaning.

That is the understanding of the treatymaking clause which largely governed the conduct of our foreign relations until President Wilson's unprecedented decision to engage in personal and secret treaty negotiations at Versailles in 1919. Since that time, Presidents have generally observed at least the form of consultation with the Senate—as in President Truman's wise decision to include Senate leaders in the treatymaking process after World War II. Yet I think we must all agree that Presidential ascendancy in the realm of international decisionmaking has reached a point where, for all practical purposes, our present system is indistinguishable from that of the Fifth Republic under Charles de Gaulle or the German Federal Republic under Konrad Adenauer. No doubt there are those even in the United States who believe that the methods of representative democracy are unsuited to the conduct of foreign relations. But if that is what the American people want their system to become, the way to bring those changes about is through constitutional amendment—not Presidential usurpation.

The resolution I submit today will test the Senate's will on precisely that point.

ANTICIPATED OBJECTIONS TO THE RESOLUTION

Three possible questions may be raised concerning this resolution:

First. The question of the correctness of the constitutional argument.

Second. The question which concedes the general constitutional point but asks whether it applies to the Indochina conflict and the Paris peace talks.

Third. the question as to whether we can afford the luxury of abiding by what is regarded as an outmoded provision of the Constitution, with special reference to the inadvisability of "tying the President's hands" at a possibly crucial stage in the negotiations.

THE CONSTITUTIONAL ARGUMENT

Some may argue that the Senate should reject this resolution on purely constitutional grounds. The advocates of the Wilsonian interpretation of the constitutional powers of the Executive in the making of treaties would argue that it is the function of the President to negotiate and the Senate to consent. But the term "negotiate" does not appear in the Constitution. Both the history and the phraseology of the Constitution give the lie to this interpretation. Most of the "Wilsonian" interpretation is a result of the writings of the late E. S. Corwin. Professor Corwin was for almost two generations the leading academic apologist for the expansion of Presidential power at the expense of Congress and all other contenders for political influence in our system. Professor Corwin—as dedicated a Wilsonian as ever lived—built his entire career out of the stone of Presidential aggrandizement. But a careful reading of the historical record will show beyond any doubt that Corwin's arguments on the treaty power were based on highly selective quotations from our early history and simply will not stand up to analysis. Thus there is no alternative to accepting the clear meaning of the clear words of the Constitution itself.

ITS APPLICATION TO INDOCHINA

The second possible argument against this resolution will, as I say, concede the general constitutional argument but deny that it applies to the Indochina war and the Paris peace talks. These opponents will say the United States is not officially at war with anyone. Therefore the Paris negotiations cannot possibly lead to a treaty in the sense contemplated by article II, section 2. The response to that argument is one that I believe will be widely shared in this Chamber. This is the longest war in our history. It has cost more than 50,000 American lives and something in the neighborhood of $200 billion. The fact that Congress was misled into granting a President what he claimed to be the authority to wage it without a declaration of war, only makes it unconstitutional, not legitimate. The cure for unconstitutionality is surely not more unconstitutionality. The cure for unconstitutionality is a return to those principles of law that have sustained us for nearly 200 years. I cannot believe that any Senator—all of us having sworn to uphold and defend the Constitution—would reason otherwise. The Indochina war is, in fact, a war. The Paris peace talks are being held for no other reason than to produce a negotiated settlement of the war. They are therefore an exercise in treatymaking of precisely the sort contemplated in article II, section 2.

It will be further argued in this connection that that part of my resolution calling on the President to submit to the Senate for advice and consent the nomination of a chief U.S. negotiator to the Paris peace talks is unnecessary since both Ambassador Bruce and his reported successor have had their ambassadorial rank confirmed by the Senate on a past occasion for other posts. This is a point that Mr. Michaels Collins of the State Department made last October in an exchange of correspondence recently brought to my attention. Mr. Collins' exact words are these:

I should like to add that our negotiator at the Paris peace talks is, of course, appointed with the advice and consent of the Senate.

This assertion, Mr. President, is all too illustrative of the arrogance with which successive administrations have treated the Senate in the realm of foreign policymaking. We are being asked, in effect, to accept the proposition that having approved a man for one diplomatic post, the Senate has given blanket approval for him to serve in any other post—no matter how different from that for which we confirmed him—at the pleasure of the President. The unspoken premise here seems to be that ambassadorship, once conferred is inseparable from a man, like the color of his eyes or the cast of his mind. I need hardly tell any Member of this body that that is an assertion utterly repugnant to the plain meaning of the Constitution, whose authors clearly required that the Senate advise and consent to the appointment of "ambassadors and other public ministers" for specific assignments—not for some undefined diplomatic status almost metaphysical in its indeterminacy.

That will simply not do. Once the nature of the Paris peace talks is understood for what it is—a negotiation with a foreign power for the purpose of reaching an international agreement—then it follows that whoever conducts that negotiation on America's behalf must have his appointment to that post advised and consented to by the U.S. Senate.

THE PRAGMATIC OBJECTION

The third possible argument to this resolution is frankly and unashamedly pragmatic. It, too, concedes the constitutional argument I have made but asserts that the intentions of the Founding Fathers are irrelevant to our national needs in this age of conflict. This position maintains that senatorial involvement, in delicate and necessarily confidential international negotiations, can only be dangerously counterproductive. It asserts that had the authors of the Constitution been able to foresee the perilous world political conditions in which we are obliged to operate, they would surely have posed no obstacles to the exclusive conduct or foreign affairs by the Executive.

This position received its most authoritative statement in the words and actions of President Woodrow Wilson—contrary to the views he expressed in an important book he published shortly before becoming President. And the late Justice Sutherland gave formidable expression to this doctrine in his book "Constitutional Power and World Affairs," published in 1919, and in the dictum of his landmark opinion in United States against Curtiss-Wright—1936.

In fairness, I should say that nowhere

did Justice Sutherland concede that his views ran counter to the Constitution. The closest he came to such a concession was his statement—written before he went to the Supreme Court—that:

We shall probably be obliged to extend the scope and application of the familiar meanings of the Constitution, and it may be to *find*—though not to *make*—new meanings.

It was that search for "new meanings" that led Sutherland to discover that the Senate's only function in treatymaking occurred at the ratifying stage—contrary to the practice of the preceding 130 years.

Later, in the Curtiss-Wright case, Sutherland went so far as to announce that the President's authority in the conduct of foreign affairs existed independently of the Constitution, deriving from the very nature of executive power and in no way conferred upon him by anything the authors of the Constitution did or did not say. This pronouncement of Sutherland's was pure dictum, but it survived to form the theoretical basis of the extraordinary claims for Presidential power we hear today—including, I may say, the assertion by former Attorney General Katzenbach that the clause relating to Congress' war powers is "an obsolete form of words."

This whole line of argument, Mr. President, can be dealt with, and disposed of, on its own terms—that is, pragmatically. Its central claim is that this Nation's foreign affairs, especially with respect to international agreements, can be handled more effectively by an Executive unemcumbered by the advice of the Senate. The record simply does not support this view. The two outstanding instances in the 20th century of Presidents negotiating agreements in total isolation from the Senate are the Versailles Treaty of 1919 and the Yalta Agreements of 1945.

Regarding the Versailles Treaty, I think it is safe to say that everyone would now agree that it turned out to be an unmitigated disaster for America and indeed for Western civilization. World War II, the Nazi death camps, Soviet hegemony over Eastern Europe—all are direct consequences of that bitterly misguided treaty and of America's refusal to adhere to it. And surely no one today doubts that a far happier outcome would have resulted from a peace conference in which President Wilson had enjoyed the counsel and support of the Senate.

No such consensus has yet arisen concerning the Yalta agreements and I do not want to presume to suggest one. But it is incontestable that the very secrecy with which they were concluded poisoned our political dialog for more than a decade and helped foster that almost pathological fear of communism that has deformed our international judgment from that day to this. How much better it would have been if President Roosevelt had been more mindful of his constitutional obligation to involve the Senate in the making of those fateful decision. In all likelihood, we would have ended up with substantially the same agreements but with a far more temperate and informed public and congressional opinion.

REAFFIRMING SENATE RESPONSIBILITIES

And today we have a situation in which another President—a self-confessed Wilsonian of the most ardent kind—has undertaken to conclude an international agreement of the greatest consequence for America without a trace of Senate participation. And we have permitted this—and have permitted ourselves to be silenced as a body by every presidential hint that negotiations too delicate and secret for us to know about are underway. That, at least, was the situation until last month when we passed the Mansfield amendment to the Military Manpower Procurement Act, expressing at long last our collective judgment on the way to proceed at the Paris peace talks.

The resolution I submit today would, in effect, put the Mansfield amendment in proper constitutional perspective. It could not be dismissed as a mere "sense of the Senate" resolution having no legal effect. Passage of my resolution would make it an integral part of the treatymaking process which the President is duty bound not to ignore. And, let me add very emphatically, we must not ignore it either. Once we understand a constitutional provision, we too are bound by our oath of office to abide by it. And that means in this instance that we cannot delegate our own treatymaking authority to the President even if we wished to do so.

The Senate has attempted to reassert its rightful power to make war. Now the Senate should assert its rightful power to make peace. Here is a national interest of the first magnitude. If we attach importance to the future of our constitutional system, the decision is not difficult

Our obligation is clear. This resolution will enable us to fulfill it. By enacting it speedily we can hasten the day when the killing will stop in Indochina and, more fundamentally, restore the principle of representative government to the treatymaking process of the United States.

Mr. President, I ask unanimous consent that the two articles to which I have referred be printed in the RECORD at the conclusion of my remarks. They are, first, "The United States Senate and the Treaty Power," by Prof. Forrest R. Black, which appeared in the Rocky Mountain Law Review in 1931, and Mr. Richard E. Webb's "Treaty Making and the President's Obligation to Seek the Advice and Consent of the Senate with Special Reference to the Vietnam Peace Negotiations," which appeared in the Summer, 1970 number of the Ohio State Law Journal.

Mr. President, I earnestly hope that the Senate of the United States will consider this resolution. I would hope that they would do so before the President takes it upon himself to appoint still another ambassador without advice and consent to the Paris peace talks concerning Indochina.

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

THE U.S. SENATE AND TREATY POWER

(By Forrest R. Black) *

"He [the President] may himself be less stiff and offish, may himself act in the true spirit of the Constitution and establish intimate relations of confidence with the Senate on his own initiative, not carrying his plans to completion and then laying them in final form before the Senate to be accepted or rejected, but keeping himself in confidential communication with the leaders of the Senate while his plans are in course, when their advice will be of service to him and his information of the greatest service to them; in order that there may be veritable counsel and a real accommodation of views instead of a final challenge and contest."—WOODROW WILSON.**

From a constitutional standpoint, what is the respective role of the President and of the Senate in the making of treaties? At the present time, there are two schools of thought expounding widely different doctrines upon this subject. The American people vividly remember the respective claims of the President and the Senate in the consideration of the Treaty of Versailles. The question at issue is, does the Senate have a constitutional right to know the facts and to actually participate in the treaty-making functions, as an advisory body to the President, while the treaty is being formulated, or does the Senate only have the constitutional right to say "yes" or "no" when the treaty in its final form is first presented to it? Or to put it in another way, is the action of the Senate upon a treaty an integral part of the treaty making function which may be exercised at any stage of a negotiation, or is it merely to give sanction to a treaty that is already drafted?

In the discussion of this problem we shall examine and attempt to answer four questions. (1) What was the intention of the framers of the Constitution in this matter as evidenced by the debates in the Constitutional Convention? (2) What is the correct construction of the phraseology of the constitutional provision on the treaty power? (3) Has our treaty practice been in harmony with this construction? And finally, (4) from the standpoint of policy, is this construction preferable?

The debates on the treaty power in the Constitutional Convention throw some light on our problem. The first point of importance to be emphasized is the fact that in the whole history of the Convention, at no time did any member suggest that the President alone should have this power. Even Hamilton, who was an ardent advocate of a highly centralized government, was unwilling to place this important power exclusively in the hands of the President. He believed that the Senate should participate because of "the vast importance of the trust, and the operation of the treaties as law." His sketch of Government presented to the Convention, June 18, 1787, gave to the executive authority, with the "advice and approbation of the Senate, the power of making all treaties."

Furthermore, the debates show that the majority of the members were not even favorable to the idea of giving the President

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**WILSON, CONSTITUTIONAL GOVERNMENT OF THE UNITED STATES (Columbia University Press; New York, 1908) 139–40.

any share in the treaty power until late in the Convention. The Pinckney Draft (Art. VII) provided that "The Senate shall have the sole and exclusive power . . . to make treaties." [1] After weeks of discussion, on August 6, 1787, the Committee on Detail, still adhering to the Pinckney plan, reported out Art. IX, sec. 1, which read as follows: "The Senate of the United States shall have the power to make treaties." Prof. Matthews has admirably summarized the influences that led the members of the Convention to favor the Senate rather than the President in treaty making. "(1) Fear of the autocratic power which might result from placing this important function in the hands of one man, (2) a desire to depart from English precedent, (3) the force of practice under the preceding regime, when for lack of a President, the Continental and Confederation Congresses had directed the foreign relations of the country and (4) the feeling that since the states were prohibited from making treaties, some compensation should be granted them by giving this power to their representatives in the upper house, thereby protecting them against injury at the hands of the Federal government in its control over foreign relations." [2]

The President was finally given a share in the treaty power only after Madison made the suggestion "that the Senate represented the states alone, and that for this as well as other obvious reasons, it was proper that the President should be an agent in treaties." But with reference to treaties of peace. Madison made an exception and suggested the consent of two-thirds of the Senate *without* the concurrence of the President, since the President would derive so much power and influence from a state of war that he might be tempted to impede the conclusion of a treaty of peace.[3] This exception was defeated presumably because the Convention accepted the view of Nathaniel Gorham of Massachusetts that the precaution was unnecessary since the means of carrying on war were in the control of the legislation.[4]

From a review of the debates in the Constitutional convention it is impossible to generalize and to say that the Convention gave a definite answer to our specific problem. They did not describe in detail the exact function or the method of procedure of the President and the Senate in making of treaties. But we submit that it is fair to conclude that the delegates were inclined at least to view the Senate as possessing equal dignity, equal power and equal responsibility with the President in the making of treaties. And this general attitude becomes significant in discussing the true meaning of the phraseology of the treaty clause as finally drafted.

But before attempting this interpretation, it is well to dispose of one consideration. In many of the treaties on the treaty power it is deemed proper by way of introduction to indulge in a philosophical speculation as to the inherent nature of this power, whether it be executive or legislative. We consider this to be irrelevant in determining the respective roles of the two departments in our government in the treaty making function. Our Supreme Court has said, "Our own Constitution and form of government must be our only guide." [5]

The Constitutional provision bearing on this point reads as follows: "He [the President] shall have power, by and with the advice and consent of the Senate to make treaties, provided two-thirds of the Senators present concur." [6] The advocates of the Wilsonian [7] interpretation of the powers of the executive in the making of treaties would argue that it is the function of the President to negotiate and that of the Senate to consent. But the term "negotiate" does not appear in the Constitution. Both the history of the convention and the phraseology of the Constitution give the lie to this interpretation. Senator Bacon in a debate in the United States Senate in 1906 presented an irrefutable argument on this point.

He said, "The Constitution does not divide the power conferred upon the President and the Senate respectively into two parts, so that the term to make should be construed to mean, in the first division 'to negotiate' and in another division 'to consent', thus conferring the one upon the President and the other upon the Senate. It is one *indivisible* power 'to make' and in the entire power 'to make' the Senate is given full participation on advising and consenting. The contention that the power of the President includes everything up to the time of the submission of the proposed treaty to the Senate might be sustained if the language of the Constitution were that 'the President of the United States shall have power to negotiate, and by and with the advice and consent of the Senate to make treaties.' " [8]

There can be no question but that the precise wording of the treaty clause was deliberate and for a purpose. The framers did not desire to break up the treaty-making power into two parts. They did not contemplate that the Senate should function only to give sanction to a treaty already drafted. Their purpose was to make the President and the Senate coordinate with each other in the treaty making function, sharing equal power and equal responsibility. If there is still doubt on this point, the following consideration should be conclusive. Separated only by a semicolon from the treaty provision, and in the same article, section and clause of the Constitution is the provision for the nomination and appointment of officials. But note the difference in phraseology. "And he [the President] shall *nominate* and by and with the advice and consent of the Senate, shall *appoint* ambassadors, other public ministers and consuls, judges of the Supreme Court and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law . . ." As far as this function is concerned, the framers clearly distinguished between two powers, that of nominating and that of appointing. The first is exclusively in the hands of the President; the second is jointly given to the President and the Senate. But extremists who care little for the provisions of the fundamental law, have ignored this difference in phraseology and have claimed that because the Senate cannot amend a nomination by striking out the name sent in by the President and insert in another, it therefore, by analogy, cannot amend a treaty.[9]

There is one further argument from the standpoint of phraseology. What is the meaning of the word "advice" in the treaty clause. Senator Bacon has said, "It is proper for the Senate to advise at all stages. We do not advise men after they had made up their minds and after they have acted; we advise men while they are considering, while they are deliberating and before they have determined and before they have acted." [10] The Wilsonian interpretation would make the word "advice" mere surplusage. John Marshall, our greatest Chief Justice, had something to say concerning an interpretation which would have this effect. "As men, whose intentions require no concealment, generally employ the words which most directly and aptly express the ideas they intended to convey, the enlightened patriots who framed our Constitution and the people who adopted it, must be understood to have employed words in their natural sense and to have intended what they have said." [11]

What, then, is the correct interpretation of the constitutional provision relating to the treaty power? We hold that the President and the Senate are coordinate departments and should have equal power and equal responsibility. This does not mean that the President is obligated to seek advice in person. He may do so by message. It does not mean that the President must, in all cases, seek advice before he enters into the preliminary stage of a negotiation. The President, as the chief executive, may take the initiative in the field of foreign relations, but when a treaty is under negotiation, the Senate has a constitutional right to know the facts and to give advice. It is implicit in the very idea of making the Senate an advisory body to the President, that the Senate shall have the privilege of being an informed advisor. If the Senate sees fit to delegate its advisory function to its own Committee of Foreign Relations, the President may constitutionally deal with that committee and may seek advice from it. This committee, being the creature of the Senate can be required to report to its creator at any time. It is also not inconsistent with the treaty clause, for the Senate to take the initiative and suggest, by resolution, that a certain treaty of a certain type be negotiated. Of course the President is not bound to accept the advice; neither is the Senate bound to give its consent. As David Jayne Hill has so well said, "If an impasse is created intentionally, the fault lies with him who has intentionally created it, for it is not legally in the power of either participant in the process to destroy the freedom of judgment of the other. Its safety lies in the fact that it is a joint procedure. Either can completely block the interests of the other, but neither can force the other; and herein lies the wisdom of the arrangement." [12]

Has our treaty practice been in harmony with this construction? It is important to get the point of view of the first President of the United States who was also the president of the Constitutional convention and as such presided over the debates of that body. The actual practice of treaty making under Washington's administration evolved through three distinct stages as far as details are concerned. His earliest view is illustrated by the treaty with the Creek Indians in 1789. On August 22nd of that year, he appeared in person before the Senate to get its advice by an affirmative or negative vote on seven specific questions relating to the proposed treaty.[13] The Senate voted affirmatively on only part of the propositions submitted.[14] He not only expressed himself in favor of oral communications with the Senate, but even anticipated the establishment of a *special chamber* where the joint business of the President and the Senate could be conducted. In a letter to Madison on August 9, 1789, he said, "In all matters respecting treaties, *oral* communications seems indispensably necessary; because in these a variety of matters are contained, all of which not only require consideration, but some of them may undergo much discussion to do which by written communications would be tedious without being satisfactory.[15] As to the *place* of carrying on this joint function, Washington said, "In the appointment to offices, the agency of the Senate is purely executive and they may be summoned to the President. In treaties, the agency is perhaps as much of a legislative nature, and the business may properly be referred to their deliberations in their legislative chamber. The occasion for this distinction will be lessened if not destroyed, when a chamber shall be *appropriated* for the *joint* business of the President and the Senate." [16]

This first stage is not only marked by the practice of oral communications, but also by the fact that the advice was sought in advance of, and during the negotiation. On April 1, 1792, Jefferson, as Secretary of State advised the President to consult the Senate *before* opening negotiations, since its subsequent approbation was necessary to validate a treaty.[17]

Footnotes at end of article.

After the Creek treaty Washington abandoned the practice of appearing in person *and asking* advice, but he did continue to seek advice by message, either prior to or during negotiations. In connection with the treaty with Algiers in 1795 for the ransom of American seamen, Washington, acting on the advice of Jefferson, kept both houses informed of every step in the negotiations during a period of three years, on the theory that inasmuch as subsequent legislation would be required to make it effective, it would be good policy for the executive to keep in close touch with both branches of the legislature.[18]

The Jay treaty is illustrative of the third step. Here instead of consulting the Senate as a body for purposes of advice during the negotiation, he conferred with prominent members of the Senate. This practice has led to the growth and increasing power of the Senate Committee on Foreign Relations.

No attempt shall be made to give a detailed history of treaty making in each administration since that of Washington. A few salient facts and certain broad tendencies, however, should be pointed out. From the beginning of the government until August 1, 1914, 595 treaties have been made.[19] Many of these are relatively unimportant. No President, since Washington, has appeared in person before the Senate seeking advice. Crandall cites eighteen instances in which the advice of the Senate has been sought by the President, by message, prior to negotiations.[20] Many of the Presidents have kept the Senate as a body advised by message during the period of negotiations. A few of the outstanding illustrations are recorded. President Madison, in his message of July 6, 1813, went so far as to hold that the Senate by delegating its power to its own Committee on Foreign Relations was violating the spirit of the treaty clause. He said, "The Executive and the Senate, in the cases of appointments to office and of treaties, are to be considered as independent of and coordinate with each other. The appointment of a committee of the Senate to confer immediately with the Executive himself loses sight of the coordinate relation between the Executive and the Senate which the Constitution has established, and which ought therefore to be maintained." [21] President Jackson in a message of May 6, 1839, sought the advice of the Senate as to the conclusion of a treaty with the Choctaw Indians.[22]

Mr. Buchanan, as Secretary of State in President Polk's cabinet instructed Mr. Lane, Minister to Great Britain, on February 26, 1848, as follows:

"The Federal Constitution has made the Senate to a certain extent a coordinate branch of the treaty making power. Without their advice and consent, no treaty can be concluded. This power could not be entrusted to wiser or better hands. Besides in their legislative character, they constitute a portion of the war making, as in their executive capacity they compose a part of the treaty making power. A rejection of the British ultimatum might probably lead to war, and as a branch of the legislative power, it would be incumbent upon them to authorize the necessary preparations to render this war successful. Under these considerations, the President, in deference to the Senate, and to the true theory of constitutional responsibilities of the different branches of the government, will forego his own opinions so far as to submit to that body any proposition which may be made by the British government." [23]

When the British proposal in regard to the Oregon Boundary dispute arrived, President Polk submitted it to the Senate and added that he would "conform" to their "advice." In his message to the Senate he said, "The Senate are a branch of the treaty making power, and by consulting them in advance of his own action upon important measures of foreign policy, which may ultimately come before them for their consideration, the President secures *harmony* of action between that body and himself. The Senate, moreover, are a branch of the war making power; and it may be eminently proper for the executive to take the opinion and advice of that body in advance upon any great question which may involve in its decision, the issue of peace or war." [24] On August 4, 1846, Polk advised the Senate of his intention to propose terms of peace with Mexico.[25]

On March 16, 1861, Lincoln sought further advice from the Senate on the Oregon question.[26] On the 27th of Demember, 1861, Lincoln again sought advice from the Senate concerning the guarantee of payment of claims urged by certain European powers against Mexico.[27] In 1862, Lincoln referred to the Senate for its advice upon a proposed treaty with Mexico. The Senate advised against it. President Johnson on two occasions [28] and President Grant on three occasions sought the advice of the Senate.[29] President Arthur in 1884 asked for the advice of the Senate in regard to a reciprocity treaty with Hawaii. He said, "It is fitting to consult the Senate on the matter before directing negotiations to proceed." [30]

In addition to the cases where the President, by message, sought the advice of the Senate *as a body* during the period of negotiation, there are many illustrations of the practice where the President took into his confidence leading members of the Senate and sought their advice. A typical illustration of this method is found in the negotiation of the Ashburton treaty. Daniel Webster, as Secretary of State, kept the principal Senators informed as to the various steps in the negotiation and was thus enabled to secure the Senate's advice and consent to ratification, even although the majority of that body was opposed to the President politically.[31] There are other cases where this advice was sought by formal notes sent to the Senate Committee on Foreign Relations. There have also been numerous cases where the President has refused to seek advice during the negotiations and has not submitted the treaty to the Senate until it was drafted in its final form.

Crandall cites thirteen cases where the President refuses to ratify treaties in the form approved by the Senate.[32] He cites ten cases where the President withdrew treaties while still under Senate consideration.[33] He cites nine cases where the President withheld treaties from the Senate altogether,[34] and eleven in which the President submitted them to the Senate with recommendations for amendment.[35]

The Senate has the power to reject a treaty by refusing to "consent" to its ratification. Crandall cites seventeen cases of rejection of treaties by the Senate.[36] Senator Lodge lists sixty-eight treaties down to 1900 that have been amended by the Senate and afterwards ratified.[37] Further, the Senate can make its consent to ratification conditional upon the acceptance by the signatory power of amendments, reservations or interpretations. Quincy Wright points out that of over 650 treaties signed by the United States, in about one-tenth the Senate has qualified its consent to ratification.[38] The United States Supreme Court has held that to make an amendment, reservation or interpretation effective, that both the President and the Senate must consent. In the case of *Fourteen Diamond Rings v. United States,*[39] it was said, "The meaning of the treaty cannot be controlled by subsequent explanations of *some* of those who may have voted to ratify it." Interpretations or reservations made by the President without the consent of the Senate have met the same fate.[40]

Of all the treaties that have been negotiated by the Executive without the "advice" of the Senate, the treaty of Versailles is the most notorious example. This treaty was negotiated in secret, and the Senate was kept in the dark during the whole period of the negotiation. Not only did the President, by his interpretation of the treaty clause make the word "advice" mere surplusage, but also attempted to interfere with the Senate in the exercise of its constitutional function of giving "consent." Although posing as the exponent of "open covenants, openly arrived at," when he finally decided to present the treaty in its completed form to the Senate he actually refused to submit, with the treaty, the discussions and minutes of the Peace Conference. He said, "The reasons we constituted that very small conference was so that we could speak with the utmost absence of restraint, and I think it would be a mistake to make use of those discussions outside." [41] He must have known that it was impossible for the Senate to act intelligently and to give a real consent from the bare text of the treaty. In the nominal interests of peace, we behold the spectacle of the executive, attempting to bring unfair political pressure upon an uninformed Senate. After depriving a coordinate department of its constitutional right to the facts, he proceeded to appeal to the country, claiming to have a monopoly on the plans for the peace of the world. And in order that the emasculation of the coordinate power of the Senate might be complete, he so drafted the treaty and the covenant, that they could not be separated and could not be voted on separately on their merits. On March 4, 1919, in New York, the President, certain of victory, made this boast: "When that treaty comes back, gentlemen on this side will find the covenant not only in it, but so many threads of the treaty tied to the covenant, that you cannot dissect the covenant from the treaty without destroying the whole vital structure."

Usurpation is a dangerous thing, even although the act be committed in good faith and with the honest belief in its constitutional sanction. But here to aggravate the offence, the usurpation was deliberate. Woodrow Wilson was no novice in the field of constitutional law. He knew the "true spirit of the Constitution" and his own words written in 1908 constitute a more perfect indictment of his whole attitude with reference to the Treaty of Versailles, than anything that has ever been or ever will be uttered by his most malicious opponent.

Woodrow Wilson said, "But there is another course which the President may follow and which one or two President of unusual sagacity have followed with satisfactory results that were to have been *expected*. He may himself be less stiff and offish, may himself act in the *true spirit* of the Constitution and establish intimate relations of confidence with the Senate on his own initiative, not carrying his plans to completion and then *playing them in final form* before the Senate to be accepted or rejected, but keeping himself in confidential communication with the leaders of the Senate while his *plans are in course*, when their *advice will be of service to him* and his information of the greatest service to them; in order that there may be veritable counsel and a real accommodation of views instead of a *final challenge and contest*. The policy which has made rivals of the President and Senate has shown itself *in the President as often as in the Senate*, and if the Constitution did indeed intend that the Senate should in such matters be an executive council, it is not only the privilege of the President to treat it as such, it is also his *best policy* and his *plain duty*. As it is now the President and the Senate are apt to deal with each other with the formality and punctilio of powers united by no common tie except the vague common tie of public interest; but it is within their

Footnotes at end of article.

choice to *change the whole temper of affairs* in such matters and to exhibit the *true spirit* of the Constitution by coming into intimate relations of mutual confidence by a change of attitude which can perhaps be effected more easily upon the *initiative of the President* than upon the initiative of the Senate." [42]

It is an interesting commentary on the Treaty of Versailles to note that President Wison abandoned the practice, which he conceived in 1908 to be in conformity with the "true spirit of the Constitution" and relied on a very different theory, which he had enunciated in 1885 in his book, "Congressional Government," as follows: "His (the President's) only way of compelling compliance on the part of the Senate lies in his initiative in negotiation, which affords him a chance to get the country into such scrapes, so pledged in the view of the world to certain courses of action, that the Senate hesitates to bring about the appearance of dishonor which would follow its refusal to ratify the rash promises or to support the indiscreet threats of the Department of State".[43]

Impressed by the tremendous import of the issues at stake, Wilson deliberately decided to take the gambler's chance and to act on the theory enunciated in 1885, and in so doing he abandoned his better judgment. In accord with that theory he made the supreme effort "to bring about the appearance of dishonor" on the part of the Senate by his appeal to the effect that to defeat the League would be to "break the heart of the world." Because of a miscalculation of the temper of the United States Senate, the master strategy of Woodrow Wilson went down in defeat and it is our contention that that defeat should be sufficient to discredit this policy for all time. If that defeat has any significance, it can only mean that the Wilson policy in its very nature makes for blind opposition and prevents intelligent control.

From this brief historical presentation, it appears that broadly speaking, there have been two interpretations of the treaty clause. The one, which we will term, the Washingtonian, views the role of the Senate as an integral part of the treaty making function, which may be exercised at any stage of a negotiation; the other, which we will term, the Wilsonian, considers the function of the Senate merely to give sanction to a treaty that is already drafted. As a matter of *policy*, which interpretation is preferable? The advocates of the Wilsonian interpretation rely mainly on one general argument and although there is some variation in the phrasing of it, the gist of their case seems to be that the nature of transactions with foreign nations requires caution and unity of design, and their success frequently depends on secrecy and dispatch. The writers who take this view apparently believe that the very statement of the proposition is so conclusive on its face, that no defense of it is required. As a matter of fact, in the literature of the subject, we have found no adequate analysis of this seemingly axiomatic proposition. With all deference to the authorities who have come under the spell of this idea, we believe it can be shown that this argument falls far short of justifying their position, either in its theoretical or its practical aspects.

These men, whether they realize it or not, are in reality stating the argument in behalf of the idea that the treaty power in its entirety should reside exclusively in the executive, and logically their position is antagonistic to the very idea of any form of *joint* control over treaties by the President and the Senate. But actually they are not advocating such a radical departure. In their attempt to bolster up the Wilsonian interpretation, they are relying on an argument which does not fit the case. It is not only irrelevant from the theoretical aspect, but we believe that a careful analysis of the actual operation of the Wilsonian interpretation will show that in fact their position is untenable. We shall attack this proposition from two points of view, attempting to show *first*, that it is theoretically indefensible and *second* that from a practical point of view the outstanding product of this interpretation, namely the Treaty of Versailles, fails miserably to make a case for expediency or dispatch.

As to the first point, no one has claimed that the Senate has the constitutional right to open negotiations with the diplomatic representatives of a foreign power. The President, as the chief executive, is the constitutional representative of the United States with regard to foreign nations. He is the proper official to direct, through the Department of State, the correspondence with our ministers abroad and with foreign ministers. The Senate does not possess the means of acquiring such information directly. In our analysis of this problem we should recognize that thus far, both schools of thought are in substantial agreement, but we should note that the acceptance of the above statement does not preclude the constitutional *right* of the Senate to suggest to the President that he undertake a certain negotiation nor does it preclude the *right* of the Senate to suggest the content of that negotiation.

With this as a starting point in our analysis, we next introduce two considerations which are fundamental and which the advocates of the Wilsonian interpretation seem to ignore in the development of their case for dispatch. The first, is the cardinal principle in our constitutional system that the Executive and the legislative departments are coordinate and the second principle is that in so far as the treaty power is concerned, the Constitution has conferred upon one branch of the government, namely, the Senate, a point participation with the President in the making of treaties. No conceivable interpretation of the treaty clause could deny that treaty making is a joint function. We are confronted then by the hard fact that both the President and the Senate must agree before a treaty can come into existence.

These basic considerations should be obvious, and yet strange to relate, the literature of the subject is honeycombed with confusion and, especially with reference to the Treaty of Versailles, men of learning have attempted to settle this constitutional question by an appeal to personalities. We submit that no intelligent discussion of the respective merits of the Washingtonian and the Wilsonian interpretation of the treaty clause is possible, unless it takes into account the basic principles.

Let us compare these two interpretations as regards secrecy, dispatch and safety. First as to secrecy, Woodrow Wilson gave lip service to the ideal of "open covenants, openly arrived at," but he justified his attitude toward the Senate during the negotiation of the Treaty of Versailles on the ground that secrecy was all important. The deliberations of the Council of Five were secret beyond all precedents. No secretaries were admitted and no official minutes were kept. The Council of Five has been described by Dr. Dillon as "a gang of benevolent conspirators, ignoring history and expertship, shutting themselves up in a room and talking disconnectedly." It is not proper at this place to enter into a discussion of the relative merits of open *versus* secret diplomacy. Let us assume for the sake of argument that secrecy is preferable. We then meet the claim insisted upon by advocates of the Wilsonian interpretation that real secrecy is impossible if the Senate is kept advised of the facts during the negotiation of the treaty.

In this connection, they stress the size of the Senate arguing that even although at the outset of the government, the Senate might function as an executive council, when it consisted of but twenty-six members, that, now, it is impossible because we have almost one hundred members. We have shown that the Senate may, consistent with the treaty clause, delegate its right to receive the facts during the negotiation, to its own committee on Foreign Relations which may consist of much less than twenty-six member and this committee could function while the Senate as a body is not in session. But even if the Senate as a body should receive its information, it would be in executive session behind closed doors, and the argument that secrecy would be jeopardized is but a polite way of questioning the patriotism and the motives of the members of the United States Senate. We refuse to subscribe to that doctrine. If the members of the highest legislative body in the land are so blasé that they cannot safely be entrusted with information, then why should they be given any right to participate in the treaty making function in any particular? If the advocates of the Wilsonian theory were logically consistent they would realize that they are stating the case for an exclusive presidential treaty power and they would frankly and openly attempt to create a public sentiment which would lead to a constitutional amendment.

One thing is certain, they can never reach that goal by any attempt at informal amendment by executive interpretation and any effort to undermine a coordinate department of the government will not only deprive the country of the services of an *informed* advisor but also must ultimately lead to hostility and misunderstanding.

What can be said for the Wilsonian interpretation as regards dispatch? It has been argued that a division of opinion between the Senate and the President could not fail to give the nation with whom we might be disposed to treat, the most decided advantages and would delay if not altogether prevent the realization of our desires. But this argument is based on a false assumption. We have no right to claim that the President and the Senate will always be hostile, especially if the President follows the Washingtonian interpretation, and when they are hostile, the relations can be kept *secret*. If on the other hand, they are in harmony, the publicity of that fact will have much weight with the other nation. But more important than this is the fact that under our Constitution, the treaty clause requires agreement between the President and the Senate before a treaty can be ratified. Considering human nature as we find it generally, and especially as it is exemplified in the Senate of the United States, it is futile to hope that time will be gained by keeping the Senate in ignorance of the facts during the whole period of negotiation. Men, who are politically ambitious and who have been elected to represent their respective states in the highest legislative body in the land, knowing that they are members of a coordinate department in the treaty making function are not going to submit to any form of dictation or political pressure exerted by the Executive. It is inconceivable that the President will ever become so powerful and the Senate so weak, that such a policy can be relied upon in order to speed up the treaty making process.

It is important to note that the argument presented by Lord Balfour against the establishment of a Parliamentary Committee of Control of Foreign Relations in the English government is not applicable to our situation. He said in a speech of March 19, 1918, "Do not suppose that we can do the work better by having to explain to a lot of people *who are not responsible*. That is not the way to get business properly done." [44] This argument is not applicable to our Senate. Here we have a *joint responsibility*. Everyone admits that the President and the Senate must agree before a treaty can be made. The only question at issue is whether the two parties shall have the right to be equally informed.

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Can the Wilsonian interpretation be defended from the standpoint of safety? The Senate, as a continuing body and as the highest legislative assembly contains a considerable number of members of great capacity and large experience. We believe that the history of the Senate will reveal, that even at its lowest ebb, there were in that body a few great characters from whom any President might well have sought advice. We know that the Senate has often performed a patriotic and highly valuable service by its merciless examination of a treaty. An excellent example is the Hay-Pauncefoote treaty, which but for the Senate, would have failed to reserve the right of the United States to fortify the Panama canal.[45] Why not adopt the cooperative policy and take advantage of the experience of the Senate while the treaty is being negotiated? We cannot believe that the mere election of a man to the Presidency *ipso facto* endows him with knowledge or experience. Why not reveal to this coordinate body, the facts, so that it may be an informed advisor? The American people have had enough of personal government. They are beginning to realize that leadership to be democratic must make use of democratic methods of procedure.

There is no hope for the political theorists who have failed to grasp the significance of the lesson taught by the Treaty of Versailles, and who continue to be dominated by the spell of an outworn idea. Wilson, up to the time of his tragic disillusionment, enjoyed greater power than any other President in the history of the republic. But he pursued a policy which was in violent conflict with his better judgment, expressed ten years before while President of Princeton University. At that time he voiced the true policy that makes possible a real advice and consent. That is the policy based on cooperation that leads to understanding and makes for dispatch. The Harding-Hughes disarmament treaties were ratified without difficulty and without change. The explanation lies largely in the fact that President Harding appointed as members of the American delegation the leaders of the two great parties in the United States Senate, Mr. Lodge and Mr. Underwood.

Do we need a greater popular control over treaties? The most undemocratic feature of the great democracies of the world today is the method of carrying on foreign affairs. The machinery of diplomacy is a survival from the age of absolutism. The "barren game of intrigue" has been played and found wanting. Secret diplomacy has led to suspicion. Prof. Reinsch has said, "No nation is so bad as imagination, confused and poisoned by secrecy and by the suggestion of dire plottings, would point out."[46] Suspicion has in turn incited nations to enter a competitive race for armament, and the existence of great military machines has constituted a standing menace and an incentive to war. Such has been the diplomacy of Europe. Woodrow Wilson said, "European diplomacy works always in the dense thicket of ancient feuds, rooted, entangled and entwined. I did not realize it all until the Peace Conference; I did not realize how deep the roots were." The world has witnessed, the common peoples of Europe make the supreme sacrifice. It is a tragic commentary that at the outbreak of the World War, there was in no European country a popular control over the conduct of foreign affairs.

Conditions in America have been much better. The men who framed the Constitution of the United States placed in that document two provisions with respect to the treaty making power, which are the very antithesis of secret diplomacy. They provided that no international agreement, to which the United States is a party, shall be binding unless agreed to by a representative body, the United States Senate, and they further provided that treaties, when duly ratified, shall be the law of the land. It is implicit in these provisions that the treaties of this government shall be published to all the world. Further, we have Prof. John Bassett Moore, as authority for the statement that our State Department before the World War had no secrets whatever, with the exception of personnel reports.[47]

Prof. Quincy Wright has said, "Critics of American government have often urged reform, usually in the direction of the British cabinet system, but their attention has been centered upon domestic affairs. It is an extraordinary fact that with respect to the control of foreign affairs, the reverse is true. British writers have looked hopefully to the United States as a model for reform. Features of the American system have been endorsed by the British Union for Democratic Control of Foreign Relations founded in 1914."[48]

The late Lord Bryce voiced this sentiment when he said, "The day may come when in England the question of limiting the present all but unlimited discretion of the Executive in foreign affairs will have to be dealt with, and the example of the American Senate will then deserve and receive careful study."[49]

Should we be satisfied merely because we have a better system than Europe? We have shown not only that the Wilsonian interpretation of the treaty clause, which may become the prevailing interpretation, violates the spirit of the Constitution by making the word "advice" mere surplusage, but also we have pointed out that in the case of the Treaty of Versailles, the executive was attempting to prevent a coordinate department in the treaty making function from exercising a real "consent."

The history of our treaty practice has established the fact, beyond controversy, that there are two widely divergent schools of thought as to the respective roles of the President and of the Senate. Those who favor the Wilsonian interpretation do not relish the charge of usurpation. But even they do not have the audacity to make the counter charge that the Washingtonian interpretation constitutes usurpation. In order therefore to defend their position at all, representing as it does a later interpretation, they will be forced to employ the only alternative and contend that there is an ambiguity in the Constitution with reference to a *method of procedure*.

From their own analysis of the situation, we insist that clarification, one way or the other, is imperative. We say "imperative" advisedly, for if a written constitution cannot be accurately drawn so as to define and describe a mere method of governmental procedure, what hope is there that it can effectively guarantee the protection of a substantive right? We do not believe that any one can be found who will be bold enough to assert that in this case, clarification could not be accomplished by amendment, and further we do not believe that any one, after conceding that clarification is possible, would argue that it should not be consummated. To admit the ambiguity and at the same time to deny the possibility of clarification would be to assert the futility of all written instruments, whether they be contracts, by-laws, deeds, wills or constitutions.

Granting then that clarification is needed, the question remains, which policy is preferable? We have analyzed the arguments presented by the adherents of the Wilsonian school and have shown that they have utterly failed to make their case for dispatch, for secrecy or for safety. We have placed our faith in the doctrine that "democratic leadership requires democratic methods of procedure." Whether the future, for us, shall be war or peace, is to be determined largely by those who control our foreign relations. We do not hold that our international policies should be determined in the market place. Detailed treaties cannot be intelligently made by plebiscite. But we do maintain that the ends of democracy will best be served by assuring the representatives of the people in the United States Senate a real participation in the treaty making power. The President alone under our system has direct access to the sources of information; and this is as it should be. But if we are to have a more direct popular control over the making of treaties, cooperation and counsel and advice are necessary. To make these effective, the Senate *during the period of the negotiation*, must possess the facts, so that it can be an informed advisor.

John Hay, one of our greatest Secretaries of State, has said that "the irreparable mistake of our Constitution puts it into the power of one-third plus one of the Senate to meet with a categorical veto any treaty negotiated by the President even tho it may have the approval of nine-tenths of the nation."[50]

In the constitutional convention the proposal that a majority of the total number of Senators should suffice was defeated by one vote.[51] James Wilson objected to the two-thirds requirement on the ground that "if two-thirds are necessary to make the peace, the minority may perpetuate the war, against the sense of the majority."[52]

Alexander Hamilton said, "all provisions which require more than a majority of any body to its resolutions have a *direct* tendency to embarrass the operations of the government and an *indirect* one to subject the sense of the majority to that of the minority."[53]

If it can be assured that the Senate in the future will be consulted and considered as a real advisor, we do not believe that a higher percentage than a bare majority of the Senators present should be required, for consent. Whether we like it or not, the fact remains that many treaties have been and will be considered as party issues. To make it obligatory for an administration to command a two-thirds vote upon a treaty is to impose a condition that cannot often be met. If we assume (1) that all the Senators participate in the vote, and (2) that the treaty is looked upon as a party measure, the two-thirds requirement means a party majority of thirty-two members to insure acceptance. In the last forty years, no administration has enjoyed such a majority in the United States Senate.

We propose that the Constitution be formally clarified by adopting the Owen amendment, "The President shall have the power, by and with the advice of the Senate, to frame treaties, and with the consent of the Senate, a majority of the Senators present concurring therein, to conclude the same."[54]

The adoption of this amendment would constitute a reaffirmation of what we conceive to be the original intention of the framers of the Constitution. More than that, it would clarify the present treaty provision, which to the advocates of the Wilsonian school, is now vague and properly subject to two antithetical interpretations. Although not judicially enforceable, it would have a sobering effect upon the Executive and would tend to assure the people in the future, a more direct control over the conduct of their government's foreign affairs. It would restore to the Senate, a broadly representative body, composed of men from every state and every class the true role of a coordinate department in the important field of treaty making.

In proposing this amendment to democratize the treaty making function of our government, we have no desire to make the President a figurehead. If this amendment were adopted he would still retain four of his present privileges. (1) The initiative in negotiation, (2) the *right* to submit the treaty to

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the Senate with recommendation for amendment,[55] (3) the *right* to withdraw a treaty from the Senate either with a view to effect changes therein or to terminate proceedings,[56] (4) the *right* to refuse to ratify and proclaim the treaty after it has been approved by the Senate.[57]

FOOTNOTES

[1] See article by Senator Bacon, *The Treaty Making Power*, 182 NORTH AM. REV. 510–1.
[2] MATHEWS, THE CONDUCT OF AMERICAN FOREIGN RELATIONS (1922) 131.
[3] DOCUMENTARY HISTORY OF THE UNITED STATES, v. 3, p. 700.
[4] *Ibid.*
[5] Fleming v. Page, 9 How. (U.S.) 603, 13 L. ed. 276 (1849).
[6] U.S. CONST., Art. 2, Sec. 2, Clause 2.
[7] We use the term "Wilsonian interpretation" because Wilson is the most thoroughgoing exponent of this view.
[8] Bacon, *supra* note 1 at 505.
[9] See article by Senator Lodge, *The Treaty Making Power of the Senate* 31 SCRIBNER'S MAG. 33.
[10] Quoted in CORWIN, THE CONTROL OF FOREIGN RELATIONS, p. 181.
[11] Gibbons v. Ogden, 9 Wheat. (U.S.) 188, 6 L. ed. 23, 1824).
[12] HILL, PRESENT PROBLEMS IN FOREIGN POLICY (Appleton, 1919) 161–3.
[13] EX. JOURN., v. 1, pp. 19, 20, 23.
[14] MACLAY, SKETCHES OF DEBATE IN THE FIRST SENATE OF THE UNITED STATES (Harris ed.) 122–6.
[15] WASHINGTON'S WRITINGS (Ford ed.), v. 11, p. 415.
[16] *Ibid.* 417–9.
[17] WASHINGTON'S PAPERS, v. 21, p. 21; JEFFERSON'S PAPERS (series 4), v. 2, no. 18.
[18] AMERICAN STATE PAPERS OF FOREIGN RELATIONS, v. 1, pp. 288–300; 413–42.
[19] CHECKLIST OF UNITED STATES PUBLIC DOCUMENTS (1911) 978; Wright, 13 AM. JOURN. OF INTERNATL. LAW 242–3, note.
[20] CRANDALL, TREATIES, THEIR MAKING AND ENFORCEMENT (2d ed.) 68.
[21] Lodge, *supra* note 9 at 30.
[22] EX. JOURN., v. 4, p. 97.
[23] WORKS OF BUCHANAN (Moore, ed. 6th) 379.
[24] RICHARDSON, MESSAGES AND PAPERS OF THE PRESIDENTS, v. 4, p. 449.
[25] EX. JOURN., v. 7, p. 132.
[26] *Ibid.* 1. 11, p. 308.
[27] *Ibid.* 1. 12, p. 24.
[28] *Ibid.* v. 16, pp. 163–411; v. 17, p. 174.
[29] *Ibid.* v. 18, pp. 59–264; v. 19, pp. 355–512.
[30] *Ibid.* v. 24, p. 280.
[31] See J. W. Foster, *The Twenty Making Power Under the Constitution* (1901) 11 YALE L. J. 71.
[32] CRANDALL, *supra* note 20 at 97.
[33] *Ibid.* 93.
[34] *Ibid.* 99.
[35] *Ibid.* 97.
[36] *Ibid.* 82.
[37] *Supra* note 9.
[38] Wright, *Amendments and Reservations to the Treaty* (1919) 4 MINN. L. REV. 15.
[39] 153 U.S. 176, 22 Sup. Ct. 59, 46 L. ed. 138 (1901).
[40] 5 MOORE'S DIGEST 203–6. CRANDALL, *supra* note 20 at 85, 381.
[41] Hearings before the Senate Committee on Foreign Relations on the Treaty of Peace with Germany, p. 521.
[42] WILSON, CONSTITUTIONAL GOVERNMENT OF THE UNITED STATES (Columbia University Press, New York 1908) 139–40.
[43] WILSON, CONGRESSIONAL GOVERNMENT, ch. 4, pp. 232–4.
[44] Quoted in REINICH, SECRET DIPLOMACY (Harcourt Brace Co.) 168–9.
[45] 30 CONG. REC. 2269 (Jan. 28, 1920).
[46] REINSCH, supra note 44 at 141.
[47] *Ibid.* 198.
[48] Wright, *supra* note 19 at 362.
[49] BRYCE, AMERICAN COMMONWEALTH (2d ed.) 104.
[50] THAYER, LIFE OF JOHN HAY, v. 3, p. 705.
[51] DOCUMENTARY HISTORY OF THE CONSTITUTION, v. 3, p. 705.
[52] *Ibid,* 700–4.
[53] THE FEDERALIST.
[54] SEN. JOINT RES. N. 176, 66th Cong. 2d Sess. Mar. 22, 1920, v. 1959, p. 5009.
[55] EX. JOURN., v. 1, pp. 135, 259.
[56] RICHARDSON, *supra* note 24 at v. 8, pp. 276–7.
[57] EX. JOURN., v. 7, pp. 433, 462.

TREATY-MAKING AND THE PRESIDENT'S OBLIGATION TO SEEK THE ADVICE AND CONSENT OF THE SENATE WITH SPECIAL REFERENCE TO THE VIETNAM PEACE NEGOTIATIONS

(By Richard E. Webb)

ABSTRACT

The relationship between the President and the Senate of the United States with respect to the treaty-making power is examined in the light of the formulation and ratification of the Constitution and subsequent historical events and expert opinion. It is concluded that the President must seek the advice of the Senate both before entering into substantive treaty negotiations and also during their course, and the consent of the Senate when specific agreements are to be pursued. If the Senate should agree that the major treaty provisions to be offered for negotiation cannot be determined before negotiations are to begin, then the President should appoint, by and with the advice and consent of the Senate, a special envoy whose specific task is to form a treaty for later submission. The implications of this conclusion for improving the chances of success of the present Vietnam peace treaty negotiations are discussed.

"He [the President] shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and consuls, . . . whose Appointments are not herein otherwise provided for, . . .[1]

"The Powers not delegated to the United States by the Constitution not prohibited by it to the States, are reserved to the State respectively, or to the people.[2]

"The Constitution . . . shall be the Supreme Law of the Land . . ."[3]

INTRODUCTION

Does the President have the constitutional power to negotiate a peace treaty with North and South Vietnam without the formal advice and consent of the Senate as a body? The Author's contention is that the President does not. Were the President to seek this advice and consent, it would help him greatly in quickly negotiating a workable treaty, which is so desperately needed. Without this advice and consent, the President is representing only himself and his administration, and hence is operating in a political vacuum. In 1788 in the *Federalist Papers*, which were written to promote the adoption of our Constitution, John Jay stated that the "president and senators so chosen will always be of the number of those who best understand our national interests, whether considered in relation to the several states or to foreign nations. With such men the power of making treaties may be safely lodged."[4] With the advice and consent of the Senate, the President would represent more accurately the position and interests of the United States at the Paris negotiations. North Vietnam and the NLF would then be aware that the President's negotiating policies represent more than just the interests and attitudes of a particular administration and therefore would be less inclined to expect that a contrary public opinion in the United States could produce a change in policy in time. In forming the "advice" each Senator would be required to review this matter in its entirety and to act on a considered personal opinion. Such an undertaking would help crystallize exactly what is the national interest. Indeed, the Senate could take the initiative and begin to form the advice, starting from known presidential opinions.

The considerations that militate against this view are twofold: (1) a tradition of allowing the President to form treaties on his own authority without the formal advice and consent of the Senate; and (2) the explanation of the treaty-making power given in Senate Document No. 39, *Constitution of the United States—Analysis and Interpretation,* dated 1964, which attempts to justify the current practice. The latter tends to perpetuate the current practice since it purports to define the Constitution's treaty power provision. Since the Senators and the President swore to support the Constitution, none would challenge current practice if it were thought to be constitutional. The editors of Senate Doc. No. 39 are E. S. Corwin and others; they prepared the document for the Library of Congress Legislative Reference Service. Corwin also wrote the influential book, *The President—Office and Powers.* Although Mr. Corwin has made an important contribution to some aspects of constitutional law, his opinion in this connection cannot be taken as the final word.

After reviewing Corwin's opinion and his justification (given in Sen. Doc. No. 39 and in his book), along with other documents and writings and Supreme Court cases, the Author has concluded that the President must not only have the formal advice and consent of the Senate before negotiating matters of substance (the President may, however, initiate talks on his own authority), but that it would be in the best interest of the nation for the President to obain that advice and consent. The remainder of this article, then, contains a review of the principal circumstances surrounding the "advice and consent" phrase in the treaty power. The statements and references given by Corwin which are pertinent to the subject are used as a guide and each of these is treated herein.

We begin with an analysis of Senate Doc. No. 39. Here Corwin as justification for the current practice uses only four facts: (1) part of an essay by John Jay in the Federalist Papers; (2) part of a Senate speech by Rufus King in 1818; (3) the experience of President Washington in seeking Senate advice in making treaties; and (4) the opinion of Justice Sutherland in *U.S. v. Curtiss-Wright Corp.*[5] This article will attempt to show that Corwin did not use the first three of these items in context, and that the inferences which can properly be drawn from these sources do not support the position adopted either in Senate Doc. No. 39 or in Corwin's book.

The President-Senate relationships during the formation of the Jay Treaty and the Versailles Treaty are discussed. A separate and detailed analysis of Justice Sutherland's opinion on the treaty-making power in the *Curtiss-Wright* decision is also included. More evidence is also provided regarding (1) the question of whether Senate advice requires Senate action as a body, (2) the origin of the treaty clause phraseology, and (3) the President's role as Commander in Chief in making peace treaties. Finally, the Vietnam peace treaty negotiations are discussed.

E. S. Corwin and Senate Document No. 39

1. John Jay and the Federalist Papers

In order to better understand the analysis of Senate Doc. No. 39, the reader is invited to read the entire paragraph entitled "President and Senate" in that document.[6] It would seem that this paragraph lends support to the Author's contention by stating

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that "The constitutional clause evidently assumes that the President and the Senate will be associated with the entire process of making a treaty." [7] The paragraph, however, then states that "John Jay, writing in the Federalist, foresaw that the initiative must often be seized by the President without benefit of Senatorial counsel." This brief report of Jay's essay could be readily misconstrued. One might suppose that Jay did not adopt in his essay the above view about "the entire process of making a treaty," and one might understand the "initiative" remark as attributing more power to the President than Jay in context actually did. The full Jay essay [8] said of treaties that "The President must, in forming them, act by the advice and consent of the Senate" [9] and that the initiative relates to "those preparatory and auxiliary measures which are not otherwise important in a national view . . . and which usually require the most secrecy and the most dispatch." [10] The Jay essay does not add confusion to the treaty clause in the Constitution, as Corwin implies; but rather this essay explains the clause. It must be remembered that the *Federalist Papers* were written by Alexander Hamilton, James Madison, and John Jay in order to explain the Constitution to the people and secure its adoption by the separate States.

2. Rufus King's 1818 Speech

Senate Dec. No. 39 points out that the Senate *may* advise the President, without his asking, basing this conclusion on a Senate speech given by Rufus King in 1818. No one would deny this power to the Senate. However, the significance of this speech lies not in whether the Senate may volunteer advice; it lies in the last two paragraphs of that speech (not discussed in Senate Doc. No. 39) where the phrase "make a treaty" is defined and explained. Rufus King stated: "The Constitution does not say that treaties shall be concluded but that they shall be made by and with the advice and consent of the Senate." He asserted that "to make a treaty includes all the proceedings by which it is made." [11] King said that any other interpretation would require that the Constitution be changed to read: "The President shall make treaties, and by and with the advice and consent of the Senate ratify the same." [12] King's speech is consistent with the above mentioned Jay essay: Jay did not say that the President must, in concluding treaties, act by the advice and consent of the Senate, but that he "must, in *forming* them, act by and with . . ." (emphasis added).

Rufus King was a delegate from Massachusetts to the Federal Convention, which drafted the Constitution, and played a prominent role there.[13] He was on the Committee of Style along with Hamilton and Madison and was on the Committee of Eleven which drafted the treaty clause. He actively promoted the new Constitution and was elected as a delegate to the Massachusetts Convention which ratified it. Later as a U.S. Senator, he was a member of the Committees on Finance and Foreign Relations, and served as chairman of the latter.[14] The speech cited is the only explicit definition of the treaty power offered in *The Records of the Federal Convention of 1787* which were collected and edited by M. Farrand (Farrand included the King speech in the appendix as "supplementary material that could be found" to throw "light upon the work of the constitutional convention.").

The background of Rufus King's speech is most helpful in perceiving its full meaning.[15] The Society of Friends of Baltimore in late 1817 brought a petition to the Senate on the subject of abolishing slave trade. Senator Burrill, in support of this petition, proposed a Senate resolution to direct the Committee on Foreign Relations to inquire into the "expediency of taking measures in concert with other nations for the entire abolition of the said trade." In the ensuing Senate debate on the resolution Senator King, in support of the resolution, noted that our "long depending negotiations [on the subject of slave trade] with Spain still exists." He urged that our foreign ministers be reminded that the United States is greatly interested in abolishing slave trade universally and should therefore press for an agreement with the foreign powers.[16] After King's remarks an objection was raised to advising the President in the forming of a treaty with Spain. This objection was based on the supposition that the business of making this treaty belonged exclusively to the Executive. King replies with his explanation of the treaty power. The Burrill resolution was passed without modification, which indicates that the Senate concurred in King's explanation of the treaty power.

The only clue as to why Senate Doc. No. 39 does not discuss the last part of King's speech, which defines the phrase "make a treaty," is provided in a footnote in Corwin's book, *President—Office and Powers*.[17] In this footnote Corwin implies that the King speech is nullified by a Senate Foreign Relations Committee Report issued two years earlier (February 15, 1816).[18] The committee report had to do with a Senate resolution proposed by Rufus King which would advise the President concerning his negotiations with Great Britain on certain matters of commerce. The committee rejected the proposal on the ground that such advice was unnecessary, because the committee felt that the President had already pursued the ideas contained in King's resolution, and further that it was not in the national interest for the Senate to interfere since a division of opinion between the Senate and the Executive would give the other side a decided advantage. However, the report of the committee contains no treatment of the question of constitutional power, except the observation that the Constitution permits only the President to *conduct* foreign negotiations, which is of course true. The report stands for no proposition except that the committee felt it would be unwise to interfere in *those particular negotiations*. To treat this report as a constitutional ruling on the making of treaties is unwarranted. The fact that two years later King won in his contention that the Senate could offer unsolicited advice to the President (*i.e.*, the Burrill resolution), after he argued on constitutional grounds, makes it clear that the earlier committee report could not in any case be taken to represent Senate opinion on the treaty power.

3. George Washington's First Attempt at Treaty-Making

Perhaps the main reasons for the current practice are the prevailing views, in the executive branch at least, that (1) seeking advice from the Senate prior to substantive negotiations is impractical and (2) the Constitution is not clear as to how advice and consent are to be rendered. In search of the true meaning of the treaty clause one would certainly want to learn how President Washington carried out this power since he was the first President under the Constitution. In his book on the presidency Corwin tells the reader that Washington tried to use the Senate as a council in forming treaties but that this simply did not work: "The somber truth is that the conception of the Senate as a presidential council in the diplomatic field broke down the first time it was put to the test." [19] In a footnote in Sen. Doc. No. 39 Corwin states that Washington's efforts to obtain advice and consent "proved futile, principally because the Senate balked." [20] In another book *The President's Control of Foreign Relations* (1917), Corwin says: "at the outset, Washington sought to associate the Senate with himself in the negotiation of treaties but this method of proceeding went badly and was presently abandoned." [21]

These statements are simply not true. The incident to which Corwin refers is the formation of the first treaty under the Constitution.[22] President Washington (who was also president of the Federal Convention and among those who best understood the Constitution) appeared before the Senate and asked for its "advice and consent to some propositions respecting the treaty *to be held* with the Southern Indians." (emphasis added) The Senate, in deliberating the matter, was concerned about Washington's insistence on being present while the Senate debated. They felt that Washington's personal authority prevented freedom of discussion and refused to give advice and consent on that day and wanted to postpone a decision until the next week. Washington became angry over the delay but then agreed to comply. Three days later the Senate gave its advice and consent to Washington's proposals without difficulty. The fact is that Washington consulted the Senate in advance of the making of every treaty in his administration [23] and obtained the advice and consent of the Senate. After the first experience, which Corwin has misrepresented, he did so through messages and not in person. The only "method of proceeding" that was "abandoned" was *personal* consultation as distinguished from written communication.

The remaining piece of evidence which Corwin used in *The President's Control of Foreign Relations* was taken from John Q. Adams' "Memoirs":

"Mr. Crawford told twice over the story of President Washington's having at an early period of his administration gone to the Senate with a project of a treaty to be negotiated, and been present at their deliberations upon it. They debated it and proposed alterations so that when Washington left the Senate Chamber he said he would be d____d if he ever went there again. And ever since that time treaties have been negotiated by the Executive before submitting them to the consideration of the Senate." [24]

Corwin has made this story quite popular and it is generally accepted without question.[25] Because of this and because by itself it seems to run counter to the above findings, this passage must be reviewed in detail. From this minuscule item of evidence Corwin draws the conclusion that after his first attempt Washington did not seek Senate advice before treaty negotiations. (On the contrary, he did as is later shown.) After citing this quotation, Corwin says that Adams was stating a rule of procedure which did not require the President to seek advice of the Senate before "negotiating a particular treaty." But Corwin's conclusion was simply a case of reading something into Adams which is not stated there. The background of the Adams' writing is as follows.[26]

The Ghent Treaty of 1815 between the United States and Great Britain stipulated "that both parties should use their best endeavors to accomplish the abolition of the African slave trade." [27] Recall that in 1818 the Senate passed a resolution advising the President to press harder for an international agreement to abolish the African slave trade. Two years later, while our negotiations with Great Britain were going on, the United States enacted a law on May 15, 1820, making it unlawful for a U. S. citizen to engage in the African slave trade. On February 28, 1823, the House of Representatives passed a resolution "that the President of the United States be requested to enter upon and prosecute, from time to time, such negotiations with the several maritime powers of Europe and America, as he may deem expedient, for the effected abolition of the African slave trade, and its ultimate denunciation as piracy under the law of nations,

Footnotes at end of article.

by the consent of the civilized world." [28] It can therefore be said that the President pursued the negotiations *by and with the advice of the Senate*, and indeed of both houses of the Congress. The episode in no way supports the "rule" that Corwin inferred from the account by Adams. We should inquire into the context of the Crawford comment to determine the problem toward which it was directed.

On April 30, 1824 as a result of these negotiations President Monroe submitted to the Senate a Slave Trade Convention with Britain that recognized slave trading as an act of piracy. However, some of the Senators from the Southern States were becoming uneasy over the growing sentiment in Great Britain in favor of abolishing slavery altogether and thought that to ratify the Convention would produce the same effect in the United States. For this and other reasons there was new opposition to the treaty in the Senate. When President Monroe learned from Adams of this opposition, which brought about some delay in the ratification of the treaty, he was "astonished." Then, upon learning that the treaty might be defeated, Monroe quickly sent a message (drafted by Adams) to the Senate pleading for ratification. The message was detailed and presented persuasive arguments.[29] On the next day the Senate ratified the convention with amendments. Rufus King, who was instrumental in bringing the Senate to advise the President to make a slave trade treaty in 1818, reported the Senate action personally to Secretary of State Adams. King apologized for the amendments but Adams replied that the amendments, although significant, were not serious: "The essential basis of the Convention was untouched," *i.e.*, the principals "slave trade shall be piracy" and "the mutual right of search and capture" were preserved. But Britain did not ratify the amended treaty. Five months later an envoy from Britain proposed to conclude a new convention to provide for right of search on the coast of America, a provision which had been rejected previously by the Senate. The new convention was to be otherwise the same as the draft previously ratified by the Senate. President Monroe held a cabinet meeting on November 10, 1824 to discuss the British proposal. In the meeting it was agreed not to conclude a new convention since the mood in the Senate against it was even stronger than before. It was in this meeting that Crawford made the comment that was used by Corwin.

President Monroe may have wanted to consult *personally* with the Senate to try to persuade them to accept the new convention. After all, Monroe had before rescued the treaty from defeat by consulting the Senate by means of a detailed message. This would explain why Crawford, in the cabinet meeting, told the story of George Washington's experience with personal consultation with the Senate. But Corwin's inference from Crawford's statement that the President need not consult the Senate prior to entering into substantive negotiations is unfounded. Furthermore, Adams had this to say about any further negotiations on the subject of the slave trade:

"I had observed to Mercer that after what had taken place in the Senate upon this Convention, and the subsequent effort, obviously intended to follow it up, to make it unpopular, the power of the President to negotiate further under the resolution of the House would be much checked until there should be some further manifestation of opinion by Congress in its favor." [30]

Finally, on January 20, 1825 Monroe in a message to the Senate indicated that negotiations would be resumed only by "common consent." [31]

Footnotes at end of article.

Corwin and the Jay Treaty

In his book *President—Office and Powers* Corwin implies that the Jay Treaty (the first foreign treaty under the Constitution) was negotiated without the advice and consent of the Senate. Corwin states:

"From that time forth [meaning: from the time Washington personally appeared in the Senate chamber] in fact, the relations of President and Senate in the realm of diplomacy came rapidly to assume a close approach to their present form. The history of the famous Jay Treaty five years later is a prime illustration. The treaty was negotiated in London under instructions in the framing of which the Senate had no hand." [32]

The implication given is that Washington did not seek the advice and consent to negotiate. On the contrary, he *did*.

The events surrounding the Jay Treaty are as follows.[33] During the first years under the Constitution there still remained some differences between Great Britain and the United States. On February 9, 1790, Washington asked the Senate's advice as to the best method of settling a number of these old disputes:

"You will perceive, from the papers herewith delivered, and which are enumerated in the annexed list, that a difference subsists between Great Britain and the United States, relative to the boundary line between our Eastern and their territories. A plan for deciding this difference was laid before the late Congress; and whether that, or some other plan of a like kind, would not now be eligible, is submitted to your consideration.

"In my opinion, it is desirable that all questions between this and other nations be speedily and amicably settled; and in this instance I think it advisable to postpone any negotiations on the subject, until I shall be informed of the result of your deliberations, and receive your advice as to the propositions most proper to be offered on the part of the United States.

"As I am taking measures for learning the intentions of Great Britain respecting the further detention of our posts, &c. I am the more solicitous that the business, now submitted to you, may be prepared for negotiation, as soon as the other important affairs which engage your attention will permit.[34] "

On March 24, 1790, the Senate advised the President and suggested a plan. Washington then sent a representative to England who informally sampled opinions of some British leaders and concluded that the plan was not acceptable. Thereupon, Washington reported back to the Senate on February 14, 1791. As time went by, the disputes grew more serious as England seized some American ships and incited Indians against our settlers. Resolutions were before the House of Representatives "for cutting off commercial intercourse and sequestering British Debts." Knowing that the resolutions before the House were moving the country back into war, a group of Senators, which included Rufus King, held a conference and quickly developed the Jay envoyship plan and gave it to Washington.[35] That plan was to have the United States send to England a person who would have the highest confidence of the British leaders to find out their concerns and the reasons for their hostile acts and to negotiate a settlement. Our ambassador in Great Britain at the time would not do. Our negotiator had to be of high standing and enjoy the highest confidence of the American people. He would make the voyage across the Atlantic to impress the British of our sincere desire to make a friendly settlement of differences. The person chosen by Washington, with the help of the small group of Senators, was John Jay, the Chief Justice of the Supreme Court. Then, in accordance with the requirement of the Constitution, Washington sought the Senate's advice and consent to appoint Jay as "Envoy Extraordinary of the United States, to his Britannic Majesty" for the purpose of negotiating a treaty whose propositions, because of the nature of things, could not be known beforehand. The message from George Washington to the Senate was as follows:

"Gentlemen of the Senate: The communications which I have made to you during your present session, from the dispatches of our Minister in London, contain a serious aspect of our affairs with Great Britain. But as peace ought to be pursued with unremitted zeal, before the last resource, which has so often been the scourge of nations, and cannot fail to check the advanced prosperity of the United States, is contemplated; I have thought proper to nominate, and do hereby nominate, John Jay, as Envoy Extraordinary of the United States, to his Britannic Majesty.

"My confidence in our Minister Plenipotentiary at London, continues undiminished. But a mission like this, while it corresponds with the solemnity of the occasion, will announce to the world the solicitude for a friendly adjustment of our complaints, and a reluctance to hostility. Going immediately from the United States, such an Envoy will carry with him a full knowledge of the existing temper and sensibilities of our country, and will thus be taught to vindicate our rights with firmness, and to cultivate peace with sincerity." [36]

The Senate approved the nomination three days later, after some debate, with the full knowledge and understanding that for these particular negotiations, the treaty propositions could not be known *a priori*. Thus the Senate in consenting to the mission shared the confidence Washington had in John Jay that whatever Jay would agree to would be in the interest of the United States.[37] (In contrast, the Senate had not been asked its advice and consent in appointing the envoys to Paris to negotiate a treaty with North Vietnam.) It is the Author's contention that President Washington had fully met the requirements of the Constitution in this instance since the Senate's advice and consent was sought and obtained before negotiations. The Senate simply chose not to require that Jay be given instructions and was willing to wait until Jay brought back a treaty which would serve as a basis for consultation with the Senate. Eleven months later Jay returned with a settlement. It was laid before the Senate for its advice and consent. The Senate in turn approved it, subject to an amendment. The amendment was easily negotiated with Britain and the treaty went into effect. A war had thus been avoided. And so it was that the Senate did perform a large role in making the treaty, not only by advising and consenting to the Jay appointment *but by participating in the earlier events of 1790–91 mentioned above*. The earlier attempts at settling the disputes, which were based on Senate advice, made both the President and the Senate that much wiser when the disputes erupted. For they then knew that a much stronger diplomatic move was necessary to avert the fast-approaching war.

The conclusion drawn from the history of the Jay Treaty by Corwin, and probably by others as well, is that since the Senate consented to let the executive branch alone frame a treaty during foreign negotiation, *any* President in the future could enter into negotiations and continue on through to a finished treaty without the Senate's consent to do so for each occasion.[38] Corwin states, "In a word, the Senate's character as an executive council was from the beginning put, and largely by its own election, on the way to absorption into its more usual character as a legislative chamber." This conclusion again shows up in Sen. Doc. No. 39 under the paragraph entitled "Negotiations, A Presidential Monopoly." [39] But this conclusion is without foundation. No evidence exists that in con-

senting to the Jay nomination the Senate intended to authorize all future Presidents to enter into substantive negotiations without the advice and consent of the Senate. Moreover, the Senate does not have the authority to transfer this power to the President and the President does not have the authority to assume it. Therefore, if anyone were to claim that a precedent was established by the Jay Treaty events, that precedent, which is in accordance with the Constitution, would be as follows: If the terms on which a settlement is possible cannot be estimated beforehand, then the President should nominate a person for the specific task of meeting with the other side and framing a basis for a settlement. But before the envoy can be appointed, the Senate's advice and consent is needed. The treaty provisions arranged by the envoy would then be used by the President as a basis on which to approach the Senate for its advice and consent on concluding the treaty.

Fleming sums it up as follows. After his first treaty, Washington confined his communication with the Senate on the subject of treaties to written messages, though he still adhered to the practice of asking the advice of the Senate before negotiations were opened and during their course. Negotiations with England over the northeastern boundary were suspended until the President could consult the Senate, and the Senate agreed in advance to approve the proposed terms of a treaty with Algiers. Even this method of consulting the Senate during negotations lapsed with Washington, however, and seems not to have been resumed until 1838, when President Van Buren asked the Senate to disapprove a proposed commercial treaty with Ecuador before negotiations rather than after. Polk, in 1846, asked the Senate's approval of suggested terms of peace with Mexico, and similar requests were forwarded by Buchanan and Lincoln in 1861, Johnson in 1868, Grant in 1872, and 1874, and Arthur in 1884. An indirect method of securing advance approval of the Senate was to nominate an envoy to negotiate a treaty and attach an outline of proposed terms. Confirmation of the appointment then automatically approved the treaty project. This device was used by Washington and Adams repeatedly and by Jefferson at least once. [40]

The Versailles Treaty

It simply makes common sense that if the Senate has to consent to treaties, then the President ought to consult with them in forming treaties to avoid embarrassments or a breakdown in foreign relations or in the relationship between the executive and the legislature. The latter could seriously weaken the nation. The Versailles Treaty of 1919 is a case in point.[41] President Wilson went to Europe at the end of World War I to negotiate the peace treaty with Germany and the Allies. He had entered into substantive negotiations and personally carried them through to the end without ever seeking the advice and consent of the Senate to do so. He was severely criticized for not abiding by the Constitution's treaty power provision. For example, Senator Lodge, the chairman of the Foreign Relations Committee, requested the President to submit a draft of the current treaty outline while the negotiations were still in progress and said:

"I am only asking something that has been done by almost all our Presidents who have consulted the Senate about entering into negotiations, about the character of negotiations, about awards, about pending negotiations . . . The Senate was consulted prior to negotiations by George Washington; it was consulted prior to negotiations by Abraham Lincoln. And in the path George Washington and Abraham Lincoln walked there is no man too great to tread." [42]

Senator Spencer said, "The President alone pursued his course, without any conference with the country he represented and with special disregard of the Senate, which, by the Constitution of the United States is made his legal adviser, particularly in connection with treaties." [43] But Wilson had his strong belief in the League of Nations plan which he had built into the treaty and felt that the Senate had little choice but to approve it. In his book *Constitutional Government in the United States* he had written:

"The initiative in foreign affairs, which the President possesses without any restriction whatever is virtually the power to control them absolutely. . . . He need disclose no step of negotiation until it is complete, and when in any critical matter it is completed the government is virtually committed. Whatever its disinclination, the Senate may feel itself committed also." [44]

Indeed, when Wilson returned he toured the country to whip up support against the growing Senate opposition. But in the end his disregard for the Senate's advice and consent role during negotiations led to the Senate's rejection of the treaty.[45] It is highly probable that this event, which drove a wedge between the Senate and the Executive, was a prime factor in the more serious erosions of the treaty power that followed that period of time, such as the broader use of executive agreements, which the Senate is now attempting to correct.[46]

Sutherland and the U.S. v. Curtiss-Wright Case

This section discusses the circumstances and considerations involved in the Supreme Court decision in *U.S. v. Curtiss-Wright* [47] in which the Court adopted Wilson's view of the treaty power. It can be shown herein that Justice Sutherland's statement regarding the treaty power was dictum and, furthermore, was without foundation.

Curtiss-Wright dealt with the legality of an embargo which was imposed by President Franklin D. Roosevelt pursuant to a joint resolution of Congress in 1934, on arms shipments to the belligerents in the Chaco War between Bolivia and Paraguay. The President was authorized to proclaim the embargo if he determined that it would contribute to restoring peace. In delivering the majority opinion, Justice Sutherland chose to discuss the treaty-making power even though this clause of the Constitution was not at issue. He contended that:

"Not only, as we have shown, is the federal power over external affairs in origin and essential character different from that over internal affairs, but participation in the exercise of the power is significantly limited In this vast external realm, with its important, complicated, delicate and manifold problems, the President alone has the power to speak or listen as a representative of the nation. He *makes* treaties with the advice and consent of the Senate; but he alone negotiates. Into the field of negotiation the Senate cannot intrude; and Congress itself is powerless to invade it." [48]

In support of this contention, Justice Sutherland quotes John Marshall: "The President is the sole organ of the nation in its external relations, and its sole representative with foreign nations." [49] It is true that only the President can represent our nation in conducting foreign negotiations. Hamilton in the *Federalist Papers* (No. 75), made it clear that it is most efficient to have the President conduct foreign negotiations and that the "Senate could not be expected to enjoy the same confidence and respect of foreign powers in the same degree . . . with that of the President." In No. 72 Hamilton stated that the "actual conduct of foreign negotiations" is "most understood by the administration." [50] Sutherland infers from John Marshall that the President can enter into the substantive negotiations and even complete them through the agreement stage without the Senate's advice and consent. However, this is unfounded. Marshall made the statement in connection with an extradition treaty with England, *already in force*. An Englishman who committed a crime against English law on the high seas sought sanctuary in the U.S. Upon Britain's request President Adams was seeking to return the criminal to England. A resolution which alleged that the President was usurping judicial powers in returning the criminal was proposed in the House. Representative Marshall argued that the President was only executing the law of the land, that is, the extradition treaty. Marshall was not discussing the relation of the President to the Senate but his relation to the courts.[51]

The only other evidence offered by Sutherland was an 1816 Senate Foreign Relations Committee report [hereinafter called the 1816 Committee Report]. As we have seen, Corwin attempted to use this report to nullify Rufus King's explanation of the treaty power. It was shown above that the opinion expressed in the committee report, which did not purport to rest on constitutional grounds, was in effect repudiated by the Senate two years later when it adopted Rufus King's argument on the Constitution's treaty clause. However, since the 1816 Committee Report is the only reference cited by Sutherland which discusses the role of the Senate in relation to treaty negotiations, it is important to review in more detail the facts surrounding this report. The Senate Executive Journals for 1805 through 1828 (Vol. 2 and 3) are the sources for the facts used in the following discussion.

On May 31, 1813, President Madison asked for advice and consent to appoint John Q. Adams, and others, as ministers to negotiate a treaty of peace to end the war of 1812 and a treaty of commerce with Great Britain. The Senate approved most of the nominations but held up that of Albert Gallatin until Madison removed him as Secretary of the Treasury. (On January 14, 1814 Madison nominated Henry Clay and others to join the negotiating team and the Senate approved them also.) Thus, the Senate had the opportunity to offer advice but simply chose not to do so, presumably because they had confidence in the appointed negotiators and were not sure what advice to give. The Senate may also have felt that debating the matter would have delayed the end of the war. For example, on June 2, 1813 Rufus King moved to request from the President papers relating to the arrangement of the peace conference, and the Senate rejected the motion. On February 15, 1815 Madison submitted the treaty of peace for advice and consent. The treaty, known as the Treaty of Ghent, was quickly approved. The treaty of commerce, which was to come later, was still being negotiated.

On December 6, 1815 Madison submitted to the Senate "for their consideration, and advice as to ratification," the treaty of commerce with Britain. The treaty was ratified by the Senate, Rufus King voting yea. But immediately after the vote King proposed that the Senate "recommend to, and advise, the President to pursue further and friendly negotiations" with Britain for the purpose of securing additional trade agreements. The King proposals were referred to the Committee on Foreign Relations which submitted its report on February 16, 1816. This report, which was the one cited by Justice Sutherland, took the view that the proposals of King had been pursued in the negotiations and that the need for any further negotiation ought to be left up to the President. The matter was debated off and on for several weeks and then was dropped on a motion by King, on April 26, 1816, to postpone consideration indefinitely. The section of the 1816 Committee Report which was quoted by Sutherland follows:

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"The President is the constitutional representative of the United States with regard to foreign nations. He manages our concerns with foreign nations and must necessarily be most competent to determine when, how, and upon what subjects negotiation may be urged with the greatest prospect of success. For his conduct he is responsible to the Constitution. The committee consider this responsibility the surest pledge for the faithful discharge of his duty. They think the interference of the Senate in the direction of foreign negotiations calculated to diminish that responsibility and thereby to impair the best security for the national safety. The nature of transactions with foreign nations, moreover, requires caution and unity of design, and their success frequently depends on secrecy and dispatch." [52]

The remainder of the 1816 Committee Report, not quoted by Sutherland, reads as follows:

"A division of opinion between the members of the Senate in debate on propositions to advise the Executive, or between the Senate and Executive, could not fail to give the nation with whom we might be disposed to treat the most decided advantage. It may also be added that if any benefits be derived from the division of the legislature into two bodies, the more separate and distinct in practice the negotiating and treaty ratifying power are kept, the more safe the national interest." [53]

Thus, Sutherland's claim rests on this 1816 Committee Report. But, a review of the facts will prove that this report will not bear the weight he puts on it.

It is apparent from the above that the Senate, with the exception of Rufus King, was content in rendering advice after the negotiations were completed, although the Senators advised and consented to the envoyships. After all, the above mentioned peace treaty and commerce treaty were successfully made in this manner and the successful Jay Treaty was also made in this manner. This method is constitutional provided that both the Senate and the President agree to employ it for each separate occasion. But the 1816 Committee Report attempts to establish this procedure as a matter of routine, which in effect is delegating to the President the Senate's share of that portion of the treaty-making power involving negotiation, although still retaining for the Senate the power to approve the appointment of those who negotiate. But the Senate does not have the constitutional power to delegate its powers, nor can the President assume delegated powers. It should also be noted that the Senate did not formally endorse the 1816 Committee Report. But more important, two years later during the debate on the Burrill resolution in 1818, Rufus King convinced the Senate that it cannot under the Constitution delegate any portion of the treaty-making power. (Recall that King was a prominent member of the Constitution Convention. Senator Bibb, who submitted the 1816 Committee Report, was not a delegate to that convention.) [54] The 1818 King speech, which was discussed earlier in connection with Senate Doc. No. 39, is presented here in its complete text:

Without adverting to the several branches of the executive power, for the purpose of distinguishing the cases in which it is exclusively vested in the President, from those in which it is vested in him jointly with the Senate, it will suffice on this occasion to observe that, in respect to foreign affairs, the President has no exclusive binding power, except that of receiving Ambassadors and other foreign Ministers, which, as it involves the decision of the competence of the power which sends them, may be an act of this character; to the validity of all other definitive proceedings in the management of foreign affairs, the Constitutional advice and consent of the Senate are indispensable.

In these concerns the Senate are the Constitutional and the only responsible counsellors of the President. And in this capacity the Senate may, and ought to, look into and watch over every branch of the foreign affairs of the nation; they may, therefore, at any time call for full and exact information respecting the foreign affairs, and express their opinion and advice to the President respecting the same, when and under whatever other circumstances, they may think such advice expedient.

There is a peculiar jealousy manifested in the Constitution concerning the power which shall manage the foreign affairs, and make treaties with foreign nations. Hence, the provision which requires the consent of two-thirds of the Senators to confirm any compact with a foreign nation that shall bind the United States; thus putting it in the power of a minority of the Senators, or States to control the President and a majority of the Senate: a check on the Executive power to be found in no other case.

To make a treaty includes all the proceedings by which it is made and the advice and consent of the Senate being necessary in the making of treaties must necessarily be so, touching the measures employed in making the same. The Constitution does not say that treaties shall be concluded, but that they shall be made, by and with the advice and consent of the Senate: none therefore can be made without such advice and consent; and the objections against the agency of the Senate in making treaties, or in advising the President to make the same, cannot be sustained, but by giving to the Constitution an interpretation different from its obvious and most salutary meaning.

To support the objection, this gloss must be given to the Constitution, "that the President shall make treaties, and by and with the advice and consent of the Senate ratify the same." That this is, or could have been intended to be the interpretation of the Constitution, one observation will disprove. If the President alone has power to make a treaty, and the same be made pursuant to the powers and instruction given to his Minister, its ratification follows as a matter of course, and to refuse the same would be a violation of good faith; to call in the Senate to deliberate, to advise, and to consent to an act which it would be binding on them to approve and ratify, will it is presumed, be deemed too trivial to satisfy the extraordinary provision of the Constitution, that has been cited.[55]

After hearing King's speech the Senate voted to interfere in the direction of foreign negotiations—that is, it passed the Burrill resolution—and thereby rejected the opinion of the 1816 Committee Report relative to the treaty-making power. As for the commerce treaty with Britain that precipitated the 1816 Committee Report, the Senate voted to involve itself in the course of further negotiations on commerce with Britain on January 26, 1819 and again on January 3, 1820. These facts, and a correct understanding of John Marshall's "sole organ" speech, leave the opinion of Sutherland regarding treaty negotiations completely without foundation. Furthermore, Sutherland simply ignores the records of the Constitution Convention, the *Federalist Papers*, the record of the first years in the Senate Executive Journal, which records the executive proceedings apart from the legislative proceedings, and particularly the Rufus King speech and its associated Senate endorsement.

In the face of all this evidence the question is raised: What caused Sutherland to offer his dictum on the treaty-making power? An article by Forrest R. Black in 1931, *The United States Senate and the Treaty Power*,[56] is most revealing in this respect. Black reported that at that time there were "two widely divergent schools of thought as to the respective [constitutional] roles of the President and of the Senate" in making treaties:

"The Washington [interpretation] views the role of the Senate as an integral part of the treaty making function, which may be exercised at any stage of a negotiation; the other [interpretation], the Wilsonian, considers the function of the Senate merely to give sanction to a treaty that is already drafted . . . [and] would make the word 'advice' mere surplusage." [57]

The Wilsonian view found its literary expression in Corwin's book, *The President's Control of Foreign Relations*, 1917, which was written to answer "the numerous interesting questions which have arisen since Mr. Wilson went to Washington as to the powers of the President in the diplomatic field." [58] Black presented a very informative and thorough analysis of this issue and concluded that the "Washingtonian" interpretation was correct but he indicated that the "Wilsonian" view was more likely to prevail. In summing up the case for the Wilsonian advocates, Black states: "The gist of their case seems to be that *the nature of transactions with foreign nations requires caution and unity of design, and their frequency depends on secrecy and dispatch . . . that a division of opinion between the Senate and the President could not fail to give the nation with whom we might be disposed to treat, the most decided advantage.*" [59] Now observe that the case for the Wilsonian advocates as reported by Black (italicized) was taken verbatim from the previously mentioned 1816 Foreign Relations Committee report and reappeared in the *Curtiss-Wright* opinion five years after Black's article when Sutherland adopted the Wilsonian interpretation.[60]

It is thus apparent that there was in the period of 1917–1936 an aggrandizement of the Executive in foreign affairs and that Sutherland in *Curtiss-Wright* played a part.

However, if Sutherland wanted to contend that the President has the power to negotiate without Senate advice, a power not explicitly delegated by the Constitution, then the burden was on him to come up with facts to justify that position. But the two minute fragments of historical data relied on by Sutherland do not support him. The meager basis for his treaty power opinion, however, can be explained. For there was a larger issue that concerned Sutherland and this was his theory of implied foreign affairs powers which was central to the trend toward more executive powers in foreign affairs. This theory occupies most of Sutherland's attention in his *Curtiss-Wright* opinion with the treaty power mentioned only briefly. (Moreover, if the negotiation of treaties was Sutherland's main concern, he surely would not have omitted the last paragraph of the 1816 Committee Report which said: ". . . the more separate and distinct in practice the negotiating and treaty ratifying power are kept, the more safe the national interest.") His theory is based on the assumption that the federal government's "powers of external sovereignty did not depend upon affirmative grants of the Constitution." [61] This theory is presented in more detail in his book, *Constitutional Power and World Affairs*.[62] A review of this book in connection with the treaty-making power is therefore essential because *therein* is Sutherland's *real* basis for his *Curtiss-Wright* opinion on the treaty power.

It would seem easy to disprove the view that "powers of external sovereignty did not depend upon affirmative grants of the Constitution," since the tenth amendment of the Constitution evidently precludes them. After all, the Court, in 1957, in *Reid vs. Covert* stated:

"The United States is entirely a creature of the Constitution. Its power and authority have no other source. It can only act in ac-

Footnotes at end of article.

cordance with all the limitations imposed by the Constitution . . . the United States Government . . . has no power except that granted by the Constitution. . . ." [63]

However, Sutherland, in his book, argued that if an external sovereignty power was not expressly granted in the Constitution, *but neither denied,* then this power (whatever it might be) was still granted to the national government by the Constitution since neither the people nor the states could have it in practicality. That is, he argues, the tenth amendment does not apply to external sovereignty powers because the framers (supposedly) intended that these powers were complete under the Constitution, whether or not they all are expressly stated in the Constitution's phraseology:

"We must cease to measure the authority of the general government only by what the Constitution affirmatively grants, and consider it also in the light of what the Constitution permits from failure to deny." [64]

Since Sutherland deprives us the use of the tenth amendment in order to reject his theory, we must review his basis.

Sutherland's book was written at the end of World War I. Because of the new magnitude of horror which the war had wrought, he expressed his strong conviction that the United States must build a military preparedness, including compulsory service, and actively participate in international politics and adopt:

"Every possible safeguard which can be devised to prevent a repetition of the conditions under which Germany came perilously near realizing her dream of European dictatorship . . . the master of Europe [will be] . . . the master of the world." [65]

Although Sutherland opposed the League of Nations plan, he urged "extension of the principles and plans" of the Permanent (International) Court of Arbitration established by the Hague Conference of 1899. He stated:

"It must be apparent to everyone that the field of national responsibility will be immensely broadened as a result of the war, and there will be presented questions not only relating to this phase of the matter but questions no less important related to the power of the national government under the Constitution to deal with them.[66]

"The powers of the national government over external affairs, all at once, therefore have assumed new and increased importance, in the light of which, a re-examination of their nature and extent is not only pertinent but may, sooner or later, become highly necessary; for it is certain that hereafter, whether desired or desirable, we shall be obligated to occupy a larger place in the affairs of the world, to participate to a far greater degree in world policies and lend substantial and increased assistance toward the solution of world problems.[67]

"For this condition of affairs, there must result, as will be shown hereafter at length [in his book], a rule of constitutional construction radically more liberal than that which obtains in the case of domestic powers . . . any rule of construction which would result in curtailing or preventing action on the part of the national government in the enlarged field of world responsibility which we are entering, might prove highly injurious or embarrassing.[68]

[Therefore], in this new and extended relationship, we shall probably be obliged to extend the scope and application of the familiar meanings of the Constitution, and it may be to *find*—though not to *make*—new meanings." [69]

In his search for "new meanings" he states, after quoting the "premise language of the Constitution" regarding the treaty-making power:

"It will be observed that the advice and consent of the Senate qualifies the power of the President to make, not to negotiate, treaties. When a treaty is contemplated, therefore, the President may, and more often does, enter upon negotiations with foreign governments, through diplomatic channels, and carries them to the point of reaching an understanding as to the terms and phraseology of the treaty, before the advice and consent of the Senate is sought at all—subject of course, finally, to Senatorial action." [70]

This "new meaning" is of course incorrect as the wealth of evidence presented in this article demonstrates. Furthermore, Sutherland attempts no proof in his book of this assertion, except to say that the Constitution does not explicitly deny it. (Presumably, he relied on Corwin to attempt a proof since he undoubtedly had a high regard for him—*e.g.,* he called Professor Corwin's book, *National Supremacy,* "brilliantly convincing.") He "found" this separate "negotiation power" so that the President could move freely in international affairs by avoiding any possible Senate interference. For he states:

"The time is fast approaching, if it be not already here, when we must be able to assert and maintain for that [national] government the unimpaired powers of complete external sovereignty. We must not—we cannot—enter upon this field of amplified [international] activity with half-developed limbs. The complete powers of the governments of other nations must be matched by the complete power of our own government. Upon this enlarged stage of international negotiation and co-operation we cannot afford to play the part of a political cripple. Our government must come to its new tasks not only with full, but with unquestioned powers. To be obliged to confess, when called upon to deal with some novel but vital matter, that the government lacked sufficient authority, because of the absence of affirmative language in the Constitution, would be most humiliating and regrettable . . . any theory of constitutional construction which leads to such a result will not bear analysis and must be rejected." [71]

Sutherland argued that the President has this implied power to negotiate without Senate advice because the Constitution does not deny it. He argues that nowhere in the record of the Federal Constitutional Convention is it stated that our external sovereignty powers are incomplete. Hence, he states, because they are complete and because there is the power "to negotiate," separate (supposedly) from the power "to make" treaties, it resides with the Branch most suited—the Executive. Therefore, he argues that the separate power "to negotiate" is granted implicitly in the Constitution and, consequently, the tenth amendment, "the powers not delegated to the United States by the Constitution . . . are reserved . . . to the people," does not apply in this case. He states that we are "dealing with a class of powers, sufficiently numerous to be difficult of exhaustive enumeration, but which, whether enumerated or not, might at any time, require exercise, and perhaps very prompt exercise." [72]

However, the above theory and arguments by Sutherland, which were used to circumvent the tenth amendment, come crashing down to utter uselessness when confronted with the authority of the *Federalist Papers:*

"No. 14 (Madison), In the first place it is to be remembered that the general government is *not* to be charged with the whole power of making and administering laws. Its jurisdiction is limited to certain enumerated objects [*i.e.,* listed one by one in the Constitution].

"No. 45 (Madison), The Powers delegated by the proposed Constitution are few and defined. Those which are to remain in the State governments are numerous and indefinite. The former will be exercised principally on external objects, as war, peace, negotiation, and foreign commerce."

And so we are *not* dealing with a class of external sovereignty powers that are too numerous to completely enumerate but rather these powers are "few and defined" and include only those "certain enumerated objects." Thus, the whole of Sutherland's opinion regarding the treaty-making power is not based on fact. It is dictum, without a factual basis, and, hence, is without authority.

Evidently, Sutherland was willing to chance his theory rather than attempt to confirm it, for he stated:

"I do not remember to have seen it stated, but obviously it must be this: that the exigencies of government administration, because of their great variety and constant augmentation cannot be foreseen and consequently cannot be enumerated; and it is better to risk an occasional abuse of power than it is to incur the inconvenience and dangers arising from lack of effective power." [73]

As to risking occasional abuse of power, George Washington had this to say:

"If, in the opinion of the people, distribution or modification of the constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the Constitution designates. But let there be no change by usurpation; for though this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed. The precedent must always greatly overbalance in permanent evil any partial or transient benefit which the use can at any time yield." [74]

Although Sutherland's call for military preparedness and an international Court of Arbitration may have been good, his flaw was that he was willing to violate our Constitution so that the President could move more freely in international politics, thereby jeopardizing representative government here at home. We have already accumulated much experience under his theory of a separate, implied negotiating power and the results indicate little success in achieving "solutions to world problems." For example, Wilson sought to negotiate without Senate advice and he failed to make a practical League of Nations treaty as a consequence. We have had two large wars since then (World War II and Korea) and no satisfactory resolution of either of them was achieved through negotiations conducted without Senate consultation. We are presently involved in a longer, third war and, again, negotiation without Senate consultation has gotten nowhere. We have had and are having a frightening nuclear arms race and negotiation without Senate consultation has achieved only small success in nuclear arms limitation. As an indication of the extent which the Wilsonian view pervades the Executive Branch today, the President is reported to have said that the recently passed Senate Resolution 211 on the Strategic Arms Limitations negotiations was "irrelevant." [75]

Senate advice as a body

The "advice of the Senate" required for treaty-making must take the form of a Senate resolution. The opinions of selected members invited to the White House cannot constitute Senate advice and neither can a collection of public statements made by individual Senators. The Constitution requires that "each Senator shall have one vote" [76] which was the equality of states compromise reached in the Federal Convention.[77] Madison, in the Federalist (No. 62) said that the states "ought to have an equal share in the common councils." Also, Jay in the *Federalist* (No. 64) said that "should any circumstance occur which requires the advice and consent of the Senate, he may, at any time, convene *them.*" (emphasis added) Jay does not say and neither does the Constitution, that the President may seek out certain members and solicit only their advice, or that a committee of the Senate may provide the advice and consent.

Footnotes at end of article.

To prove the last point one need only cite, again, the record of the Senate Executive Journal, Vols. I and II, and specifically the message to the Senate from President Madison in which he declined to confer with a Senate appointed committee on constitutional grounds:

"The appointment of a committee of the Senate to confer immediately with the Executive himself, appears to lose sight of the co-ordinate relation between the Executive and the Senate, which the Constitution has established, and which ought, therefore, to be maintained." [78]

Indeed, on another occasion the Senate attempted to confer with Madison through a committee and the President again declined. According to the report:

"He regretted that the measure had been taken under circumstances which deprived him of the aid or advice of the Senate." [79]

Having shown that advice of the Senate requires resolution of the Senate as a body, it should be said that only a simple majority vote is required rather than the two-thirds vote required for final ratification of a treaty. The clause, "provided two-thirds of the Senators present concur," evidently applies only to consenting to the treaty. It makes no sense to identify "concur" with the advice; the framers would not have thought it necessary to state in the Constitution that the Senate must concur in its own advice. Rather, if the Senate concurs, it is with the plan of another branch of the government. Inspection of the Senate Executive Journal, Vol. I, will bear this out.

Origin of the Treaty Making Clause

Early drafts of the Constitution during the Federal Convention of 1787 gave the Senate sole treaty-making power. However, the framers were unable to agree that the Senate should have the sole power. Near the end of the convention, on August 31, a committee of eleven was appointed to which was referred this and other unfinished parts of the Constitution.[80] On September 4, the committee proposed to the convention the clause: "the President by and with the advice and consent of the Senate shall have power to make treaties." It is again noted that Rufus King was a member of this Committee of Eleven. This gives more weight to his 1818 Senate speech previously cited where he explicitly defined the treaty power. Madison was a member of this committee, also. Perhaps he drew upon his state's constitution for the phraseology of the treaty-making clause. The Virginia State Constitution, in effect at the time, stated, "he, [the Governor] shall, with the advice of a Council of State, exercise the executive powers of government." (The term "Privy Council" and "Council of State" were used interchangeable in the Virginia Constitution.) On September 7, Mr. Mason moved to install a "privy council" or "council of state" to advise the President in forming treaties, and leave to the Senate only the function of concurring in treaties and appointments, since otherwise the Senate would be required to be in constant session. Rufus King then argued that the inconveniences of having the Senate act as a "Council of Advice" did not warrant creation of a "New corps which must increase the expense as well as influence of the [federal] Government." [81] Mr. Gouverneur Morris argued that with a privy council the "President by persuading his council to concur in wrong measures, would acquire their protection for them." [82]

As for the concern over the Executive having to share secrets with the Senate, associating the term "privy council" with the Senate in the drafting of the Constitution explains why the Senate adopted a secrecy rule whenever receiving messages and documents related to treaty-making.[83] Further illustration of the point that the Senate was expected to share secrets is given by the fact that on September 7 the House of Representatives were excluded from treaty-making after Mr. Sherman argued that the power of making treaties "could be safely trusted to the Senate. He [Sherman] thought it could; and that the necessity of secrecy in the case of treaties forbade a reference of them to the whole Legislature." [84] According to F. R. Black the Wilsonian advocates advanced the argument that "real secrecy is impossible if the Senate is kept advised of the facts during the negotiation of the treaty." To this Black said:

"But even if the Senate as a body should receive its [secret] information, it would be in executive session behind closed doors, and the argument that secrecy would be jeopardized is but a polite way of questioning the patriotism and the motives of the members of the United States Senate." [85]

President as Commander in Chief

Corwin has argued that due in part to the Commander in Chief role (the President can arrange an armistice on his own authority), the President is "the sole organ of diplomatic relations to negotiate the final peace." [86] Here it seems that Corwin singles out the negotiation of peace treaties as the exclusive province of the Executive. To refute this view one need only consult the records of the Federal Convention.[87] After the treaty clause in its present form was adopted, Madison moved to insert "except treaties of peace" after the clause. After that motion passed, Madison "moved to authorize a concurrence of two-thirds of the Senate to make treaties of peace, without the concurrence of the President. The President he said would necessarily derive so much power and importance from a state of war that he might be tempted, if authorized, to impede a treaty of peace. Mr. Butler seconded the motion. Mr. Gorham thought the precaution unnecessary as the means of carrying on the war would not be in the hands of the President, but of the Legislature. Mr. Govr. Morris thought the power of the President in this case harmless; and that no peace ought to be made without the concurrence of the President, who was the general Guardian of the National interests. Mr. Butler was strenuous for the motion, as a necessary security against ambitious and corrupt Presidents. He mentioned the late perfidious policy of the Statholder in Holland; and the artifices of the Duke of Marlbro' to prolong the war of which he had the management. . . . Mr. Williamson thought that Treaties of peace should be guarded at least by requiring the same concurrence as in other Treaties." The motion failed. The "except treaties of peace" clause was then stricken.[88] And so to negotiate the peace is *not* the sole power of the President as Commander in Chief. Rather, the situation is the same for peace treaties as for other kinds of treaties.

The Vietnam Peace Treaty Negotiations

If the Vietnam peace treaty negotiations are of the nature as to require the "indirect method," then the President should nominate an envoy to the Paris Conference and obtain the Senate's advice and consent to appoint the nominee for the purpose of framing a treaty with North Vietnam. The Senate may want to require that the envoy carry with him an outline of proposed terms. On the other hand, it may be preferable that a draft of a treaty be worked out between the Senate and the President which could serve as the basis for talks with North Vietnam and the NLF. This would also require the consent of the Senate. The President would then be free to negotiate a final draft with the other side unless the emerging treaty took a form substantially outside that which was consented to by the Senate. In the latter event, the President would be obligated to consult again with the Senate. Either way, a sound constitutional procedure is available to the President since the Senate would have in each case the opportunity to give advice and, upon agreement, its consent to whatever plan of action might be worked out. It can hardly be justifiably argued that this procedure would be impracticably slow in view of the singular lack of substantive progress after more than 26 months of negotiations in Paris with no official Senate participation. On the contrary, bringing the active participation of the Senate into these negotiations, as suggested in the above procedure, may result in greater and more rapid progress because there would be a closer correspondence between our negotiating policies and our national interests and welfare. To further support this contention, there is the rather obvious view expressed throughout the *Federalist Papers* (No. 62, 63, and 64 in particular) that the Senate is to be composed of the "most distinguished men of abilities, . . . who [along with the President] best understand our national interests . . . considered in relation to foreign nations," and who, because of their six-year terms, will provide "accurate and comprehensive knowledge of foreign politics, a steady and systematic adherence to the same views, and a nice uniform sensibility to national character." Jay stated that the six-year Senate term provided "sufficient time to become perfectly acquainted with our national concerns, and to form and introduce a system for the management of them." All of these statements point to the notion that the advice of the Senate is, if not indispensable, at least of great value in keeping our foreign policy consistent with our true interests and in keeping it from unduly fluctuating in order to avoid causing ill relations, or, in the words of the *Federalist Papers*, "forfeiting the respect and confidence of other nations."

Because the President and the Senators have all sworn to support the Constitution it seems only right to expect that both the President and the Senate undertake a thorough review of the treaty clause in order to ensure that each is indeed supporting the Constitution. It must be recalled that twelve of the sixty-six senators during Washington's administration were delegates to the Constitutional Convention (of approximately fifty delegates) and ten were delegates to the States' ratifying assemblies. (Recall that Washington was President of the Constitutional Convention, Hamilton was Washington's Secretary of Treasury, and Jay, the first Chief Justice, wrote the essays in the *Federalist Papers* relating to foreign affairs). These men worked together closely to make the government function as it was intended by the Federal Convention and the state assemblies which approved the Constitution. In view of this, the way in which the government operated during the first years under the Constitution should weigh very heavily in interpreting the Constitution. And during these first years the treaty power was exercised in a spirit of co-operation and consultation between the Executive and the Senate. This co-operation was an important factor in getting the Nation off on a successful and solid start.[89]

It has been said that the Paris Peace Negotiations are preliminary, a kind of sparring to see whether serious negotiations are possible, and thus do not require the President to seek Senate counsel.[90] However, there is only *one* phase of any negotiation which the President can conduct without Senate counsel and that phase was defined by Jay: "Those matters which in negotiation usually require the most secrecy and the most dispatch are those preparatory and auxiliary measures *which are not otherwise important in a national view* . . . For these the President will find no difficulty to provide . . ." [91] (emphasis added). Now as soon as the opposing parties in Paris agreed to the shape of the table and the place and times to meet, the "prepara-

Footnotes at end of article.

tory measures" were accomplished. From that time on, the discussions have surely been of "importance in the national view." Senator Bacon in his article, *The Treaty-Making Power*, said:

"It is proper for the Senate to advise at all stages. We do not advise men after they have made up their minds and after they have acted; we advise men while they are considering, while they are deliberating and before they have determined and before they have acted." [92]

In closing, it should be said that the advice and consent of the Senate are intended to help the President in a common enterprise; they are not hostile limitations. Since in the final event, the President makes the peace treaty, he must try to realize that the Senate is his constitutional and only responsible counsellor, that the Senate is jointly responsible for the treaty and its early conclusion, and that the Senate exists to provide wise counsel. The treaty power makes demands upon the good faith of the President, since he must decide when it is appropriate to consult with the Senate, but consult he must. Our Constitution is both the *means* and the *end* of our foreign policy. Not to follow the Constitution would defeat its purpose.

FOOTNOTES

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[1] U.S. CONST. article II, § 7.

[2] U.S. CONST. amend. X.

[3] U.S. CONST. article VI.

[4] THE FEDERALIST, No. 64 (J. Jay).

[5] 299 U.S. 304 (1936).

[6] S. Doc. No. 39, 88th CONG., 2d SESS. (1964), p. 462:

"The plan which the Committee of Detail reported to the Federal Convention on August 6, 1787 provided that "the Senate of the United States shall have power to make treaties, and to appoint Ambassadors, and Judges of the Supreme Court." Not until September 7, ten days before the Convention's final adjournment, was the President made a participant in these powers. The constitution's clause evidently assumes that the President and the Senate will be associated throughout the entire process of making a treaty, although Jay, writing in the Federalist foresaw that the initiative must often be seized by the President without benefit of Senatorial counsel. Yet so late as 1818 Rufus King, Senator from New York, who had been a member of the Convention, declared on the floor of the Senate: "In these concerns the Senate are the Constitutional and only responsible counsellors of the President. And in this capacity the Senate may, and ought to, look into and watch over every branch of the foreign affairs of the nation; they may, therefore, at any time call for full and exact information respecting the foreign affairs, and express their opinion and advice to the President respecting the same, when, and under whatever other circumstances, they may think such advice expedient."

[7] *Id.*

[8] THE FEDERALIST No. 64 (J. Jay).

[9] *Id.*

[10] *Id.*

[11] ANNALS OF CONG. 15 CONG. 1st SESS., I, at 106–07. *See also* 3 M. FARRAND, THE RECORDS OF THE FEDERAL CONVENTION OF 1787 at 424 (Yale Univ. Press).

[12] *Id.*

[13] M. FARRAND, THE FRAMING OF THE CONSTITUTION (Yale University Press).

[14] R. ERNST, RUFUS KING—AMERICAN FEDERALIST (University of North Carolina Press).

[15] C. R. KING, THE LIFE AND CORRESPONDENCE OF RUFUS KING 90–95.

[16] *Id.*

[17] E. S. CORWIN, THE PRESIDENT—OFFICE AND POWERS 478 (N.Y.U. Press, 1948).

[18] 8 S. Doc. No. 231, 56th CONG., 2d SESS. *Compilation of Reports of Committee on Foreign Relations, 1789–1901*, p. 22–24.

[19] E. S. CORWIN, *supra* note 17, at 254–58.

[20] S. Doc. No. 39, 88th Cong., 2d Sess. (1964), P-463.

[21] E. S. CORWIN, THE PRESIDENT'S CONTROL OF FOREIGN RELATIONS (1917), p. 85.

[22] Annals of Congress, August 22–26, 1789.

[23] R. HAYDEN, THE SENATE AND TREATIES—1789–1817 (MacMillan).

[24] E. S. CORWIN, *supra* note 22, at 87–88.

[25] H. F. GRAFF, "Thinking Aloud: Participatory Foreign Policy," The New Leader Magazine, March 2, 1970. *See also* CONG. REC. vol. 116, pt. 6, p. 8368, and E. F. GOLDMAN, "The President, The People, and the Power to Make War," American Heritage Magazine, April, 1970.

[26] J. Q. ADAMS, MEMOIRS, Vol. 6, 310–430 [hereinafter cited as MEMOIRS].

[27] SEN. EXEC. JOURNAL Vol. 3, at 381.

[28] *Id.*

[29] *Id.* at 380–85.

[30] MEMOIRS at 361.

[31] SEN. EXEC. JOURNAL Vol. 3, at 410.

[32] E. S. CORWIN, *supra* note 17 at 254–58.

[33] R. HAYDEN, *supra* note 23. *See also* SEN. EXEC. JOURNAL Vol. 1.

[34] SEN. EXEC. JOURNAL Vol. 1, at 37.

[35] 1 C. R. KING, THE LIFE AND CORRESPONDENCE OF RUFUS KING 517.

[36] SEN. EXEC. JOURNAL Vol. 1, at 150; incidentally, the phrasing of Washington's message had its origin in the minutes of the above mentioned conference of Senators. *See id.*

[37] R. HAYDEN, *supra* note 23.

[38] E. S. CORWIN, *supra* note 17 at 254–58.

[39] S. Doc. No. 39, 88th CONG., 2d SESS. (1964) p. 463:

"Actually, the negotiation of treaties had long since been taken over by the President; the Senate's role in relation to treaties is today essentially legislative in character. 'He alone negotiates. Into the field of negotiation, the Senate cannot intrude; and Congress itself is powerless to invade it,' declared Justice Sutherland for the Court in 1936."

[40] D. F. FLEMING, THE TREATY OF THE AMERICAN SENATE 21–22 (Putnam).

[41] W. S. HOLT, TREATIES DEFEATED BY THE SENATE 249–307 (Johns Hopkins Press).

[42] *Id.*

[43] *Id.*

[44] W. S. HOLT, *supra* note 41.

[45] Anyone who thinks that the Senate acted irresponsibly should study the Senate Foreign Relations Committee majority Report against the treaty. CONG. RECORD, Sept. 10, 1919.

[46] *See* National Commitments Resolution, CONG. RECORD, vol. 115, pt. 13, p. 17214. *See also* S. REP. No. 91–129, *supra* note 18.

[47] 299 U.S. 304 (1936).

[48] *Id.* at 319.

[49] U.S. v. Curtiss-Wright, 299 U.S. 304 at 319 (1936).

[50] THE FEDERALIST No. 72 (A. Hamilton).

[51] ANNALS OF CONG., 6th CONG. 613.

[52] S. Doc. No. 231, *supra* note 18.

[53] *Id.*

[54] M. FARRAND, *supra* note 13.

[55] ANNALS OF CONG. 15TH CONG., 1ST SESS. 106–07.

[56] F. R. BLACK, THE UNITED STATES SENATE AND TREATY POWER, 4 ROCKY MT. L. REV. 1–19 (1931). Black's article discusses many other considerations and important historical events affecting the treaty power and refers to other articles on the subject. His article should be studied by all those pursuing this matter.

[57] *Id.*

[58] E. S. CORWIN, THE PRESIDENT'S CONTROL OF FOREIGN RELATIONS, preface.

[59] F. R. BLACK, *supra* note 56 at 12 and 14.

[60] The Curtiss-Wright case had to do with the President executing a law of Congress and not the negotiating of any treaty. So why did the Court settle one of the questions Corwin tried to answer? The Constitution does not grant the Judiciary the power to settle questions, only cases. It is ironic that in the very speech by John Marshall cited by Sutherland in the Curtiss-Wright decision, Marshall said this about the Court settling questions:

"By the Constitution, the Judicial Power of the United States is extended to all cases in law and equity, arising under the Constitution, laws, and treaties of the United States but the resolutions [under debate] declare that Judicial power to extend to all questions arising under the Constitution, treaties and laws of the United States. The difference between the Constitution and resolutions was material and apparent. A case in law or equity was a term well understood, and of limited signification. It was a controversy between parties which had taken a shape for judicial decision. If the Judicial power extended to every question under the Constitution, it would involve almost every subject proper for Legislative discussion and decision; if to every question under the laws and treaties of the United States, it would involve almost every subject on which the Executive could act. The division of power which the gentleman had stated, could exist no longer, and the other departments would be swallowed by the Judiciary." Annals of Cong., 6th Cong., at 606.

[61] U.S. v. Curtiss-Wright, 299 U.S. 304 at 319 (1936).

[62] Columbia University Press, 1919.

[63] 354 U.S. 1 at 12 (1956).

[64] G. SUTHERLAND, CONSTITUTIONAL POWER AND WORLD AFFAIRS 172 (Columbia University Press, 1919).

[65] *Id.* at 21.

[66] *Id.* at 18.

[67] *Id.* at 26.

[68] *Id.* at 21.

[69] *Id.* at 27.

[70] *Id.* at 122.

[71] *Id* at 171.

[72] *Id.* at 36. During the struggle for ratification of the Constitution, there was great concern that the federal powers may not have been limited to those enumerated. James Wilson, who was a delegate to the Constitutional Convention from Pennsylvania, said to a "Meeting of the Citizens of Philadelphia" that "in delegating federal powers, . . . the congressional authority is to be collected, not from tacit implication, but from the positive grant, expressed in the instrument of union. . . . Hence, . . . everything which is not given, is reserved." (*Pamphlets on the Constitution*, Paul L. Ford, p. 156). The people insisted, however, that Wilson's assurance be written into the Constitution. Madison led the effort to amend the Constitution accordingly and the 10th amendment was included in with the Bill of Rights. (*The Birth of the Bill of Rights*, Robert A. Rutland, pp. 126–218). However, there persists the view that the 10th amendment is not meaningful with respect to implied particular powers. *See The Federalist Era* by John C. Miller, p. 24. This view can be rejected with the authority of the *Federalist Papers*, No. 44. Here Madison makes it very clear that the term *enumerated powers* applies to those *general* powers *expressly* written into the Constitution and not to the innumerable *particular* powers that would be needed to exercise the former. The latter were to be provided for only by passing laws under the *necessary and proper* clause. This explains why the phrase "expressly delegated" does not appear in the 10th amendment whereas it appeared in the Articles of Confederation, Article II.

[73] *Id. at* 47.

[74] 35 J. FITZPATRICK, WRITINGS OF GEORGE WASHINGTON 229.

[75] CONG. RECORD, vol. 116, pt. 10, p. 12720.
[76] U.S. CONST. article I, § 3.
[77] M. FARRAND, *supra* note 13.
[78] SENATE EXEC. JOURNAL Vol. 2 at 382.
[79] *Id.* at 389.
[80] 2 M. FARRAND, THE RECORDS OF THE FEDERAL CONVENTION OF 1787 .
[81] *Id.* at 539.
[82] *Id.* at 542.
[83] *See generally,* SENATE EXEC. JOURNAL Vols. 1, 2, and 3. *See also,* Senate Rules Manual.
[84] M. FARRAND *supra* note 81 at 538.
[85] F. R. BLACK, *supra* note 59 at 13–14.
[86] E. S. CORWIN, *supra* note 17 at 315.
[87] M. FARRAND, *supra* note 80 at 540.
[88] *Id.* at 540–41.
[89] R. HAYDEN, *supra* note 23 at 3.
[90] *See* Senate Report 91–834; 91st CONG., 2nd SESS., May 1, 1970, "Termination of Middle East and Southeast Asia Resolution," p. 21, 29. On these pages the Department of State in commenting on various proposed Senate resolutions stated that the current Vietnam peace negotiations (as of December 4, 1969) were not "serious," "real," nor "meaningful."
[91] THE FEDERALIST No. 64 (J. Jay).
[92] F. R. BLACK, *supra* note 57 at 2.

Mr. FULBRIGHT. Mr. President, I would like to congratulate the Senator from Indiana for a very ingenious and new thought on this general subject of trying to reestablish the proper role of Congress in the making of foreign policy.

By chance, this morning we had an early hearing with Professor Bickel, of Yale, on war power legislation pending before the Foreign Relations Committee. The proposed legislation to which I refer was introduced by the Senator from New York (Mr. JAVITS), the Senator from Missouri (Mr. EAGLETON), the Senator from Ohio (Mr. TAFT), and some other Senators.

The Senator from Indiana said that Congress has paid more attention to its powers with reference to the making of war than with reference to making peace.

The Senator's suggestion is ingenious. The more I have watched the effects of the Congress abandoning some of its constitutional authority, the more I respect the Constitution.

As the Senator from Indiana pointed out, President Wilson, in attempting personal and private presidential peace making, led to the complete disaster in which a peace treaty and the League of Nations were rejected; it was a great disaster to the country. Now, we have had presidential war making in Vietnam, and I refer to the Vietnam war that started before this administration was in power, but it is still going on and daily becoming a greater disaster for our country.

So I think the Senator should be applauded for his resolution which attempts to bring Congress into full and timely participation in these matters, and, more specifically, the Senate in the case of treaties.

The question of the President appointing ambassadors as his "personal representatives," not subject to confirmation by the Senate, has been considered earlier by the Committee on Foreign Relations and we have argued with this administration and the previous administration, trying to persuade the President to cease this practice. Usually such individuals with the "personal rank of ambassador," by authority of the President acting alone, have been appointed to less important roles than negotiating peace as in Paris; very often they are named for meetings on ceremonial matters. Nevertheless we try to discourage the practice, and we have had some degree of cooperation, although the administration has not agreed completely to stop the practice.

As the Senator knows, I agree that it does not seem to be an agreeable—or even constitutional—practice.

The Senator from Indiana and I discussed previously whether his resolution should be brought before the Senate without prior reference to a committee. This is an important subject; it should go to committee and should be the subject of hearings. The resolution is on all fours with the type of bill the committee now has before it on presidential war-making power.

I predict that if the resolution were brought up in the Senate without hearings or committee consideration, the Senator would not succeed because it is a novel idea. The idea that the Senate should be advised before the treaty is agreed upon by the President is a sound one. It would go far to insure success that the treaty, whatever it might be, will be acceptable to the country.

So I strongly recommend, not only in the case of the Paris negotiations, but also with respect to others in the future that this administration would consult with Congress with regard to whatever they have in mind especially in connection with the upcoming meeting with China. Not only do I think it is constitutional to do so, but as a practical matter it is much more likely to succeed to bring the Congress along with the President on whatever his policy is.

So I strongly endorse the idea the Senator is advancing, that Congress should be allowed to play its proper constitutional role, either in war making or in peace making, even though in this instance the Senator is referring to negotiations in Paris. His resolution incorporates, as I understand it, virtually the same provision the Senate approved in the case of the Mansfield amendment. Is that correct?

Mr. HARTKE. That is exactly correct. What I have done really is to take what has been expressed as the voice of the Senate in regard to negotiations and incorporated them in this resolution, and provided that in dealing with the confirmation of ambassadors, there must be the advice and consent of the Senate.

Let me clear up one point. I talked about immediate consideration. Probably the best procedure would be to allow the resolution to go to the Committee on Foreign Relations with the hope that it could be considered at the same time as the committee is considering war-making powers, especially in view of the fact that there is widespread notice there will be a new man to replace Ambassador Bruce, and that appointment is contemplated for the middle of August.

Mr. FULBRIGHT. Tomorrow is the last hearing the Foreign Relations Committee has scheduled on warmaking powers. I hope next week, and maybe the latter part of this week, if we can get Members free from other duties, to have a markup on those bills and I would recommend we consider this resolution, too. It is certainly in accord with the thrust of the activities of a number of Senators, over the last several years, to reestablish the proper role of the Senate.

The Senate, I am bound to say, and the Congress, as a whole, have been negligent of their responsibility in the last 25 years. This has come about because of pending crises and two wars; and this sense of crisis overshadows everything we do, and we have tended to support to a greater extent than necessary, the presidential power.

During that period we had a very powerful President, a powerful personality, a man who was intimately acquainted with the Senate and Congress and who knew their ways and weaknesses. Due to his dominating personality, I would say, that contributed also to the transfer during that period of a great deal of the responsibility of the Senate to the office of President. I do not think it has been a healthy thing, and I think this resolution is a move in the right direction. With all deference, I do not mean to say that I think the Senate has any greater wisdom than the Presidents, but it has one quality which is not shared, say, by members of the National Security Council, and that is that Senators are elected by the people and represent people in the various States. For this reason, if for no other reason, they should be consulted in these major matters affecting the welfare of this country, especially in this field. Under the Constitution I think that is what is contemplated.

I believe the Senator's resolution is entirely in accord with the Washingtonian view of the Constitution. As the Senator stated in the early days it was intended that the Senate was consulted about matters before they were reduced to an agreement. That practice was followed. All the administration now ask of us is consent and then we are put in the position where the only thing we can do is to vote up or down. It is difficult to make these changes, and it enters into the question of the prestige of the President. We are expected to save his face, and his party Members do not like to raise questions about his decisions. Altogether our reluctance to question such residential practices distorts the whole procedure by which the Constitution contemplated we should make agreements, and certainly to settle a war.

I commend the Senator. I am glad he has introduced the resolution. I can assure him that as far as I am concerned it will receive early consideration by the committee.

In view of the situation on the floor of the Senate, as the Senator is well aware, with the cloture votes, and very important and extended discussion pending, I may say that I am not sure the Senator could get immediate action. But it is good that the resolution has

been introduced, and I hope the President takes note of it, even if the Senate does not act immediately.

Mr. HARTKE. I hope the President takes a suggestion from the resolution that what we are really doing is saying that the Constitution is the supreme law of the land and there is a way to change it if the people want to.

Historically, the concept that the President had treaty-making powers was not considered until 10 days before the final draft of the Constitution; the original draft gave all power to the Senate.

One other factor is extremely important in view of the announcement of the President's visit to Mainland China. Here we are with the President going to a country which has not been formally recognized by this country. Elements of secrecy have shrouded our preliminary negotiations, even though we are not at war with China and there is no evidence that our national security would have been damaged if Dr. Kissinger had gone over with full knowledge of the pending visit. There is no information what was decided in the 20 hours of discussion that I know of.

Perhaps Senators have other information as to the extent of those discussions, but there has been no information as to what ultimately is going to be discussed of a substantive nature affecting the future of the United States and its foreign relations. I think all the circumstances, in view of the Pentagon papers, indicate that there is good reason for the Senate to be in the position of advising and consenting, and that good reason relates not only to the warmaking power, which power has now taken 55,000 lives in Indochina, but goes also to the treatymaking power.

Here the argument goes that the President might not want to conclude the war that has been in existence, even though it might be the desire of the Senate to conclude it and even though it might be the desire of the people to conclude it as expressed to the Senate.

So the advice of the Senate section of the Constitution does not relate merely to the advice that the President might request, but advice could come from the Senate on its own desire. In other words, it should be the coequal branch of government which makes our system different from an authoritarian system and keeps it from being a one-man show.

Mr. FULBRIGHT. The Senator is right. Our experience proves the soundness of the constitutional system. There are other instances of intervention without consultation of the Congress that we could mention in the last 50 or 75 years. It is only since the era of recurring wars, it seems to me, that there has been a real departure from the traditional role between the Congress and the Executive in these matters. There should have been a great deal more reliance and more trust in the Congress on the part of the Executive, but under the impact of several wars—certainly beginning with World War I—and the disastrous Wilsonian experience, and subsequently the present disaster, there a distortion of our constitutional system has developed.

I think this resolution is a step in the right direction, and is especially timely in view of the Senate's recent passage of the Mansfield amendment, which, in the context of the pending draft bill, has still been enacted. I really do not understand why the administration is so determined not to accept the Mansfield amendment. It is a valid statement of policy, and it seems to me that the Senate is entitled to make that statement. It was actually given advice there, only through a different vehicle, and I think it was well within the Senate's responsibility to do it, and I think history will prove the advice was correct advice. I hope that provision will be accepted.

I certainly commend the Senator from Indiana for introducing this measure. I am glad to see that there are Members of this body who do not believe that, because something has been the practice, because the Constitution has been ignored, we have to accept it. There is a sound constitutional principle involved also—the mere fact that the Constitution has been ignored in some respects does not mean those derelictions became the law of the land.

The ACTING PRESIDENT pro tempore. The Senator's 15 minutes have expired.

Mr. HARTKE. Mr. President, I simply want to thank the chairman of the Foreign Relations Committee for his excellent analysis and his assurances that early hearings would be held, and also for the kind words he had to say concerning the resolution.

SENATE CONCURRENT RESOLUTION 37—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO THE 150TH ANNIVERSARY OF THE TRANSFER OF FLORIDA FROM SPAIN TO THE UNITED STATES

(Referred to the Committee on the Judiciary.)

Mr. CHILES submitted the following concurrent resolution:

S. CON. RES. 37

Whereas, the month of July, 1971 marks the 150th anniversary of the transfer of the sovereignty of Florida from Spain to the United States, and

Whereas it was on July 17, 1821 the 23 star emblem of America was raised from a flagstaff at Pensacola, Florida, and

Whereas the event marked the establishment of Pensacola, Florida, as the territorial capital of this frontier land, and

Whereas Major General Andrew Jackson, commanding U.S. troops, then became the first Territorial Governor of Florida, and

Whereas the people of Pensacola, Florida this year observed the sesquicentennial of the occasion by celebrating with community events, parades, festivities, the presence of many dignitaries including representatives of foreign governments, and

Whereas this occasion was marked with a symbolic changing of the flags and the reenactment of the original transfer in 1821, and

Whereas the people of Pensacola, Florida acted in concert to bring attention to this historic occasion through various committees including the Andrew Jackson Committee chaired by the Honorable Pat Dodson, and

Whereas the Pensacola area, since the original transfer, has become known worldwide for its bountiful beaches, pleasant streets, warm hospitality, and for the beauties of nature as well as for the role the area has played in the national defense and history of the United States, be it therefore

Resolved, That the Congress of the United States extends its greetings to the people of Pensacola and to all the people of Florida on the occasion of the 150th anniversary of the transfer of sovereignty of Florida from Spain to the United States and that a copy of this resolution be transmitted to the Mayor of the City of Pensacola and to the Governor of the State of Florida.

ADDITIONAL COSPONSORS OF A CONCURRENT RESOLUTION

SENATE CONCURRENT RESOLUTION 33

At the request of Mr. BROCK, the Senator from Colorado (Mr. ALLOTT), the Senator from Oklahoma (Mr. BELLMON), the Senator from Indiana (Mr. HARTKE), the Senator from Oregon (Mr. HATFIELD), the Senator from Washington (Mr. MAGNUSON), the Senator from New Mexico (Mr. MONTOYA), and the Senator from New Jersey (Mr. WILLIAMS) were added as cosponsors of Senate Concurrent Resolution 33 regarding the persecution of Jews and other minorities in Russia.

EMERGENCY LOAN GUARANTEE ACT—AMENDMENTS

AMENDMENTS NOS. 329 THROUGH 333

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

Mr. PROXMIRE submitted five amendments intended to be proposed by him to the bill (S. 2308) to authorize emergency loan guarantees to major business enterprises.

AMENDMENTS NO. 334

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

Mr. BAYH submitted an amendment intended to be proposed by him to the bill (S. 2308), supra.

AMENDMENT NO. 336

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

Mr. TAFT submitted an amendment intended to be proposed by him to the bill (S. 2308), supra.

FEDERAL ELECTION CAMPAIGN ACT—AMENDMENT

AMENDMENT NO. 335

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

INCOME TAX CREDIT FOR POLITICAL CONTRIBUTIONS

Mr. KENNEDY. Mr. President, I submit an amendment to S. 382, the Federal Election Campaign Act of 1971, and I ask that it lie on the table and be printed.

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

Mr. KENNEDY. Mr. President, the amendment would establish a tax credit for political contributions. Under this title, a total of up to $50 for a single individual, or $100 for a married couple, would be allowed as a credit against Federal income taxes for contributions to political parties or candidates. The credit would be available for contributions to all elections—primaries or general elections—and to candidates at all levels—Federal, State, or local. Equally important, the credit would be for 100

percent of the amount of the contribution up to the stated limit.

The concept of tax credits for political contributions has had a distinguished history of support over the past decade. In 1962, President Kennedy's Commission on Campaign Costs issued its report, entitled "Financing Presidential Campaigns." One of the major recommendations in the Commission's report was the enactment of a tax credit for political contributions. As the report stated:

> The recommended credit is intended to encourage large numbers of small gifts. The bulk of * * * campaign funds available to both parties is now supplied by a relatively small group of contributors, giving sums ranging from a few hundred to several thousands of dollars * * * We hope that this * * * incentive to small gifts will stimulate the massive giving needed by the parties. If it does not, other forms of governmental subsidy may be inevitable.

Virtually every major study of the political process in recent years has endorsed the concept of the tax credit, and the idea has also been pursued extensively in Congress.

In his message to Congress on "The Political Process in America," in May 1967, President Johnson recommended that Congress undertake an extensive review of the methods of financing election campaigns, by methods such as direct appropriations, tax credits or deductions, treasury vouchers, and various matching grant plans.

Then, in November 1967, after comprehensive hearings and executive sessions by the Senate Finance Committee on numerous proposals, the committee favorably reported H.R. 4890, the "Honest Elections Act of 1967." As recommended by the committee, the bill contained a number of major provisions, including an income tax credit of up to $25 for one-half of the political contributions made by a taxpayer. All but one of the 17 members of the committee supported this provision.

Subsequently, in the 91st Congress, together with Senator JAMES PEARSON of Kansas, I offered a tax credit amendment on the Senate floor during the debate on the Tax Reform Act of 1969. The amendment was narrowly defeated by margin of 50–45, but the vote was complicated by the fact that the amendment had itself been amended on the Senate floor to add provisions for the reporting and disclosure of campaign contributions, so that no full debate on the merits of the tax credit was possible.

In light of this prior history, I am confident that a majority of the full Senate favors a tax credit for political contributions, and I hope that such a provision may become part of our Internal Revenue Code in time for the 1972 election campaign.

The tax credit approach to financing political campaigns has several major advantages over all other methods that have been proposed for financing such campaigns.

First, the tax credit approach will provide a significant incentive for participation in the political process by a large proportion of the electorate. One of the most important goals in recent proposals to reform the political process has been to stimulate greater public participation in election campaigns. I believe that the modest tax credit I have proposed will significantly encourage political parties to solicit contributions from small donors. In recent election years, for example, there have been millions of individual campaign contributors, the overwhelming majority of whom were $1 or $2 contributors. By offering a tax credit for the full amount of contributions by small donors, we will encourage many more individuals to contribute, and will encourage existing small contributors to raise their contributions to a more substantial level.

Second, by encouraging contributions from small donors, the tax credit will help to break down the excessive reliance by candidates on large contributors. As a result, the credit will help to restore public faith in the integrity of the election process. It will help to eliminate the ambiguous relationships created for the successful candidate, in which he is obligated—or at least appears to be obligated—to his large contributors.

Third, the tax credit leaves the decision on the allocation of public funds, through the tax subsidy mechanism, to the choice of the individual taxpayer himself. This point is the central distinction between the tax credit approach and the various proposals made in recent years for the direct financing of political campaigns. Under the tax credit approach, unlike these other proposals, the Federal Government plays no part in determining which candidates or committees are to receive public funds or the amount of such funds that are to be made available to particular candidates. It is the citizen, and the citizen alone, who makes this determination.

Fourth, the tax credit offers financial assistance to candidates not only at the general election stage, but at the primary stage as well, where such assistance can often be of crucial importance.

Fifth, the tax credit offers assistance to candidates not only at the presidential level, but at the congressional, State, and local level as well. This point is especially important. As Senator Robert Kennedy stated in 1967:

> Presidential candidates do not spring, like Minerva, from the brow of Jove. Men earn consideration for the Presidency by their performance in other public office—most often governor or senator. The expense of nomination to a governorship or a Senate seat—especially in the large states from which most Presidential candidates are drawn—is by itself a substantial barrier to all but men of wealth or their favored candidates. Thus, fair consideration for the Presidency itself requires public support for campaigns for lesser offices at all levels. This support can only come from tax incentives to individual contributions.

Before proposing this amendment, I gave serious consideration to including a tax deduction as an alternative to the tax credit. A tax deduction approach would have many of the advantages of a tax credit, especially with respect to the encouragement of individual choice and participation in the political process. However, a tax deduction would cause substantial inequities and disparities in the benefits afforded contributors. Those in the highest tax brackets, at whom the incentive should be least directed, would receive the greatest benefits, whereas taxpayers in the lowest brackets would receive the smallest benefits. Therefore, the proposed amendment contains no provision for a tax deduction.

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

Because of the constitutional difficulty involved in the initiation of revenue measures in the Senate it may not be possible to include tax incentives for political contributors in S. 382 itself. If that proves to be the case, it is my hope that the Senate will consider the addition of such incentives to an appropriate House-passed bill at the earliest reasonable opportunity after the passage of S. 382.

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

AMENDMENT NO. 335

Delete title IV and insert in lieu thereof the following:

TITLE IV—INCOME TAX CREDIT FOR POLITICAL CONTRIBUTIONS

ALLOWANCE OF CREDIT

SEC. 401. Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits against tax) is amended by renumbering section 40 as 41, and by inserting after section 39 the following new section:

"SEC. 40. POLITICAL CONTRIBUTIONS.

"(a) GENERAL RULE.—In the case of an individual there shall be allowed, as a credit against the tax imposed by this chapter for the taxable year, an amount equal to so much of the political contributions as does not exceed $50, payment of which is made by the taxpayer within the taxable year.

"(b) LIMITATIONS.—

"(1) MARRIED INDIVIDUALS.—In the case of a joint return of a husband and wife under section 6013, the credit allowed by subsection (a) shall not exceed $100. In the case of a separate return of a married individual, the credit allowed by subsection (a) shall not exceed $50.

"(2) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the amount of the tax imposed by this chapter for the taxable year reduced by the sum of the credits allowable under section 33 (relating to foreign tax credit), section 35 (relating to partially tax-exempt interest), section 37 (relating to retirement income), and section 38 (relating to investment in certain depreciable property).

"(3) VERIFICATION.—The credit allowed by subsection (a) shall be allowed, with respect to any political contribution, only if such political contribution is verified in such manner as the Secretary or his delegate shall prescribe by regulations.

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

"(1) POLITICAL CONTRIBUTION.—The term 'political contribution' means a contribution or gift of money to—

"(A) an individual who is a candidate for nomination or election to any Federal, State, or local elective public office in any primary, general, or special election, or in any National, State, or local convention or caucus of a political party, for use by such individual to further his candidacy for nomination or election to such office;

"(B) any committee, association, or organization (whether or not incorporated) organized and operated exclusively for the purpose of influencing, or attempting to influence, the nomination or election of one or more individuals who are candidates for nomination or election to any Federal, State,

or local elective public office, for use by such committee, association, or organization to further the candidacy of such individual or individuals for nomination or election to such office;

"(C) the national committee of a national political party;

"(D) the State committee of a national political party as designated by the national committee of such party; or

"(E) a local committee of a national political party as designated by the State committee of such party designated under subparagraph (D).

"(2) CANDIDATE.—The term 'candidate' means, with respect to any Federal, State, or local elective public office, an individual who—

"(A) has publicly announced that he is a candidate for nomination or election to such office; and

"(B) meets the qualifications prescribed by law to hold such office.

"(3) NATIONAL POLITICAL PARTY.—The term 'national political party' means—

"(A) in the case of contributions made during a taxable year of the taxpayer in which the electors of President and Vice President are chosen, a political party presenting candidates or electors for such offices on the official election ballot of ten or more States, or,

"(B) in the case of contributions made during any other taxable year of the taxpayer, a political party which met the qualifications described in subparagraph (A) in the last preceding election of a President and Vice President.

"(4) STATE AND LOCAL.—The term 'State' means the various States and the District of Columbia; and the term 'local' means a political subdivision or part thereof, or two or more political subdivisions or parts thereof, of a State.

"(d) CROSS REFERENCES.—

"For disallowance of credits to estates and trusts, see section 642(a)(3)."

CLERICAL AND TECHNICAL AMENDMENTS

SEC. 402. (a) The table of sections for such subpart A is amended by striking out the last item and inserting in lieu thereof

"Sec. 40. Political contributions.

"Sec. 41. Overpayments of tax.".

(b) Section 642(a) (relating to credits against tax for estates and trusts) is amended by adding at the end thereof the following new paragraph:

"(c) POLITICAL CONTRIBUTIONS.—An estate or trust shall not be allowed the credit against tax for political contributions provided by section 40."

EFFECTIVE DATE

SEC. 403. The amendments made by sections 401 and 402 shall apply to taxable years ending after December 31, 1971, but only with respect to political contributions payment of which is made after such date.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 238

At the request of Mr. PEARSON, the Senator from Alaska (Mr. GRAVEL) and the Senator from Pennsylvania (Mr. SCOTT) were added as cosponsors of amendment No. 238 intended to be proposed to S. 382, a bill to establish a Federal Elections Commission.

AMENDMENT NO. 252

At the request of Mr. CRANSTON, the Senator from Pennsylvania (Mr. SCHWEIKER) was added as a cosponsor of amendment No. 252, intended to be proposed to S. 2108, the Veterans Drug and Alcohol Treatment and Rehabilitation Act of 1971.

NOTICE OF HEARINGS ON NOMINATIONS

Mr. PASTORE. Mr. President, the Senate section of the Joint Committee on Atomic Energy will hold a public hearing on Tuesday, August 3, 1971, at 4 p.m., in room S407, U.S. Capitol on the nominations of James R. Schlesinger and William O. Doub to be members of the Atomic Energy Commission.

Mr. Schlesinger has been nominated to fill the remainder of the term of Glenn T. Seaborg which expires on June 30, 1975.

Mr. Doub has been nominated to be a member of the AEC for a 5-year term expiring on June 30, 1976. He is scheduled to fill the vacancy previously held by Theos Thompson, deceased.

I ask unanimous consent to have printed in the RECORD the biographies of Mr. Schlesinger and Mr. Doub which were provided to the Joint Committee with the submission of their nominations to the Atomic Energy Commission.

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

JAMES R. SCHLESINGER

James R. Schlesinger was named an Assistant Director of the Budget Bureau shortly after President Nixon's inauguration. His initial responsibilities were in the areas of national security and international programs and science policy.

In the Fall of 1969 he was named Acting Deputy Director of the Budget Bureau and later served as Acting Budget Director during the transition to Office of Management and Budget. As Acting Deputy Director, Mr. Schlesinger was responsible for natural resources programs and environmental policy. He served as the Budget Bureau's representative on the Environmental Quality Council. During that year, the budget and programs of the Interior Department were under his purview, and he was intimately involved in the planning for the Council on Environmental Quality, as well as the establishment of the new Environmental Protection Agency. In the Summer of 1970, he was named Assistant Director of the newly formed Office of Management and Budget with responsibility for national security and international programs.

Prior to joining the Nixon Administration, Mr. Schlesinger had been Director of Strategic Studies at the Rand Corporation, Santa Monica, California, where he had written extensively on the role of systems analyses in relation to political decision-making. He was also engaged in applying those techniques to strategy and to force structure determination. During that period he was a Consultant to the Bureau of the Budget on atomic energy matters. While at Rand he had served as Project Leader of a study on the control of nuclear proliferation which Rand had undertaken for the Federal Government.

Before his association with Rand, Mr. Schlesinger had been an Associate Professor of Economics at the University of Virginia. At that time he was recognized for work on monetary and fiscal policy and on the mechanics of inflation, and served as a Consultant to the Board of Governors of the Federal Reserve System. During 1957 he served as Consultant to the Naval War College. His book, *"The Political Economy of National Security"*, was published in 1960.

Mr. Schlesinger received his A.B. degree in Economics (summa cum laude) from Harvard University in 1950. That same year he was the winner of the Frederick Sheldon Prize Fellowship, which enabled him to spend a year visiting some twenty-two countries. In 1951 he returned to Harvard, earning the A.M. degree in 1952, and his Ph.D. in 1956, both in Economics. His dissertation was on "Wage-cost-price Relationships and Economic Progress". At the same time, he served as Teaching Fellow in Economics, Teaching Fellow in Social Sciences, and Tutor in Eliot House.

Mr. Schlesinger was born in New York City on February 15, 1929. He is married to the former Rachel Mellinger of Springfield, Ohio. They reside with their eight children, who range in age from 3 months to 16 years, in Arlington, Virginia.

WILLIAM OFFUTT DOUB

PERSONAL DATA

Born, Cumberland, Maryland, September 3, 1931.

Married, 1959. Two sons, ages 7 and 11.

Life-long resident of Maryland.

Episcopalian.

EDUCATION

Public schools, Allegheny County, Maryland.

Staunton Military Academy (one year); Washington and Jefferson College, A.B. 1953.

University of Maryland, School of Law, LL. B. 1956.

PROFESSIONAL DATA

Law Clerk, The Baltimore & Ohio Railroad Company, June 1956 to October 1957.

Bartlett, Poe & Claggett, law firm, Baltimore, Maryland, 1957 through 1961 (firm dissolved).

Niles, Barton & Wilmer, law firm, Partner, Baltimore, Maryland, 1961– ; (301) 539–3240.

Lecturer, Mount Vernon Law School, Suretyship and Federal Jurisdiction, 1965–1966 (night school).

CHARACTER OF PRACTICE AND REPRESENTATIVE CLIENTS

General Business, Corporate and Trial Practice; Representative Corporate Clients: Maryland National Bank, Kavanaugh's of Maryland, Inc., Lincoln National Life Insurance Company, Tongue, Brooks & Company, The Coca-Cola Company, Connecticut General Life Insurance Company, Occidental Life Insurance Company; also rather large practice in fields of Trusts and Estates and municipal Bond matters.

SUMMARY OF PUBLIC SERVICES AND CIVIC ACTIVITIES

Republican Candidate for Attorney General of Maryland, 1966.

Chairman, Lawyers Division, United Fund, 1964.

Chairman, Minimum Wage Commission, Baltimore City, 1964–1966.

People's Counsel to the Maryland Public Service Commission and the Metropolitan Transit Authority, 1967–1968.

Chairman, Maryland Public Service Commission, 1968; reappointed 1971.

Vice-Chairman, Washington Metropolitan Area Transit Commission, 1968– .

President's Air Quality Advisory Board, 1970—3-year term.

First Vice President and Member of Executive Committee, Great Lakes Conference of Public Utility Commissioner, 1969 through 1970; (President, July 1971).

Executive Committee, National Association of Regulatory Utility Commissioners, 1969– .

Member, Executive Advisory Committee, Federal Power Commission, 1969– .

Chairman, Committee on Electrical and Nuclear Energy, National Association of Regulatory Utility Commissioners, 1969– .

Maryland Governor's representative, Northeast Regional Transportation Committee, 1968– .

Deputy for Emergency Transportation, Maryland Civil Defense Agency, 1968–1971.

Committee on Mental Retardation, Department of Health and Mental Hygiene, State of Maryland; 1968–1969.

Citizens Commission on Maryland Government (Wills Commission).

Baltimore Association for Retarded Children, Inc., Director.

National Foundation—March of Dimes, Director.

Maryland State Bar Association: Chairman, Young Lawyers Committee (approximately 1958); Committee on Legal Biography (approximately 1965); Committee on Laws (1970–71).

Baltimore Bar Association: Chairman, Law Day Committee, 1966; Unauthorized Practice of Law Committee, 1967.

American Bar Association: Vice Chairman Sub-Committee on Financing, Procurement, Management and Miscellaneous; Problems of the Committee on Small Businesses.

ADDITIONAL STATEMENTS

THE AUTO EXCISE TAX

Mr. GRIFFIN. Mr. President, I ask unanimous consent that an editorial entitled "Time to Cut Tax on Cars," published in the Pontiac Press, be printed in the RECORD.

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

[From the Pontiac Press, July 21, 1971]

TIME TO CUT TAX ON CARS

Perhaps Michigan's two Senators, Robert Griffin and Philip Hart, can be accused of regionalism in cosponsoring a bill to end the 7 percent excise tax on automobiles. But if this be so, let us have more of it.

On a $3,000 car, this strange tax adds $210 to the price.

The special tax was placed on automobiles during World War II. Its intent was not only revenue-raising but to discourage car buying in a wartime economy.

Almost every year since the war, someone has suggested removing the tax, but for various reasons it was left on.

Now seems to be a good time to finally get rid of it. The stimulation to Michigan's economy is obvious. But then more cars mean more steel, more fabrics, more rubber, and more money left in the hands of consumers all over the U.S.

Although the federal budget may suffer temporarily from this lack of income, in the long run, most economists would insist more actual income would result.

We wish Griffin and Hart success in their efforts.

ORGANIZATIONS SUPPORTING WELFARE REFORM

Mr. RIBICOFF. Mr. President, tomorrow the Senate Finance Committee will begin hearings on H.R. 1, which contains a major revision of this Nation's system for providing relief to its needy citizens. Welfare reform should not be viewed narrowly as just another program, but rather as the most direct way to win the war on poverty. The package of amendments which I introduced last week to H.R. 1 will, I am convinced, make this legislation the best hope for bringing 25 million Americans back into the mainstream of American society.

In the next few months many diverse groups, legislators, citizens, and the administration will be proposing additions, deletions, and modifications to H.R. 1. It is important, therefore, that we recognize the large areas of agreement which already exist among those seeeking to reform our welfare system.

Widespread agreement exists on major proposals such as the increase of payment levels to at least the poverty level, the Federal assumption of costs, and administration under a uniform system, the provision of public and private sector jobs paying no less than the minimum wage with basic suitability protection, the provision of day-care services for those in manpower training programs or jobs, optional registration in such programs for mothers with preschool children, and fiscal relief for States and localities from the cost burdens of public assistance.

These proposals are included in the amendments to H.R. 1 I introduced last week. In addition, recent policy statements of several groups and organizations have also publicly supported these improvements in H.R. 1.

The history of welfare reform legislation in the last 2 years dramatically illustrates that no one claims his own proposals are chiseled in granite and represent the definitive answer to the chaos of the present welfare nonsystem. My proposals as well as those of the President, the Ways and Means Committee, and other major participants have been modified from time to time—not only to attain a politically achievable consensus, but also in recognition of the fact that none of us knows all the answers about how well or badly one or another proposal will work. We must be willing to observe a new system in operation and be ready to make changes where needed. Fewer changes will be necessitated, however, if we begin Senate consideration on the basis of common ground already achieved.

I ask unanimous consent that the accompanying policy statements be printed at this point in the RECORD.

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

STATEMENT BY THE AFL–CIO EXECUTIVE COUNCIL ON WELFARE REFORM, BAL HARBOUR, FLA., FEBRUARY 15, 1971

The Administration's welfare reform program needs substantial improvement before the AFL–CIO could support its enactment.

Inflation, unemployment, inadequate and costly health care, inferior education, to name just a few—have forced more and more people on to the public assistance rolls. Indeed, the more the causes of poverty are ignored the greater the welfare "problem" will become.

The battle against poverty must be waged on two fronts—eliminating the causes of poverty so that fewer people will have to depend on welfare and improving the welfare program for those who must rely on it.

Jobs at decent wages and adequate social insurance payments would make it possible for millions to climb out of poverty.

By making unemployment a national policy to fight inflation, the Administration has virtually brought the decline of poverty to a halt.

In 1969 the decrease in poverty (defined for that year as $3700 for a four-person family) came almost to a standstill. With worsening economic conditions and expanding joblessness in 1970, it is probable that the long-term trend away from poverty has even been reversed.

Who are the poor?

More than 5½ million people, or about one-quarter of all the poor, are poor although the breadwinner works full-time all year. Their road out of poverty lies in decent jobs covered by a minimum wage raised to at least $2 an hour.

In proportion to their numbers, the elderly are twice as poor as the rest of the population. Approximately one-fifth of all people in poverty can live out their years in dignity and comfort only if Social Security benefits are substantially improved.

But there are some people—especially mothers with children in their care and large families headed by low-earnings workers—who will depend on welfare for their daily needs. Seven million of the poor, or 29 percent of all poor people, are in families headed by a woman. The Administration's welfare bill falls far short of what is needed to provide the answer to their poverty.

When, in the Summer of 1969, the President first announced his welfare reform proposal, he called for a payment level of $1,600 a year—less than $8.00 a week per person. But if a bill should be enacted in the coming months, it cannot be implemented until mid-1973 after many more months of inflation.

The AFL–CIO calls for reaching as rapidly as possible a national minimum welfare payment of no less than the government-defined poverty level. Until this level is reached, food stamps should be maintained at an adequate level or cashed out at their full value. Welfare payments should at least keep pace with the cost of living.

The AFL–CIO strongly opposes the provision in the Welfare Reform bill which could require recipients to take jobs under conditions denying them basic minimum protections. As reported by the House Ways and Means Committee in the last Congress, job assignments would have had to take account of such elements of suitability as the degree of risk to the individual's health and safety, his physical fitness for the work, prior training length of unemployment and distance from work. Although workers have long had these protections under unemployment compensation, the House of Representatives removed them from the bill it passed. The Congress must reverse this shameful disregard of the well-being and dignity of welfare recipients, by including these basic job protections in this year's legislation.

The potential for exploitation of welfare recipients was all the greater in the bill the House passed last year because it would have forced welfare recipients into jobs paying substandard wages. This is an unconscionable requirement which we will adamantly resist.

The basic purpose stated in the Fair Labor Standards Act is to eliminate as rapidly as possible "labor conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency and general well-being of workers." To require large numbers of people to take jobs at subminimum wages or lose their welfare payments on which they and their families depend for the bare necessities of life would constitute an outrageous attack on the most defenseless and disadvantaged sector of our population.

The impact of such action would be far broader than the forced assignment of welfare recipients to substandard jobs. There is not the slightest doubt that requiring welfare recipients to take jobs below the FLSA rate will make it all the more difficult for employed family heads now working at jobs paying substandard wages to improve their incomes.

The Welfare Reform legislation must provide that jobs to which welfare recipients are assigned must pay wages at a rate equal to the prevailing wage in the locality or the federal or state minimum wage, whichever is

the higher. Furthermore, hours and working conditions on such jobs must measure up to those prevailing for comparable work in the locality.

The AFL–CIO will not support any welfare reform legislation unless it contains protections as to both suitability and wage standards of the jobs to which recipients may be assigned.

The AFL–CIO favors a single welfare program with a single standard of minimum payments and uniform nationwide administration. We are convinced that only Federal administration and Federal financing can achieve this goal. Federalization of the welfare program should be achieved as quickly as possible. It will also relieve States and localities of a crushing financial burden they can no longer shoulder.

Whatever degree of federalization takes place will have an impact on thousands of State and local government employees now employed in the administration of welfare programs. They must be adequately protected from adverse consequences resulting from changes in welfare administration. The legislation must therefore fully protect the job rights, wages, hours, bargaining rights where applicable and other conditions of employment of all such workers.

One other change in the House-passed bill is also essential. The exemption from work and training requirements of mothers of preschool children should be extended to mothers of school age children except for the hours when their children are in school. These children need parental supervision and care when they are out of school. Their mothers should not be forced to be away from home during such hours.

These are the major changes the AFL–CIO seeks in the Welfare Reform legislation. We want welfare reform and we see no reason why it should not be enacted with minimum delay. But we will not support so-called "welfare reform" which makes the present program worse by adding new punitive features and creates opportunities for harsh exploitation of those who must depend on welfare.

The AFL–CIO calls for real welfare reform, fair to recipients and taxpayers alike. It must be legislation which is realistic and workable and can give new hope and dignity to millions of disadvantaged Americans.

LEAGUE OF WOMEN VOTERS PROGRAM FOR WELFARE REFORM, MAY 1971

Assistance to meet basic needs for food, shelter and clothing;

Assistance grants beginning near the official national poverty level, with provision for automatic increases;

Guarantees that no recipient would receive less under a new program than grant levels of December 1970;

Uniform income and eligibility standards nationwide;

Federal financing of basic income assistance grants, with provision for supplementation to meet area cost of living differentials;

Coverage for all people—individuals, couples, families—who are unable to work, whose earnings are inadequate and for whom jobs are not available;

Assistance based on need, not category;

Protection of constitutional rights and the right to privacy;

Equality of treatment, with legal and procedural protection against discrimination;

Systematic participation by grantees in program development and implementation;

Realistic opportunities—including creation of new jobs and practical training for actual jobs—for all who are able to work to earn a living;

Realistic financial incentives for work, i.e., wage supplementation such that the client's income is always higher when working;

Guarantees against discrimination as to wages, health and safety standards, etc., in jobs to which public assistance participants would be referred;

Supportive services such as counseling, child care, family planning, health programs, legal aid—available but not coerced.

Application by declaration-of-need, with spot checks to assure compliance with law;

Administrative offices easily accessible to people participating in the program.

THE 1971 U.S. CONFERENCE OF MAYORS RESOLUTION

FORTY-SIX WELFARE REFORM

Whereas public assistance rolls have increased dramatically over the last decade; and

Whereas, the poverty population for the first time in ten years increased in 1970 by 1.2 million American people over 1969; and

Whereas, the present tax burden of financing welfare is now inequitably distributed throughout the nation and is in part financed by regressive taxes, such as sales and real property, which unfairly burden low and middle income families; and

Whereas, the U.S. Conference of Mayors has repeatedly called for a total reform of the welfare system and the establishment of basic income supplement payments for all people unable to work and whose income falls below the official recognized level of poverty; and

Whereas, the House Ways and Means Committee has reported out a welfare reform bill with an income maintenance payment of $2400 a year for a family of four; and

Whereas, the underlying principle of eligibility for public assistance should be the need of the recipient rather than his category of disability, employment status, family status, age, sex, or place of residence; and

Whereas, mayors and local governments have demonstrated a commitment to assume greater leadership and responsibility for manpower and social services at the local level but cannot raise the funds needed to meet long-delayed health, welfare, education and social services and to train and employ participants in the Opportunities for Families Program; and

Whereas, Title XX of last year's welfare reform proposal provided the large cities the opportunity to be the prime sponsor of the delivery of social services; and

Whereas, the city itself is in the best position to determine the needs of its citizens, evaluate its economic and social resources, organize and operate manpower programs, and deliver social services effectively; and

Whereas, state and local governments need immediate relief from spiraling welfare costs this year; and

Whereas, the proposed funding formula would provide inadequate, uneven, and disproportionate relief for state and local governments that provide welfare costs this year.

Now, therefore, be it resolved that the United States Conference of Mayors again affirm its support for welfare reform with these features, among others:

1. An adequate basic supplement for the working poor and payments to other American citizens who are unable to work and whose income falls below the official recognized poverty level;

2. Eligibility based on need, rather than category;

3. A federally funded, comprehensive social services delivery system that governments of localities—regardless of their population—may have an opportunity to coordinate and administer, if they choose to do so;

4. Immediate federalization of the funding of public assistance programs this year;

5. Federal matching of supplementary state benefits to assist jurisdictions that provide benefits at a higher level than will be supported by full federal funding;

6. One hundred percent funding of the public service jobs to be created under the Opportunities for Families Program and provision for integrating activities into planning, coordinating, and operating of ongoing manpower programs at the city level;

7. Provision of vendor payments on recurring items, as well as nonrecurring items, at the option of the recipient, and exploration of this concept through demonstration projects and studies.

RESOLUTION OF THE POLICY COUNCIL OF THE DEMOCRATIC NATIONAL COMMITTEE, MAY 1971

Whereas the present welfare system is totally inadequate and a tragic failure:

(a) it requires recipient families to exist on benefits substantially below the poverty level,

(b) it excludes nearly half of the needy,

(c) it discourages recipients from working by discriminating against the "working poor,"

(d) it encourages the dissolution of the family unit,

(e) it demeans the individual and perpetuates his dependency on welfare,

(f) it permits exceedingly wide variations in benefit payments,

(g) it results in a tremendous financial burden on some states and cities, creating intolerable increases in the property tax and other regressive taxes.

Whereas the President's proposed Family Assistance Plan perpetuates the problems of the present welfare system and fails to meet basic human needs.

Whereas the Administration has consistently distorted the characteristics of the problem by stressing the popular myths of welfare while ignoring the need to provide adequate assistance for the children, aged and infirm who comprise 86 percent of present welfare recipients.

Whereas economic conditions in the country have resulted in 5.2 million unemployed and have been primarily responsible for the increased intensity of the welfare problem.

Whereas the President has vetoed the efforts of Congress to strengthen the economy by providing public service employment so that able-bodied citizens—on or off the welfare roles—have a real opportunity to work and earn their own way.

Therefore, be it resolved by the Policy Council of the Democratic National Committee:

(1) That the present welfare system should be replaced by an income maintenance plan,

(2) That the ultimate goal of such a plan should be to eliminate hunger and poverty in the United States,

(3) That in order to meet the basic human needs of those who are unable to provide for themselves, the income maintenance plan should provide an immediate minimum benefit floor at the prevailing poverty level, increasing over time to the adequate standard of living level,

(4) That the federal government should assume total responsibility for the costs and administration of the income maintenance plan,

(5) That the income maintenance plan should be structured so as to insure that able-bodied men are engaged in productive work, to guarantee that those who do work receive higher benefit payments than those who do not, to provide proper work incentives including compensation at no less than the prevailing or minimum wage, and to offer opportunities for improving work skills.

(6) That under such a plan the mothers of young children should retain an option regarding employment,

(7) That under such a plan it is essential that comprehensive child care facilities be provided for all children, and

(8) That in order to relieve such an income maintenance system of the burdens of growing numbers of unemployed who have exhausted their unemployment compensation benefits, the economy should be stimulated and additional employment created:

(a) by the release of $12 billion in federal funds, vitally needed for urban and social programs, but impounded by the Administration,

(b) by the immediate acceleration of important public works construction,

(c) by the passage of emergency public service employment legislation, vetoed by the President in 1970, providing immediate employment opportunities for at least 500,000 workers, and

(d) by providing an additional 13 weeks of federally financed unemployment compensation for workers who have exhausted their benefits.

THE 1970 RESOLUTION OF THE AMERICANS FOR DEMOCRATIC ACTION

WELFARE REFORM—FAMILY ASSISTANCE PROGRAM

Welfare reform is long overdue. The Administration's effort to improve benefits and remove inequities deserves approval, but more money should be put into the hands of those who need it.

We urge the Administration and the Senate Finance Committee to work promptly, cooperatively and energetically to report to the Senate a bill which will:

(1) provide every poor person with an income at least equal to the poverty level;

(2) permit mothers of school-age children to elect to stay home with their children;

(3) provide federal administration to remove discrimination between states;

(4) provide a non-coercive public service employment program so that the promise to the poor of meaningful jobs with opportunities for up-grading at adequate wages can be realized.

THE 1971 LEADERSHIP CONFERENCE ON CIVIL RIGHTS

POSITION ON WELFARE REFORM

The Leadership Conference believes the goal of welfare reform should be: (1) Elimination of categories and establishment of a unified federally administered and federally financed system based solely on need (the job rights of state employees should be fully protected during the transition from state to federal administration); (2) Benefit levels: (a) Minimum benefits for individuals and families beginning at the government-defined poverty level, with appropriate adjustments to meet variations in the cost of living; (b) Federal supplements to assure that benefits are maintained at least up to present assistance levels. (3) Protections as to both suitability and wage standards on all job or training programs. Wage rates should equal the federal or state minimum or the prevailing rate, whichever is higher. (4) Exemption of mothers of pre-school and school-aged children from all job or training requirements; establishment of day care centers with adequate standards and other supplementary services to enable mothers who choose to accept employment to do so.

WEST COAST DOCKWORKERS STRIKE

Mr. BELLMON. Mr. President, the lengthy strike of dockworkers on the west coast has already had wide-ranging adverse effects on the Nation's economy, and unless a settlement can be reached soon not only our domestic commerce but our position in international trade will be jeopardized.

Therefore, I have today sent a letter to President Nixon urging that if leaders of labor and management involved in the dockworkers strike are not willing to take prompt action for settlement, then Federal intervention should be undertaken to bring an early end to the strike.

Mr. President, I ask unanimous consent that the text of the letter be printed in the RECORD.

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

U.S. SENATE,
Washington, D.C., July 26, 1971.

Hon. RICHARD NIXON,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Nearly a month has elapsed since members of the International Longshoremen's Union and the Warehousemen's Union went on strike against the Pacific Maritime Association. Since July 1, there has been little or no progress in negotiations between the West Coast dockworkers and the Association. It is my further understanding that negotiating efforts are presently at a standstill and will continue to be until an indefinite date in August.

Further delay in settlement of the dockworkers strike will have a disastrous effect upon the nation's economy as a whole.

The Interstate Commerce Commission has ordered an embargo on all export cargo to the West Coast in order to prevent a pile-up of loaded freight cars at port destinations. The embargo is costing the railroad industry hundreds of thousands of dollars a day in lost revenue.

One of our own states, Hawaii, is running out of wheat because of the halt in West Coast shipments, which may mean importing wheat from Canada if problems arising from U.S. import quotas can be solved.

But what is most distressing about the negotiation delays is that foreign buyers of American farm products will inevitably lose confidence in the United States as a marketplace unless we maintain our ability to fill orders and deliver the goods on schedule.

Already two major sales of white wheat to foreign markets have been lost. Korea and the Philippines are both turning to Australia for a total shipment of 65,000 metric tons of white wheat which they normally would buy from the United States. Those losses are costing the U.S. balance of payments and American agriculture $5.5 million.

Foreign buyers of hard red winter and hard red spring wheat are encountering month-long delays in receiving their orders because the West Coast strike has necessitated the shipments be made from the Gulf Coast, a much longer route to the Far East.

At a time when an expanded export market is directly needed to overcome the U.S. trade deficit and at a time when world competition for new markets is stronger than ever before, we cannot afford to lose face with our trading partners.

I urge that the labor-management leaders involved in the dockworkers' strike negotiate an early agreement for the sake of the country. If those leaders are not willing to take prompt action, I would urge the federal government to take all legal steps of intervention to hasten an end to the strike.

Sincerely,

HENRY BELLMON.

ADLAI E. STEVENSON

Mr. CRANSTON. Mr. President, 2 weeks ago, I paid tribute in the Senate to the memory of a great American, Adlai E. Stevenson. My comments generated a letter from Mr. Reuben Efron of Washington, D.C., who shared my admiration for Governor Stevenson. He sent me his own expression of remembrance in the form of an article for the Jewish Herald-Voice.

Mr. President, I ask unanimous consent that Mr. Efron's article, entitled "Micah's Ideas—Stevenson's Guide," be printed in the RECORD.

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

MICAH'S IDEAS—STEVENSON'S GUIDE

(By R. Efron)

On July 14, 1965, a saddened world mourned the passing of Adlai Ewing Stevenson, probably the most revered American of our generation. In the words of the renowned poet, Archibald MacLeish, Adlai Stevenson was "a complete man, a man so beloved, so harmonious as a human being that his greatness passed almost unnoticed while he lived."

Many editorial writers and commentators in eulogizing Stevenson, quoted the concluding paragraph of his acceptance speech at the Democratic Convention in 1952: "And what the Lord doth require of thee; only to do justly, and to love mercy, and to walk humbly with thy God." This passage from the Prophet Micah (chapter VI:8) was said to epitomize Stevenson's philosophy of life.

It was a meaningful and symbolic coincident that the same chapter VI of the Book of Micah, containing this passage, constituted the "Haftorah" (addition), which together with the weekly portion from the Pentateuch were read in synagogues all over the world on Saturday, July 17, two days before Adlai Stevenson was laid to rest in his boyhood town of Bloomington, Illinois.

Why was Stevenson so greatly impressed with the teaching of Micah?

The Prophet Micah, a farmer's son, who lived in Judea in the first half of the 8th century B.C., had in a simple and yet most forceful manner, exposed an "eternal truth," the essence of human behavior, which Stevenson evidently regarded as an ideal for him to emulate.

The Prophet proclaimed as the cardinal virtues of human life, Justice, Mercy and Humility. In these imperatives Micah incorporated the basic teaching of all the Prophets. He placed on equal footing the moral norm with justice; the obligation of man towards his fellow man with that towards his God and considered both obligations essential to the faith of man. In these postulates, Micah followed his teacher, the Prophet Isaiah, who similarly demanded: "Learn to do well; seek Justice; relieve the oppressed . . ." (chapter I:17).

And what does God require of man according to Micah? First, "To do justly," which implies reverence for every human being as the possessor of inalienable rights to life, honor and happiness. It is the duty of the state and society to protect these inalienable human rights against injustice.

Secondly, "To love mercy" which means kindness and charitable acts to the needy and miserable. This includes not only the deed of mercy but requires that love and veritable passion for pity should accompany every such deed.

Thirdly, "To walk humbly with thy God" denotes inward devotion to and silent communication with God in humility and purity. The Biblical scholar and philosopher, Hermann Cohen, stated in this connection: "Everything heroic in man is insignificant and perishable, and all his wisdom and virtue unable to stand the crucial test, unless they are the fruits of humility." The well known writer, called this passage from Micah, "the essence of religion."

It is then no wonder that the great humanitarian, Adlai Stevenson, accepted Micah's ideals and standards for human behavior and religious practice as a guiding

light for his own conduct, as a presidential candidate and dedicated public servant.

VIETNAM AND THE GI DRUG PROBLEM

Mr. JAVITS. Mr. President, Dr. Norman E. Zinberg, professor of psychology and social psychology at the Tufts University, testified last Friday before the Executive Reorganization Subcommittee and the Intergovernmental Relations Committee.

Joint hearings before both subcommittees are currently being held on S. 2097 and S. 1945, bills which seek to bring about a strengthened and better coordinated Federal attack on the drug abuse epidemic now plaguing our citizens.

Professor Zinberg testified most impressively on the broad range of environmental and personality factors relating to drug abuse generally. He also presented a sensitive portrait of the American soldier in Vietnam, enduring the age old hardships of war, the incalculable stresses of imminent death, disease, and destruction—and the tragic realization that his own society no longer views our participation in this devastating discredited war as a heroic enterprise.

According to Professor Zinberg, who only recently began working with returning Vietnam veterans, he has too small a sample to draw definite conclusions. Nevertheless, he believes that the soldier's unique sense of hopelessness in Vietnam is the most important variable in his discretion to shoot heroin. In this regard, some useful comparisons with setting and attitudes of the combat GI of World War II are made.

Mr. President, to the long list of frustrations emanating from our Indochina disaster we must add the problem of drug abuse among our military personnel in Vietnam. The Defense Department is only now beginning to recognize its responsibility for the treatment and rehabilitation of such persons, and the need to crackdown on those in South Vietnam and Laos allegedly even in government officials who are reaping the profits of the heroin trade.

It is a most shocking, tragic, and disheartening development which underscores once again, the need for withdrawal from Vietnam.

As an appendix to his more lengthy testimony, Professor Zinberg supplied our subcommittees with a summary analysis of his interviews with Vietnam veterans. He quotes extensively from the men themselves. I believe this analysis will be of interest to the Senate and ask unanimous consent to have it printed in the RECORD.

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

APPENDIX

Because of college deferments and political opposition among middle-class youth, those young men sent to Vietnam disproportionally represent lower-middle and lower-income groups in the United States. However, despite this class bias, there seems to be little question but that what the army has gathered together represents vastly different personality types. Among our interviewees there were many who were able to express feelings directly, preferred to move into an active relationship with the world quickly, could accept their position in the world and their relationship to the goods of it with ease. Equally clearly there were those who seemed more careful, emotionally constricted, preferred to let themselves be acted upon by others, gave carefully and accepted with equal caution, just as they covered the gamut of attitudes; from a belief in obedience to a conviction about destruction. If one could construct a personality continuum of usual, normative positions to far-out positions in every direction, it would be easy to fill up the entire continuum from the returned veterans.

Consistent with this range of personality were the different attitudes they described about going into the service.

"I wanted to go, what the hell. My old man had been in the big war—he talked about it a lot. He had medals and was proud of what he had done. I hated all those long-haired creeps. I thought they were fairies and—."

"When I got my notice, I didn't know quite what to do. It sounds silly now, but I had some idea that it was a good thing to serve your country. I didn't exactly want to go into the army, but I hated my job and it seemed like I didn't know what else to do."

"Yeah, I went. I hated it. But I was scared either way. The whole idea of getting a gun, shooting somebody or being shot, scared me. But what the hell, I wasn't going to go to jail, or get picked up by the cops or anything like that. I had never been in any kind of trouble and I just figured maybe I would get lucky and they would send me someplace nice."

"I didn't exactly go for this patriotism—but nobody's going to say to me 'you've got no guts.' "

"Oh yes, I thought the army would be a deal. The stinking job I had here didn't mean a thing to me. I was glad to go."

There were the usual tales of basic training and the various hopes and expectations of the army which continued through this period. There were the usual mixed responses to the knowledge they would have to go to Vietnam. These differed little from the quotes above about their attitudes about going in the army in the first place. However, once in Vietnam the attitudes of our interviewees homogenized quickly. Without exception they hated the place:

"As soon as I got there I knew that nobody wanted us, we sure didn't want them. Do you know how bad the place stinks? As soon as I got there I knew the only thing I had to think about was how to stay alive for as long as I had to be there.

"It took me a little while, I started off to do a job—always been a good worker. Pretty soon I felt like everyone else. I dogged it every chance I got—I counted days.

"Do you know what it feels like when you dream every night about being the last one to die? They look around and say, 'wasn't it a shame, if he could have just made it a little bit longer.'

"Everywhere you look, they hate you. Anybody can shoot you at any time. From the moment you get there they tell you, and they're right, that there are booby traps all over—that there are mines, you can get dysentery, you can catch malaria, you can get the kind of clap that eats you up inside and it is dirty—dirty like I never dreamed anything could be dirty, and they all hate you.

"The worst of it is that they, the gooks, they don't mind it. If they were even a little bit human they would mind it. You begin to know right away that you're different from them.

"One of the strangest things about the whole business is that everybody you like thinks the way you do. They hate it there, they dream of going home, and they want to get some way out; and they're always the ones who get killed so that when you begin to hate gooks, you hate them because they killed the good guys, and they never kill the bad guys. The only people who make it in Nam are the real ———, and they're the ones who like it, like what they have to do, who don't mind killing, and they're the ones who never seem to get killed."

At this point in my interview a picture emerged. The soldiers feel that there is hostility everywhere and that they are the ones that are hated. They begin to find and resent the changes in their own personality toward cynicism, fear and deceit. They learn to mistrust themselves. All of the surrounding elements in the setting seem bent on their destruction; the mines, the diseases, the stench, the strange people seem endless and omnipresent. Not only do they find that they cannot trust themselves or anyone or anything outside of their own outfits, but they also find that they can build up no faith in the permanence of any situation there. The friends they develop and like can and do die, while they cannot look up to to those who appear successful in this strange world. In fact, those who are successful are usually so in contrast to previous ideals and ideal figures that the very fact of their success increases their cynicism and mistrust and the vicious circle described.

Once this view of the situation has become fixed, we begin to see the next step:

"The worst of all was when we began to know that there was no way out. We all began to get the picture at once. Pete got a letter from a guy that had been there when he first came. The letter told him that he had been attacked on the street while he was in uniform. Then we got the whole picture, nobody gave a ——— for us and they all thought we were ——— for being there. Think about it—go from one place where everybody hates you and would like to kill you fast, to another place where everybody hates you and lets you die slow.

"One day when I was feeling so low that I didn't think I could walk back to the base, this mommasan came up to me and she said, 'it will give you good dreams.' Well, if there was one thing I needed, it was good dreams.

"I was watching this guy shooting up—it didn't seem to mean much to me but he seemed pretty comfortable so I asked him why he was shooting up. He said, 'when they get me I won't care.' That made a lot of sense to me.

"I knew there was a bullet somewhere with my name on it. Maybe it was a mine but I figured if I went somewhere else in my head maybe the bullet couldn't find me. The further away I got from Nam, the harder it would be for the bullet to find me.

"I had a buddy who had this book about signs and stars. He told me that I had a bad sign that day. I believed him. It may sound funny to you but I still believe him. So I shot up. It was the first time but then I didn't care about what sign I was under.

"I felt so empty inside, as if there was nothing left of me. I didn't want to look and see another human being. Not one of those creeps I was bunking with, nor those stinking ——— out there. I just wanted to be somewhere by myself."

Interviews show that a logical and consistent personality change occurred which was related to their perception of the environment. First the pervasive sense of hopelessness and despair, as they gave up the idea that their tour of duty was limited. The early belief that if they could dog it and somehow or other survive, they would return to an accepted and accepting society had been a sustaining hope. When these servicemen became aware they might return to a society which was only slightly less hostile to them than the one they were leaving, the sense of futility became overwhelming. Without this hope, they became increasingly preoccupied with magic, predestination, a sense

of inner deterioration and emptiness surrounded by a world bleak and forbidding. At this point heroin offered a source free from sorrow, a blessed oblivion that would magically remove them from an intolerable situation.

Perhaps the thing that is most surprising about the whole outbreak of heroin use in Vietnam is that people in authority are surprised it occurred. Probably most of the people in the political or military chain of command accepted analogies between World War I and World War II where soldiers withstood incalculable hardships without this sort of personality deterioration. From the vantage point of the interviewer who served in World War II and had the opportunity to speak to innumerable soldiers returned from combat, the disintegration of the hope of returning to a warm, welcoming, supportive society that will reward you for your efforts is crucial. All the returning Vietnam veterans agreed that the outbreak of heroin use developed exactly concomitantly with the awareness that the society they would return to did not see this war as a righteous enterprise and could not reward them for their participation.

THE FAILURE OF AMERICAN MEDICINE

Mr. KENNEDY. Mr. President, America's health record is in a dangerous position. Of all the major industrial countries in the world, America is far behind the field in health care delivered to its citizens. The United States ranks 19th in the world in its infant mortality rate, and 16th in the world in its mean life expectancy at birth.

In the autumn 1970 issue of the American Scholar, Mr. Michael Michaelson analyzes the condition of American health care services. It is in the area of financing that our health care services prove to be very deficient. America is the only remaining industrial country in the West in which citizens must purchase their health care on the open market like a car or a refrigerator. And health care in America is very expensive.

It has been known for a long time that poverty and illness go together. But middle class families are now experiencing the high costs of medical care. Medical costs are presently rising at more than double the rate of the cost of living. An average day in the hospital costs the patient approximately $140.

In his article, Mr. Michaelson argues that a new financial scheme to provide good health care at affordable prices is not enough. A drastic restructuring of American medicine is needed. Trained paramedical personnel are needed to take over some of the physician's duties. Medical education is in financial difficulty and must meet a projected shortage of 80,000 doctors by 1980. Private insurance companies have been unable to curtail rising hospital costs. Community involvement in hospital planning has been hit and miss.

Mr. Michaelson's article, "The Failure of American Medicine," provides many insights and suggestions on improving American health care. 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:

[From the American Scholar, Autumn 1970]

THE FAILURE OF AMERICAN MEDICINE

(By Michael G. Michaelson)

It is the fashion now, remarkably even the Republican fashion, to speak darkly of the present and the future of what was, in happier days, called American medicine. In this era of integrative complexity it is rather our "health care system" or, more properly and still more fashionably, our "nonsystem" that is under scrutiny. More than three years has passed since political scientists Anne and Herman Somers concluded in *Medicare and the Hospitals* that the system of health services delivery in this country is largely a figure of speech, and in those years that central face and its sequelae have been further documented with uncomfortable regularity and stark precision. This is, by the majority of available standards, an unhealthy nation; the United States ranks behind every major industrial nation in the world in the two health statistics considered the most accurate indices of medical progress, infant mortality (nineteenth in the world) and mean life expectancy at birth (sixteenth in the world—66.6 years for males in this country as opposed to 71.3 years in Sweden); our doctors and our patients are isolated from and mistrust one another; diseases that ought to have been eradicated years and even decades ago remain formidable threats; millions of Americans live in needless pain or die preventable deaths; health care is fragmented, inefficient, inequitable, inhumane and, too often, of questionable quality.[1]

It is in the sphere of financing, however, that our medical "malpractice" descends from the merely unintelligent to—certainly in the moral context and perhaps even in the Constitutional one—the criminal. This is the single remaining industrialized country in the West in which citizens must buy their health, purchase it on the open market as they must any other commodity or luxury. And it is very, very expensive. Medical costs are presently rising at more than double the rate of the cost of living; physicians' fees, which were increasing at a rate of about three percent a year up until 1965, have since the introduction of Medicare and Medicaid been rising six percent a year; the average expense of one day's stay in a hospital, not including the cost of physicians' care and special diagnostic and treatment procedures, rose from $44 in 1965 to $70 in 1968 and will, according to most estimates, exceed $100 before 1973 (indeed the $100 figure is modest even today for some of the better voluntary and university-affiliated institutions, and the cost of a day in a modern intensive care unit—where increasing numbers of Americans are dying in technological bliss and superb electrolyte balance—ranges between $200 and $300, again exclusive of physicians' fees).

Medicare has done very little to alleviate, and Medicaid and voluntary insurance schemes a great deal to aggravate, the fiscal crisis in medicine. To the social worker's and bureaucrat's familiar category of "indigence" has been added the newer and potentially more threatening concept of "medical indigence," the inability to meet the cost of life-sustaining medical care. And as the cost of that care spirals, the ranks of the medically indigent, already large, promise to explode exponentially. In the decade of the 1970s a majority, perhaps three quarters, of the American population will find good health care a heavy, and in some cases a disastrous, financial burden. This is the hard fact that appears presently to disturb Richard Nixon, and reasonably. It is *his* America, the America of the middle class and the middle road, that has begun and shall continue to suffer. It is his "majority" that must bear this burden, perhaps for a while in characteristic "silence"; but inevitably it will respond—must respond—with its voices and its votes.

It is otherwise for the poor, for the black. For them the failure of American medicine is not news, is no discovery, no sudden (in Mr. Nixon's words) "massive crisis." There is, and always has been in this country, another America of sickness as vicious as Michael Harrington's of poverty. In the liberal sixties (after the ubiquitous fashion), the relationship between poverty and illness was doggedly documented, relentlessly correlated, and factor-analyzed almost beyond recognition. The findings forced no reexamination of any intelligent hypothesis: Yes, the poor get sick more often and more seriously than the nonpoor; they die younger, have fewer preventive services, far less access to medical knowledge and personnel; there is racism in our hospitals and doctors' offices; decisions literally of life and death are made daily on the basis of a single socioeconomic distinction—can he afford it?

Yes, we know that now. *Poverty and Health: A Sociological Analysis* (Harvard University Press, $12.50) summarizes our knowledge, and admirably. But it fails on the whole to move beyond summary, and so it fails. There is little theoretical effort here, little to suggest that sociology is more than collecting numbers, categorizing them, and wishing that there were more numbers, more precisely gathered. Most of the "analysis" is restricted to consideration of some aspect of what Talcott Parsons twenty years ago called the "Sick Role," and of how it may differ for the poor, the less educated, the black. The authors do not manage to advance Parsons very far; nor, if they had, would it have mattered very much. The important issues in medical sociology in 1970 are not the issues of 1950.

Professors John Kosa, Aaron Antonovsky and Irving Kenneth Zola have edited the volume capably, but traditionally, and to be traditional in the field of health care today is, sadly perhaps but in fact, to be irresponsible. Their stance of dispassionate objectivity has overwhelmed them, in a sense blinded them to what is best both in sociology and in medicine, to what is most human. "We are angry and we do care," the authors insist in the Preface. "But our professionalism is not supposed to add to the chorus of rage, much as we hope it will add to an effective pressure on the society.

The problems are complex; if we have simply elucidated this complexity and enhanced our understanding, this will have been more a service than ranting." What precisely constitutes "ranting" is, of course, subject to question, as is the authors' contention that the "elucidation" of complexity enhances anything or helps anybody. And "professionalism"? In sociology, as in medicine, it surpasses money as the root of all evil; it is technological excellence, methodological circumspection, a comfort to the practitioners of the "discipline," a cruel deception in the eyes of those whom the discipline, the profession, is supposed to serve. Kierkegaard had only contempt for these elucidators of complexity. "Everyone knows a great deal," he wrote in 1846, "we all know which way we ought to go and all the different ways we can go, but nobody is willing to move."

Still this joint venture of thirteen scholars exhaustively documents the consequences of inaction, the endless goose eggs on the scorecard of (in Kierkegaard's phrase) our society's "chimerical efforts" first to ignore and then to eliminate the problems of disease and poverty and their invariable interrelation. Except for a few simplistic statements ("Poverty . . . cannot be accounted for by one cause; rather it must be regarded as the product of a great many factors of diverse origin and impact") and a few that are incredibly naïve for a Harvard social scientist

Footnotes at end of article.

(". . . the war on poverty . . . is at work at a major restructuring of American society . . . and the establishment of an ideal structure . . ."), John Kosa's first chapter provides some useful historical perspectives on "The Nature of Poverty" in this country. He extends the Weberian approach in a valuable criticism of the Protestant ethic and organized philanthropy as characteristic American responses to "our poor"—irrational, incidental and parochial, but "ingenious ways of making poverty less disturbing to the middle-class conscience." Kosa next collaborates with Leon Robertson on a survey of "Social Aspects of Health and Illness" in which they attempt to find "the place of morbid episodes in the social interaction pattern." They have some traditional sociological fun placing the patient and his "primary" and "secondary" groups into "inhibitory," "nurturance' and "manipulative" systems, but they make little progress toward their dual goal of conceptual clarification and a useful theoretical framework for the remainder of the book.

The major documentary chapters follow. All the statistics are here, on mortality and morbidity and disability and race and class, all the "correlates" and "differentials" and "models" that are supposed to unravel "systematically" the "matrix" of "relevant variables" in all their "multidimensionality." These sociologists are in excellent bibliographic form (here are, overall, fifty-two pages of notes, some six hundred references, along with a lengthy examination of "The Reliability of the Data"); and in each chapter an author concludes at least once that although the evidence linking poverty and ill-health is (to borrow Marc Fried's phrase) "unambiguous and powerful," still (if David Mechanic will forgive me) "from the research point of view . . . many uncertainties remain. The data which would allow a clear resolution of important theoretical and practical issues are often either unavailable or are in a form unsuitable to answer the questions." It is difficult not to explode when confronted with sterile, classificatory writing like Mechanic's, not to suggest precisely and anatomically what he can do with his Unitary Theory of Illness Behavior and his ten varying patterns of responses to symptoms. But it is not necessary to add to the "chorus of rage" that most of these authors have so professionally avoided; it is not necessary to "rant" in order to criticize this volume responsibly. For it fails even to be what its subtitle promises: it is sociological only in the most limited, data-summarizing sense; and its analysis is largely pretense.

Only two chapters are valuable contributions to the literature. Julius A. Roth's "The Treatment of the Sick" is the best, a rapid succession of insights, compassionately orchestrated. Sometimes he is too polite (for example, he describes various manifestations of physicians' attitudes toward ward patients without calling racism and socioeconomic prejudice by their real names); and more than once he leaves an important truth before grappling with its significance. But he is the one scholar represented who seems to have lived in the system he has studied, to have felt it, to have brought back and nurtured the desperate hope that somehow it can—and must—be made to work.

Dr. John D. Stoeckle's essay on "The Future of Health Care" is a fine history both of the American approach to providing medicine for the poor, and the lately revitalized concept of the Neighborhood Health Center (organized in Pittsburgh in 1916). His drawing together of the historical threads is not entirely satisfying, but in the course of his argument he raises a question that is critical for an understanding of this collection and its fatal flaw: "Should the organization of health services for the poor be something apart from the organization of health services for everyone?" *Poverty and Health* sums all the diminutive noes gathered by diligent social scientists in the past decade, and answers No yet again.

Neither, however, should there be (indeed, *can* there be) a book merely about how poor Americans get sick and what happens to them when they do. The nonsystem of American health care must be studied in its entirety, for the poor provide us only with a special and more visible case of its contradictions. Certainly the poor are less healthy than we are; but we are *all* much less healthy than we might be. Certainly the poor cannot afford to pay for their health; but why should any of us have to *pay* for what even the American Medical Association admits is a basic human right? Certainly the poor are treated like animals or machines by health professionals in this country; but, to a significant if lesser degree, we are all dehumanized and reduced to a state of childlike dependence and ignorance when we enter a hospital or a doctor's office. Certainly health professionals in this country are not accountable to anyone. In the United States every patient, and not merely every poor patient, is a nigger.

Such is the "pathology," in Julius B. Richmond's unoriginal but apt metaphor, of American medicine. His sparse monograph, *Currents in American Medicine: A Developmental View of Medical Care and Education* (Harvard University Press ($5.50), is an attempt to reconstruct in its unfolding the etiology, the pathogenesis, of failure. Dr. Richmond, Chairman of the Department of Pediatrics and Dean of the College of Medicine at Upstate Medical Center in Syracuse, New York, clearly understands the clinical value of a "good history," its therapeutic potential. Beginning with an intelligent reappraisal of the Flexner Report on medical education of 1910, Richmond traces the unprecedented consolidation of power in the hands of medicine's trade guild, the A.M.A.;[2] he gives proper emphasis to the tremendous impact of research, government and the university on medical care since World War II, especially as it has been reflected in the rise of the urban medical complex as the central unit in health care for millions of Americans; and he outlines the beginnings of a "consumer revolution" in health care, even if he does not satisfactorily understand it. Throughout, *Currents in American Medicine* is lucid and literate, and, despite its brevity, the best published account of the problems that must be resolved if this country's now empty rhetoric of good health as a human right is to be realized.

Dr. Richmond's crucial weakness, however, is in this area of resolution, of realization, of—as the medical jargon has it—"management protocol." He condemns the inexcusably narrow self-interest of the American Medical Association, and even reprints a pathetically well-intentioned letter of his, written in 1965, in which he urges that the American Association of Medical Colleges assume a position of leadership in matters of public health policy. But he fails to state clearly what he (and, in my opinion, every physician of intelligence and social sensitivity) clearly must believe: that the A.M.A. as a political force in this country must be discredited and, if possible, destroyed; that a new "counterorganization" of health professionals and workers and "consumers" (rather than merely physicians) must be formed to help structure a new system of health care that will be responsible and responsive to all of the people.

Perhaps because Dr. Richmond has been so close to the "unique problems" of the poor—as Director of Project Head Start, and Director of the Office of Health Affairs of the Office of Economic Opportunity, from 1965 to 1967—he is aware that in no sense are they unique problems. He knows that the fragmentation and dehumanization and the exorbitant costs of health care "also apply to the more affluent," and, conversely, that the Neighborhood Health Center program (O.E.O.) "was designed for the poor, but its implications for health services for the general population are apparent." His vision, on this score, is broader and more acute than that of Kosa and his collaborators. But it remains limited, because Richmond refuses to take the necessary risks, refuses to skate over the thin ice from the edge of which Kierkegaard knew so many of us turn back with a regretful sigh. His therapeutic regimen is too weak, too guarded: From some sort of Presidential Council of Health Advisors, Dr. Richmond suggests; or perhaps a new Board of Medicine of the National Academy of Sciences will exert some leadership. (Kierkegaard again: "Committee after committee is formed, so long, that is to say, as there are still people who passionately want to be what they ought to be: but in the end the whole age becomes a committee.")

With these kinds of "solutions," Richmond circumnavigates the painful central questions that he himself has at least partially perceived. The most basic one is definitional: What precisely *is* a physician in this country today, and what must he become? Although Richmond speaks briefly and vaguely of "the matter of redistributing personnel and redefining their functions," he refuses to see that the very *concept* of a physician in our society—what and who he is, and how he functions—is obsolete. In the wake of radical technological and societal change, our idea of "doctor" remains rooted in the nineteenth-century model. Today's physician is perhaps the last remaining archetypal American—a self-sufficient, independent rugged individual after the frontier model, with illusions of omniscience and (not only as he controls his patient but also as he controls the allocation of health resources on a national level) a life-style of omnipotence. It is impossible to understand the pathology of American medical education and care without first understanding the essential obsolescence of the American physician. And it is only on the basis of this understanding that the fundamental restructuring of American medicine, the "bold and inventive planning" that Dr. Richmond advocates, can amount to anything more than the "patchwork approach" that he documents so well and so correctly condemns.

The obsolescence of the American physician today is manifold, a product of his archaic education, his inappropriate orientation to disease and to people, the economic (fee-for-service) and societal (one-to-one) framework of the "physician-patient relationship," the traditional notion of a patient-centered rather than a community-centered responsibility. But the most dangerous aspect of that obsolescence is its established pattern of *physician primacy* in medical care. For centuries the doctor has been considered, and has considered himself, the absolutely central figure in patient care, all-knowing and all-powerful. Despite the fact that advances in medical technology have significantly complicated the physician-patient relationship, doctors have retained their monopoly of control over patient care to the exclusion of nurses, technicians, administrators and "paramedical" personnel, without which the practitioner of modern medicine cannot function. Despite brilliant advances in techniques of communication, physicians have jealously preserved their monopoly over health education and information, primarily, it is clear, to maintain economic and status advantages. And, most important, despite the easy professional rhetoric of services, our medical care mechanism is run by and for the physician rather than by and for the patient, and the practitioner is in no way *accountable* to the people that he "serves."[3]

Footnotes at end of article.

The accountability of the health care system will be the overriding issue in American medicine in this decade. *Some* kind of National Health Insurance is inevitable—whether it is modeled after the suggestions of Nelson Rockefeller or Walter Reuther or Edward Kennedy or even the A.M.A.'s "Medicredit" scheme. The pressure from middle America, as Mr. Nixon already senses, will mount and will demand satisfaction. But unless a financing scheme is coupled with a drastic restructuring of American medicine—including a radical redefinition of what a physician is and how he functions and relates to the community and the health of its people—the pathology of the health care system as it exists will be exacerbated. Fragmentation, depersonalization, social and racial inequity, an emphasis on the treatment rather than prevention of disease, escalating expenses—all manifestations of the fact that the providers of medical care have never been accountable to the consumers of that care—will combine to insure that we remain an unhealthy nation.

What might the mechanism of such accountability be? Dr. Richmond devotes a quarter of his book to The Consumer Revolution in medical care, but he misses an essential point. The bumper crop of health legislation passed by the Eighty-ninth and subsequent Congresses was less than manifestation of revolutionary sentiment (the author's contention) than a clumsy attempt by the federal government and "organized medicine" at prophylactic pacification. Any variety of National Health Insurance that freezes individual or corporate capitalism as the fiscal basis of medical care, and retains a rigid professional hierarchy as its social basis, will be nothing more.[4]

Yet the conumers of health care are revolting in this country, not in the legislatures but, perhaps more meaningfully, in the hospitals and in the streets. Community groups in major American cities are demanding the right to control the health institutions in their neighborhoods precisely as they have demanded the right to control their schools. Health workers, technicians and "paraprofessionals" have been mobilized through unionization drives (such as that of Local 1199 of the A.F.L.-C.I.O.), professionalization drives (such as that of Psychiatric Aides Association) and the rather sudden realization that they are not only consumers of health care and citizens of the community that supports the hospital and that the hospital is supposed to serve, but also integral members of the country's health care team—a team that certainly *includes* physicians, but that need no longer, and must no longer, be exclusively controlled by physicians.

And increasing numbers of professionals—especially recent graduates and health science students—are at least beginning to reassess critically the role they play in the provision of health care. The Medical Committee For Human Rights and the Student Health Organization, for example, have helped the Black Panther Party and other (white as well as black) community groups finance and staff neighborhood Peoples' Free Clinics in a number of American cities. These and other groups (notably and most articulately the Health Policy Advisory Center in New York) have supported such actions as a sit-in (by the Young Lords, a militant Puerto Rican group) at Metropolitan Hospital in Manhattan, a demand by community forces that the new administrator of Lincoln Hospital in the Bronx be a Puerto Rican, and the disruption of services at the Gouverneur Health Center by the Health Revolutionary Unitary Movement, which is demanding a larger community share in the clinic's operations.

Such is potentially the stuff of a real revolution in health care; and yet to this important "current" in American medicine neither Dr. Richmond nor Professors Kosa, Antonovsky and Zola devote a word. It is this current—the issue of accountability, of self-determination in health care, of redefining the role of a physician so that he becomes an advocate of the community and of its right to good health—that will occupy the "medical sociologist" of the seventies. And it is likely that the pattern observed in this area will closely parallel that which the sociologist of the last decade observed in medical economics: abuses will be uncovered first where they are most naked—among the poor and nonwhite—and at last where they are more subtle, but as sinister, among all of us. Perhaps then we will be able to fight together, as we need to, and to restructure, and to redefine. Perhaps then, as we've done too seldom in the past (in medicine as elsewhere), we will recognize the poor as the mirror of our pathology, our inadequacy, our desperation and our hope.

FOOTNOTES

[1] The multiple failures of American medicine have yet to be comprehensively documented in a single volume. Valuable but incomplete perspectives may be found in Roul Tunley, *The American Health Scandal*, Harper & Row, 1966; Raymond S. Duff and August B. Hollingshead, *Sickness and Society*, Harper & Row, 1968; Barney G. Glaser and Anselm L. Strauss, *Time for Dying*, Aldine, 1968; Selig Greenberg, *The Troubled Calling*, Macmillan, 1965; John H. Knowles (ed.), *Views of Medical Education and Medical Care*, Harvard University Press, 1968.

[2] It might be noted here that this author, as others have done before him, records that prior to 1920 the A.M.A. was a progressive force in medical education and care. Readers unfamiliar with the history of the Association will find Richmond's summary of its early reforming efforts interesting and may be referred to James G. Burrow's *AMA: Voice of American Medicine* (Johns Hopkins Press, 1963), an uncritical account, or Richard Harris' *A Sacred Trust* (New American Library, 1966), a critical one, for additional information.

[3] The traditional muckraking "antidoctor" books (for example, Martin L. Gross, *The Doctors*, Random House, 1966) have focused upon this problem, but obliquely. The medical profession's penchant for concealing improperly handled and iatrogenic (physician-caused) illness is real and not unimportant; but the authors who have attacked the profession on these grounds have missed the forest for a few (relatively) inconsequential trees. The accountability of the physician must extend beyond the *micro*scopic concern for the particular patient to the *macro*scopic concern for the entire community of patients and (even more important) potential patients.

[4] As the absurdity of the solo, entrepreneurial, fee-for-service mechanism becomes increasingly apparent, the prospect arises that medicine may shift to the model of corporate capitalism. *Fortune* (January, 1970) devoted five articles to the tantalizing subject. Such a corporate approach would certainly be more efficient; but there is little reason to expect that such efficiency would (in unprecedented fashion) significantly benefit the consumer rather than the stockholder.

MR. EARL KOCH

Mr. TAFT. Mr. President, I was recently honored to be present at a breakfast meeting at which my constituent, Mr. G. Earl Koch of Cincinnati was honored by SBA Administrator Thomas S. Kleppe.

Mr. Koch was presented a certificate of appreciation in recognition of his outstanding public service, community spirit, and contributions to the success of the Service Corps of Retired Executives.

Administrator Kleppe said that SCORE now has nearly 4,000 members and has given counsel to more than 155,000 small businessmen since the program started in 1964.

Mr. Kleppe praised Mr. Koch as an effective emissary for SCOPE and SBA, in his many talks before business and civic groups, and through his many media appearances.

Mr. Koch was formerly president and general manager of the Auto and Aero Supply Co. and Brake Manufacturers, Inc.

WASHINGTON MEMORIAL TO PRESIDENT HERBERT CLARK HOOVER

Mr. CRANSTON. Mr. President, I am pleased to join with the distinguished senior Senator from Oregon (Mr. HATFIELD) in the joint resolution for the purpose of establishing a Washington memorial to President Herbert Clark Hoover. It is fitting that a memorial be dedicated on August 10, 1974, the 100th anniversary of his birthday.

In his lifetime he pursued four careers: engineer, humanitarian, President of the United States, and government reformer. He was Secretary of Commerce, and served as a trustee at both Stanford University and Carnegie Institute of Washington. In both the Truman and Eisenhower administrations, he headed the Commission on Organization of the Executive Branch of the Government.

Hoover was deeply involved with the development of Stanford University—my own school—from the time he arrived on the campus in 1891 as a member of the first freshman class. His most important contribution was the founding of the Hoover Institute on War, Revolution, and Peace at Stanford in 1919. It has since become one of the world's great archives of factual information on human strife.

A pioneer in the modern problem of food relief, he proposed to the Carnegie Corporation in 1921 that a food research institute be founded at Stanford University so that a scientific approach to mass food problems might be developed. People in many lands owed their lives to the work of relief organizations headed by Herbert Hoover.

One of my first memories of politics goes back to 1928, after Hoover was nominated by the GOP for President. He returned to Palo Alto for a great welcome home, and I—then a high school freshman—was down at the railroad station in the huge throng that greeted him. Somehow, I got right up next to him as he stepped off the train, and I was unceremoniously picked up by the scruff of the neck by a huge Secret Serviceman, and deposited at some distance from the future President.

A man of great compassion for human suffering, he was unfortunately called to lead our Nation during the crisis of a depression which his economic theories could not resolve. Yet, he weathered the harsh criticisms of the thirties to achieve the respect and love of

our Nation during his final years. It is eminently appropriate that he join the roster of those great Americans who are memorialized in our Nation's Capitol.

RETIREMENT OF DEAN WARNER

Mr. BAKER. Mr. President, I have recently learned of the retirement of Dean Harold C. Warner of the University of Tennessee Law School and would take this opportunity to express my deep appreciation for the service he has rendered to the law college and to the legal community in Tennessee. It is impossible to express in a few sentences the fitting tribute which such a man has earned in the dedication of his life to the betterment of mankind. So that we all might be aware of and benefit from the example of Dean Warner, I ask unanimous consent that a brief article recently published in the UT Lawyer, summer 1971 edition, be printed in the RECORD.

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

DEAN HAROLD C. WARNER

Faculty, students, and alumni soon say farewell to the symbol of the first great period in the history of The University of Tennessee College of Law. Dean Harold C. Warner, known by many as "Colonel", will be retiring at the end of the summer quarter 1971. He has played a significant role in the change of a modest professional school into one of the finest institutions of legal education in the South.

Dean Warner earned the Ph.B. and J.D. degrees from The University of Chicago in 1925, was admitted to the Illinois Bar and practiced there until 1928, at which time he joined the faculty of The University of Tennessee. At that time the school had but three full-time faculty members and a student body of about 40. It was housed in a small building on Church Street. In contrast, the present student body numbers over 500 in a new structure on Cumberland Avenue.

Military leave called Harold Warner away from the College of Law from June 1941 to June 1946. He served as Colonel in the Judge Advocate General's Corps, and as Staff Judge Advocate of the 88th Division and the X Corps. During the war, he participated in the New Guinea Campaign, the invasion of Leyte, the Mindoro and Mindanao Campaigns, served in the Philippine Islands and with the occupying forces in Japan.

Dean Warner was awarded the Legion of Merit and Bronze Star for his distinguished service. Colonel Warner has been an advisor to the Commanding General of the Third Army and chairman of the Military Justice Committee of the American Bar Association.

Harold Warner returned to The University of Tennessee after completing military service and at one time or another has taught just about every subject in the law curriculum. However, his main interest is Real Property and he is today considered an authority in the field of Future Interests. In 1963, he was named Dean of the College of Law.

Dean Warner has served the legal profession in many other ways. For example, he was a past chairman of the Real Property, Probate and Trust Section of the Tennessee Bar Association; he was a member of the McCord Commission to study Tennessee election laws; he has served as a member of the Tennessee Bar Association's Committee on Continuing Legal Education; and he has served as a member of many other committees of the Knoxville and Tennessee Bar Associations. Presently, Colonel Warner is a member of the American Law Institute.

Not only is Dean Warner a leader in the field of legal education, but an active member in the community. Serving as past director of the Knoxville-Knox County Civil Defense and presently as a member of the Optimist Club, a Mason, and a member of the Magnolia Avenue Methodist Church, he is well known in the Knoxville community.

In the future, Dean Warner will maintain an office in the College of Law and although retiring as Dean and Professor of Law, ties to the school will not be completely severed. His knowledge and experience will continually be used in the movement of the College to even greater strides It seems a thank-you for all the years of service and devotion to his duty is less than enough, for only those who have known Dean Harold C. Warner can fully appreciate his devotion as a leader and individual.

Mr. BAKER. Mr. President, I extend to Dean Warner my deepest and sincerest appreciation for the years of excellent service he has given to the University of Tennessee Law School, both as professor and dean. His leadership has contributed to and exemplified the outstanding tradition of the institution.

RICH AND POOR

Mr. HART. Mr. President, for those who question the priorities and logic of our system, last week was most instructive.

The administration was urging Congress to approve a bill which would permit the Federal Government to guarantee a $250 million loan to bail out the Lockheed Corp. from financial difficulties.

On Thursday, an administration spokesman told the Senate Nutrition Committee that the Department of Agriculture would not spend at this time an additional $20 million which Congress had provided for feeding programs for hungry adults and children.

It is fair to state, I believe, that one of the principal reasons given to justify that decision was that there are inefficiencies in the systems used to distribute food to the hungry.

In other words, at the same time the administration asks Congress to bail out Lockheed from a predicament at least in important part of its own making, the administration is telling a Senate committee that it will not spend money for food to help people in predicaments not of their own making.

The administration is willing to take a $250 million gamble on saving a big business from its own inefficiencies, but the administration is not willing to spend $20 million to feed hungry adults and children because of reported inefficiencies in the distribution system.

Certainly the Federal Government should always press for more efficient administration of its programs, but is it right to ask a hungry person to wait a little longer for food while bureaucrats tinker with the distribution system?

In short, while Lockheed is to be "rewarded" for its failings, the poor are asked to wait because of someone else's inefficiencies. I suspect that if those interests pressing for approval of the Lockheed bill and if those persons administering our food programs were hungry, we would find some way of getting the food distributed. In all probability, rather than refusing to spend the funds, the administration probably would be asking Congress to provide even more money.

Approval of the emergency loan guarantee bill then would not only be another step toward establishing a national policy of socialism for the big and powerful and free enterprise for the small and less powerful, but approval would also be further proof that our system appears to demand less of its wealthy than it does of its poor.

Regardless of how Senators may vote on the guarantee bill, I would hope all would join in urging the administration to release the additional $20 million Congress provided for food programs.

To do otherwise would be, at a minimum, to ignore the fact that the Senate has taken the unusual step of approving two amendments supporting expenditure of the same $20 million.

In Public Law 92–32, Congress authorized the transfer of $20 million from section 32 funds of the act of August 24, 1935, to supplemental food programs. The wording of that amendment made it quite clear that these funds were to be in addition to any money made available elsewhere for such feeding programs.

In approving the agriculture appropriations bill, which provided $16.4 million for these programs, the Senate passed a second amendment emphasizing that the $20 million was to be in addition to money provided in that appropriations bill.

Let us at least keep faith with commitment. The Detroit Free Press of July 23 reports the moving plea of three Detroit citizens, who have lived with and constructively organized the distribution of food to the hungry, and 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:

UNITED STATES "MAD" NOT TO GIVE FOOD TO POOR, DETROIT PRIEST SAYS

(By David Hess)

WASHINGTON.—A Detroit priest accused the U.S. Department of Agriculture on Thursday of having a "mad hatter" mentality in withholding food from most of the city's 53,000 hungry poor.

The Rev. Father William T. Cunningham, director of Focus: Hope, appeared before the Senate Select Committee on Nutrition and Human Needs.

He detailed his quarrel with the Agriculture Department's refusal to spend congressionally approved anti-hunger money for mothers and infants.

Father Cunningham related the case of one Detroit mother of eight who took her 3-year-old son to the hospital with a cut.

The child had rickets, a bone disease resulting from malnutrition, Father Cunningham said.

"But the mother would not allow him to be admitted," the priest said. "The mother told hospital authorities: 'Everyone else in the family has funny legs and I don't want this one to be different.'"

Father Cunningham appeared before Sen. George McGovern's committee with Mrs. Dorinda Jones of the Detroit Mayor's Committee for Human Resources Development

and Mrs. Eleanor Josaitis, director of volunteer workers for Focus: Hope.

Committee member Philip Hart, D-Mich., who co-sponsored with McGovern a $20 million authorization to provide more food for the nation's malnourished poor, said he also has been feuding with the Agriculture Department over the issue.

The department contends that the national food stamp program provides the means for poor people to satisfy their nutritional needs.

But Father Cunningham and Mrs. Josaitis insisted that the program is failing in Detroit and helps only a fraction of the people who need an adequate diet.

Mrs. Jones said the U.S. Office of Economic Opportunity (OEO) in Detroit has committed $101,000 to Focus: Hope's food distribution program, which is now reaching about 3,500 people.

The OEO commitment, she said, would permit focus to serve 10,000 to 18,000 poor people. But the Agriculture Department "decided not to supply the food," leaving OEO's commitment in limbo, she said.

"There are 53,000 mothers and babies in Detroit clinically classified as malnourished (by the state health department)," Father Cunningham said, adding:

"If children go hungry at certain critical ages, they may suffer irreversible brain damage. . . . We have already created a culture of hunger. Mothers who themselves suffered from hunger as children pass on their tragedy to their offspring, because they are incapable of improvement or change."

In a statement to the committee, the three Focus: Hope spokesmen urged the Agriculture Department to:

Send food immediately to feed the 18,000 persons for which storage, handling and distribution money is available this year, with a later commitment for enough food to feed all 53,000 hungry.

Ensure that funds are available, either from the Agriculture Department, OEO, or the Department of Health, Education and Welfare, to store and distribute food on a mass basis in the future.

Include a "variety of richly nutritional food" in the department's supplemental food program.

Include preschool children, ages 1 through 5, in the supplemental program.

MAN'S CONTROL OF HIS NATURAL ENVIRONMENT

Mr. BROCK. Mr. President, the recent issue of Field and Stream magazine contains a feature article entitled, "To Dam or Not to Dam." The feature contained two separate articles representing divergent points of view on the advantages and disadvantages of man's efforts to manipulate and control his natural environment. This unresolvable dilemma is often faced by the State of Tennessee as the expansion and aggressiveness of what many have termed "the State's great benefactor," the Tennessee Valley Authority, proceeds to build on and develop much of our natural terrain and resources.

As a legislator, I can appreciate both authors' argument and would in the case of Tennessee side neither with the TVA nor the strict conservationist on principle alone. I think the most important single idea to be gleaned from the concurrent presentations by Mr. Michael Frome and Mr. Ottis Peterson is that we weigh the merits of each individual project to determine whether in the long run it will be of greater benefit to people, living and yet unborn.

Whether man, as a part of nature, has the right to direct his inventiveness and ingenuity on the handi-work of natural forces remains a dilemma. However, I believe that the Field and Stream feature sheds some light on the considerations which must be understood before we attempt to harness and control environmental forces.

I ask unanimous consent that this feature be printed in the RECORD.

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

TO DAM OR NOT TO DAM

NOTE.—The two articles presented here, representing divergent points of view, are written by authors who are deeply concerned about our natural resources. Writer and traveler Ottis Peterson, who is also Assistant to the Commissioner at the U.S. Dept. of the Interior's Bureau of Reclamation, sees dams as tools ". . . to turn our rivers from unruly destroyers to servants of man, performing useful functions for the advancement of civilization." Mr. Peterson feels that the judicious use of dams can ". . . preserve and enhance the natural environment." Author Michael Frome, a leader in the conservation movement, recognizes that: "Harnessing natural features and 'improving' rivers represents man's splendid ingenuity . . ." but Mr. Frome stresse that: "The greater ingenuity is to show tliat man can survive while leaving some few features of the earth to their own devices."

(VISTA/U.S.A. invites you to send us your opinions. We hope to include a variety of comments and authors' replies in a future issue.)

(By Ottis Peterson)

You see it from your jet, five miles up; a shimmering, broad, irregular ribbon of blue among the tan and red sandstone cliffs. It stretches into the horizon on one side and ends abruptly on the other; dropping off into a canyon beyond the crest of a curving sculptured concrete barrier—a dam.

You're looking at Glen Canyon Dam and the reservoir it created on the Colorado River, Lake Powell! For 186 incredible miles, it transforms a turgid stream of red mud into a waterway of sparkling blue against a backdrops of nature's most spectacular scenery.

But the airborne glimpse is simply a teaser. From Los Angeles you will return by automobile, trailing a boat on which you will spend three days—you wish it could be three weeks—exploring, camping, fishing, swimming. For Lake Powell has 1,800 miles of shoreline, the airline distance from Canada to Mexico, to explore.

There are countless side canyons, cut in the soft Navajo sandstone over the ages by wind and water, where there is further exploration on foot at water's end, much of it into beautiful hidden areas where man has rarely set foot. There is Rainbow Bridge, a geologic oddity and masterpiece of nature's sculpture, now easily accessible by boat instead of a two-day trek on horseback.

There is spectular trout and bass fishing from the collective stocking efforts of federal, Utah and Arizona fish and game departments. The total recreation planning effort and administration by the Glen Canyon National Recreation Area is in the hands of the National Park Service.

Less than a decade old, Lake Powell is already one of the most popular areas on the park service roster. In 1970, it attracted nearly a million people, a remarkable figure considering that the nearest population centers, Salt Lake City and Phoenix, are several hundred miles away. Without question, Lake Powell and Glen Canyon Dam bid fair to become one of the outstanding recreation areas and tourist attractions of the nation. But that is not the primary reason for their being.

This is only one of many dam projects to turn our rivers from unruly destroyers to servants of man, performing useful functions for the advancement of civilization. Waterborne outdoor recreation is only one facet of the benefits—but an increasingly important one—from dam construction.

From the beginning of time, man has had to use his ingenuity to turn water, as other natural resources, to his benefit. His success has been one measure of the progress of civilization. His first big step was in the dim past when he invented the boat. Water was transformed from a barrier into a means of transportation. Primitive Indians of North America diverted small streams of water through crude irrigation ditches to scratch out a living on desert lands. The Mormon pioneers refined the process to reclaim the arid and treeless plains of the Salt Lake Valley and made them "blossom as the rose."

But simple diversions of flowing water were not enough, for the rivers flooded in the springtime when the snow melted and dwindled in the dry summer until there was no water to divert.

Like Joseph's barns, to store wheat in time of plenty for use in time of want, dams and reservoirs for water storage were the answer. The Bureau of Reclamation, an agency within the Department of the Interior, was the first to undertake major dam construction in the West, where the need for irrigation water was greatest.

The Army Corps of Engineers was later charged with construction of great dams on the Missouri and other major rivers for flood control purposes. This work began in the 1930's when it became obvious that man must move to prevent the limitless destruction by flood-swollen streams sweeping everything before them in the rush to the sea.

From these primary beginnings of dams for irrigation and flood control have come the great multipurpose structures which now control most of the principal rivers of the U.S. In addition to providing irrigation water and preventing floods, they supply municipal and industrial water: an inexhaustible source of pollution-free hydroelectricity; enhance fish and game resources by judicious planning and management; lessen pollution by maintaining a regulated river flow and, of course, have helped immeasurably to relieve our overcrowded recreational areas.

There is no question that construction of dams and regulation of rivers have changed nature's environment and, in many instances, have altered the ecological balance. Lake Powell, for example, inundated a very beautiful but little-known canyon which the Colorado River had carved through a plateau of sandstone unlifted from the ocean floor millions of years ago. Glen Canyon is dwarfed by the mighty Grand Canyon some 67 miles downstream. Those among the 30,000 or so people who saw Glen Canyon by drifting down the Colorado before Glen Canyon Dam was built say it was an unexcelled jewel in its natural beauty.

But so is Lake Powell unexcelled in its beauty. The handful who were able to visit the area in its natural state have grown to hundreds of thousands in the sparkling blue waterway that is Lake Powell. There are those who say this is bad, but isn't it equally unfair to deny many Americans the opportunity to visit one of the great scenic areas of the world?

As for changing the environment and shifting the ecological balance by the hand of man, it is well to keep in mind that nature is also constantly rearranging the scenery—but at a slower pace. The world today is a far different place than it was 10,000 or 100,000 years ago. Living things have always had to adjust to a changing environment—or perish. As a matter of fact, in those distant days

there was a natural dam in the Grand Canyon created by a flow of lava from the high plateau. The dam was eventually washed out and became the Lava Falls, much revered by preservationists today as the mightiest rapids on the Colorado.

Only a few years ago, nature changed the environment on the Madison River—an excellent fishing stream in Montana, near Yellowstone National Park—when it shook loose a mountainside and deposited many millions of tons of earth and rock across the river to create Earthquake Lake. Some 26 lives were taken by the slide. Today, that dam and lake are extolled as extraordinary creations of nature by the same people who condemn man's control works on our rivers. Yet Earthquake Lake is dead and barren. It serves no useful purpose, as do Glen Canyon Dam and the multitude of others which man has constructed in the last century.

The question today is not whether to construct additional dams, but to determine which are necessary and will serve a useful purpose. If they are, they must be built and operated in a manner which will preserve and enhance the natural environment, consistent with the primary purpose for which they are designed. Such a goal is not impossible.

Few people who visit Grand Teton National Park realize that Jackson Lake, in the shadow of some of nature's grandest peaks, is a man-made reservoir. Water impounded here is spread on the fertile plains of southern Idaho, anywhere from 150 to 400 miles downstream. But by judicious management the level of the reservoir is kept fairly constant during the tourist season, high enough to avoid an unsightly appearance but low enough to prevent wave erosion of the fragile beach line. In the late summer, irrigation water is drawn off. The storage space thus created is utilized for flood control the following spring.

Many man-made lakes are operated to provide optimum circumstances during the spawning season. Some even have high and low outlet levels to provide the best temperature for fish downstream.

The big problem in artificial lake and stream management, as it is in most things, is people. Not necessarily too many people, although overcrowding is a difficulty, but thoughtless use, littering, polluting or willful ignoring of management rules. Until man, the casual user but principal beneficiary of our rich endowment of natural resources, recognizes the fundamental requirements of their use—we are in trouble.

TO DAM OR NOT TO DAM

(By Michael Frome)

In 1913, John Muir, the naturalist and humanitarian, was leading the fight to protect one of the most beautiful regions in the Sierra Nevadas. "These Temple destroyers, devotees of ravaging commercialism, seem to have a perfect contempt for Nature," he said, "and, instead of lifting their eyes to the God of the Mountains, lift them to the Almighty Dollar."

He was fighting but one dam, Hetch Hetchy, in Yosemite National Park. Since then, however, the nation has been subjected to a strange and lurid era of reckless dam building and an almost psychotic fixation on dams as the magic key to profits, politics and what is mistakenly taken for "progress."

The U.S. is now the most thoroughly dammed nation on earth, and we are the poorer for it. Most of our rivers have been sacrificed, though woven into the romance, literature and soul of the surrounding land as a priceless part of our natural heritage. Only a small number of streams remain untamed; unspoiled, in the natural condition in which man found them. Fortunately, concerted efforts are now being made to assure the survival of a few remaining rivers through national and state systems of wild rivers. They will preserve a quality of the true America future generations deserve to know and enjoy.

But the pressure to build more dams continues. The tragedy is that self-perpetuating federal agencies—the Army Corps of Engineers, Bureau of Reclamation, Tennessee Valley Authority and Soil Conservation Service—are scouting every river and creek bottom from Alaska to the Gulf of Mexico, with scant concern for the natural values they subsequently place in jeopardy. Even when they concede poor prospects, the lobbies of contractors, real estate speculators and industrial developers beat the political drums in order to receive something for nothing from federal taxpayers.

The sound of the tom-toms is heard with open ears by most members of Congress. They may talk loudly about the lack of funds for poverty programs, parks, clean water and saving the cities, but the truth is there is something at the pork barrel for everybody who plays the game. Economy is for the other guy's district.

Boomers and builders of artificial impoundments, whether private or public, will promise to prevent floods, store water, stimulate industrial employment, furnish fishing, boating, water skiing, swimming, camping and anything else to help sell a project. But nothing is said about "benefits lost" from wildlife species extinguished, valleys and forests flooded, historic streams submerged, entire ecological systems disrupted.

One of the best examples of the wastefulness of a dam that should never have been built is the Tellico project on the Little Tennessee River in East Tennessee. It is represented by TVA as a "multipurpose river development," although it is clearly not justified by navigation or flood-control needs. The "Little T" is already regulated by seven major dams. The sole significant argument for the dam is that it would open new industrial sites—though many already go begging on nearby lakes. On the other hand, this ruinous adventure will wipe out a beautiful canoeing and trout stream as well as the surrounding farmlands, hunting areas and a major tree nursery. It will also destroy the site of Chota, the ancestral capital of the Cherokee nation, and make a mockery of Fort Loudoun, the first English fort west of the Appalachians. This unique stream could be an economic resource in its own right, the core of a real regional recreation plan, encompassing the adjacent Great Smoky Mountains National Park, national forests, TVA lakes—and with implicit respect for nature.

Billions of dollars have been invested in flood-control projects, but losses have continued to show an upward trend. With few exceptions, every stream must get out of its bank from time to time and use its flood plain to carry flows it cannot accommodate in its normal channel. A much better and less costly approach is flood-plain zoning, which provides open space and recreation in the lowlands, with sound flood control at low cost. Moreover, protecting healthy watersheds with an adequate cover of vegetation is the best way to regulate the flow of rainfall and improve water quality at the same time. This is what is known as getting to the heart of the problem of sound land use for future needs and well-being.

Then there is the alleged need of power, which is designed to keep the Gross National Product spiraling. I could cite potential power sources other than hydroelectric, but this is not the point. To insure environmental survival in the face of declining resources, the American life-style must shift from unrestrained over-consumption to an emphasis on the qualitative experience. Power shortages can readily be solved by reducing consumption of things we do not need. Free-flowing rivers will be vital to the mental and physical growth of Americans as long as there is such a land; the plethora of neon signs, coast-to-coast, is not quite as essential.

The Corps of Engineers likes to cite statistics showing that its 300 artificial reservoirs are subject to a heavier volume of visitors than all baseball, football, basketball, soccer, hockey and assorted other spectator sports combined. This may be impressive but principally in terms of numbers. More areas must be left alone, free of engineers and builders, so people may come as individuals and develop sensitivity to the inspirational and scientific values in undisturbed nature. Churches, libraries and universities—and the slender fragments of remaining wilderness—are intended not to accommodate the so-called "greatest number" but to furnish the climate wherein the seeds of individual growth can germinate for the benefit of all mankind.

I recall visiting Grand Canyon National Park in 1966, when the Bureau of Reclamation and the boomers of Arizona were pressing to dam the Colorado River in the heart of the canyon. At 5:30 one morning I walked to the rim to watch the sun rise. From one second to the next the scene changed as earth and sky brightened. This was Arizona, arid, wide, wild and wonderful, which even the dam builders had extolled for its natural beauty.

Almost everybody in this arid region wants dams, or thinks he wants dams, like a panacea or religion that is said to guarantee a better life, inducing prosperity, boom, bank deposits, building, freeways, congestion and sprawl.

The truth is that little is actually known about storage, evaporation, or the influence of artificial impoundments on earth stresses; yet major decisions are often made on the basis of economic pressures and political hysterics.

Such were among my thoughts at daybreak at the Grand Canyon. The proposal to build dams there was defeated, as a result of public expression throughout America. The decision was wise. Harnessing natural features and "improving" rivers represents man's splendid ingenuity, beyond a doubt. The greater ingenuity is to show that man can survive while leaving some few features of the earth to their own devices. This is the true test of our mechanical, intellectual and moral skills.

PARAMEDICAL CAREERS

Mr. KENNEDY. Mr. President, one of the reasons for the present health care crisis is the shortage of trained medical personnel. The Department of Health, Education, and Welfare estimates that 50,000 more doctors are needed and 150,000 more nurses. Part of the present medical workload could be assumed by paramedical personnel. Using paramedical assistants, doctors, and nurses would be free to use their specialized skills for treating many more patients than they are presently able to treat because of the many unspecialized jobs they must perform.

In a recent issue of the American Legion magazine, Mr. Arthur S. Freese describes 17 careers in medicine for specialists which do not require an M.D. degree. Many of these careers involve work which would lighten the duties of doctors and nurses, but still require performing medical services for the patient.

Every year, 30,000 service men who have had paramedical training leave the Armed Forces. Redirecting these trained medical personnel into civilian jobs would ease the crisis in medical person-

nel. If more individuals could be attracted to paramedical careers, the present supply of doctors would have more time to practice medicine on their patients.

I believe that Mr. Freese's article, "Careers That Need Filling in American Medicine," expands the opportunity of medical related careers for individuals interested in the medical profession. 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:

A SURVEY OF CAREERS THAT NEED FILLING IN AMERICAN MEDICINE

(By Arthur S. Freese)

These words are aimed very much at (1) young people who may read them or have them called to their attention, (2) their parents and teachers, and (3) former medical corpsmen and pharmacists mates of the armed forces.

But reading them will give anyone a rather clear picture of acute present needs for people who are not MD's to fill various career spots in medicine.

The practice of medicine and its administration are changing.

One of the marked changes is a trend to try to free doctors from a lot of work that someone else can do, to let them do more of what only they can do.

Another is that new equipment and new techniques call for people with new skills.

Brand new careers in health care and a bigger demand for people to fill older careers are the result. There are acute shortages in many of these positions. The most advanced thinkers in medical administration are saying that many of our nation's health problems can only be solved if we get more people to become what they call "paramedical specialists." That's a fancy phrase for those who work in health care who do not have MD degrees.

The variety of "paramedical" openings is enormous. They include medical secretaries and medical librarians quite as much as people who deal with therapy, instruments, tissues, laboratory testing, bed care, etc.

Very little special training is required in some of the medical jobs that are now looking for people. Others, such as medical physicists, need advanced degrees, even if they are not MD degrees.

One of the new careers is "physician's assistant," a title that was unheard of only a few years ago. A physician"s assistant is a person who can assist a doctor in almost anything he does, without being a nurse.

With the shortage of registered nurses, there are more openings for licensed practical nurses—who don't need as much training as an RN.

In general, the field of medicine is creating new jobs and dividing its work up more, and is crying for people to fill the gaps. And there is now a national effort to get former non-MD medical people who served in the armed forces to continue, as veterans, in the health care field. They are getting credit for their military experience in qualifying themselves for civilian health care jobs.

Below we describe 17 non-MD health specialities now in demand—some new, some old—and there are *many* more. We tell you enough—about the kind of work, the needed training, the cost of training, the demand, the pay, the places of employment and the natural avenues of advancement for the ambitious—to provide an introduction. In each case we give the name and address of a source of more detailed information. And nearly all of these sources are genuinely interested in anyone who is interested in their fields. At the end, we tell about the program for veterans with medical care experience in the armed forces.

Here is the summary:

PHYSICIAN'S ASSISTANT

This new professional does much of what a doctor does, giving physical examinations and treating illnesses under supervision of a physician. He often specializes, in children or surgery, for example.

Education and Training. High school diploma or its equivalent. Further training varies considerably but most involves four years of training, part of which may be experience (as medical corpsman or nurse) and part academic, often roughly half and half.

Cost of Training. Too variable to estimate, but numerous scholarships and grants should be available before long from federal funds.

Demand. Unlimited as far into the future as any experts can see.

Places of Employment. Whatever a physician practices—in his private office or on home calls, in a hospital or clinic. Experienced medical administrators see a growing need for physicians' assistants for overworked city doctors and for rural doctors with large areas to cover.

Earnings. Begin at about $10,000 a year and go up to $18,000, but these are expected to rise.

Chances for Advancement. Do general practice or specialize, but only the future can answer this question adequately since the field is so new.

Source of More Information. American Medical Association, 535 North Dearborn Street, Chicago, Ill. 60610.

LICENSED PRACTICAL NURSE (LPN)

This professional does essentially everything the registered nurse (RN) does, but—with less training—must work under an RN's supervision. The LPN is assuming increased responsibility, giving injections and intravenous fluids, working in coronary care units.

Education and Training. Two years of high school or a high school diploma (or the equivalent). Some high schools offer an LPN program in conjunction with their regular course—otherwise a one-year special course or a two-year associate-degree college program after high school.

Cost of Training. May vary from nothing up to $500, except for associate-degree programs which run what any other such degree programs in a similar institution cost.

Demand. There is no likelihood of any decrease in the current urgent need for LPN's, at least for the next ten years.

Places of Employment. Hospitals, nursing homes, the armed forces, industry, public health, schools, doctors' offices, private duty.

Earnings. Begin at $4,000 to $7,200 a year and go as high as $10,000.

Chances for Advancement. Can become an RN with increased salary and wider opportunities. Even as an LPN there are supervisory positions in some institutions.

Source of More Information. National Federation of Licensed Practical Nurses, 250 West 57 Street, New York, N.Y. 10019.

X-RAY TECHNICIANS

These professionals (also called "radiologic technologists")—and not the doctors—are the ones who actually take the medical x-rays for diagnosis, use x-rays to treat diseases and even prepare the "atomic cocktails" (radioisotopes).

Education and Training. High school diploma or its equivalent, and either a two-year hospital-sponsored program or a two- or four-year college program with either an associate's or bachelor's degree.

Cost of Training. Many hospital-based programs are free, but tuition may go up to $1,000. College costs are the same as any other degree program in a similar institution (an Ivy League school would be more than a state university). Scholarships and grants depend on the availability of federal funds.

Demand. Jobs waiting for graduates as far into the future as experts can see.

Places of Employment. Hospitals and clinics, doctors' offices, government agencies at all levels, and industry.

Earnings. Begin at close to $10,000 a year and go up to double that figure, and these salaries are rising.

Chances for Advancement. Specialize or move up to administrative, supervisory or teaching positions.

Source of More Information. The American Society of Radiologic Technologists, 645 North Michigan Avenue, Chicago, Ill. 60611.

OPERATING ROOM TECHNICIAN

This professional prepares the hospital operating and delivery rooms, their instruments and supplies; passes things to the surgeon or obstetrician, assists in administering blood or injections; does operating room work formerly done by registered nurses.

Education and Training. High school diploma or its equivalent and a technology training program of eight months (a school year).

Cost of Training. May vary from nothing to perhaps $175.

Demand. Far exceeds the supply and is likely to do so far into the foreseeable future.

Places of Employment. Hospital operating or delivery rooms.

Earnings. Begin at about $7,000 a year. In administrative position can go up to $10,000 or even $12,000.

Chances for Advancement. If you take an associate's degree in operating room technology, can become an administrator.

Source of More Information. Association of Operating Room Nurses, Denver Technological Center, 8085 E. Prentice Avenue, Englewood, Col. 80110.

MEDICAL RECORD LIBRARIAN

This professional designs and maintains a filing system for the complete illness and treatment records of all hospital patients; analyzes medical records for statistical purposes and use in research and treatment.

Education and Training. High school diploma or its equivalent, and a four year college program giving a bachelor's degree.

Cost of Education. That of any college program in a similar institution.

Demand. Acute shortage likely to continue.

Places of Employment. 90% work in hospitals, others in drug firms, health agencies, government, education and industry.

Earnings. Begin at $5,000 to $10,000 a year and go to double that and even more.

Chances for Advancement. Administration positions and department head or professorship in teaching.

Source of More Information. American Association of Medical Record Librarians, John Hancock Center, 875 North Michigan Avenue, Chicago Ill. 60611.

MEDICAL PHYSICIST

This professional plans the use of x-rays, radium and other radiation in the fight against cancer; investigates bioelectrical changes in heart and brain; protects people against danger of excessive exposure to radiation.

Education and Training. High school diploma of its equivalent, a four-year college course and a bachelor's degree with some extra training in specialized hospital applications. Many take a master's degree or even a Ph.D.

Cost of Training. About the same as any university program in a similar institution. Scholarships and grants have been widely available but these depend on the state of federal funds.

Demand. Far exceeds the supply and is

likely to do so well into the foreseeable future.

Places of Employment. In hospitals and medical centers, teaching in professional and postgraduate schools, in research institutions and industry, as private consultants to physicians, industry and institutions.

Earnings. Begin at a little over $10,000 and go up to $30,000 and more. Salaries are on the way up.

Chances for Advancement. Become head of department or a full professor or go into research.

Source of More Information. American Association of Physicists in Medicine, 335 East 45 Street, New York, N.Y. 10017.

MEDICAL SECRETARY

This professional is a *competent executive secretary* with a knowledge of medical terminology; manages the office, acts as receptionist and handles the financial details as well as the medical record keeping.

Education and Training. Basically, secretarial training. Many medical secretaries pick up technical information on the job. High school diploma or its equivalent, with additional training at secretarial or business school, or a two- or four-year college program with appropriate degree.

Cost of Training. Varies widely depending on school attended; college costs those of any similar institution.

Demand. An acute shortage is predicted well into the future.

Places of Employment. Private doctor's office, hospital, any governmental or private agency or industrial firm employing physician.

Earnings. Begin about $5,000 or $6,000 a year and can go up to double this and more. Salaries on the rise.

Chances for Advancement. Administrative and supervisory positions, even some teaching positions in the few colleges or schools that train medical secretaries.

Source of More Information. American Association of Medical Assistants, 200 East Ohio Street, Chicago, Ill. 60611.

MEDICAL LABORATORY TECHNOLOGISTS

These professionals handle the scientific medical laboratory tests, carry out the unbelievably complex diagnostic, chemical, atomic and bacteriologic procedures.

Education and Training. High school diploma or its equivalent, and usually (today) four years of college for a bachelor's degree; often advanced degrees are also taken.

Cost of Education. That of any college program of the same length in a similar institution. Scholarships and grants are available as the current federal funds for medical education will permit.

Demand. Acute shortage likely to continue strong into the foreseeable future.

Places of Employment. Hospitals. clinics, private laboratories, research facilities, public health and other government agencies, drug industry.

Earnings. Begin at $8,000 to $10,000 and go up to double this much. Salaries are rising.

Chances for Advancement. Administrative, supervisory and teaching positions open; advanced degrees and medical research available; head department in hospital or school.

Source of More Information. American Society of Medical Technologists, Hermann Professional Building, Houston, Tex. 77025.

MEDICAL LABORATORY TECHNICIANS

These professionals do the more routine tests under the supervision of the technologist. They check Pap tests for cancer, prepare slices of tissue from the operating room for immediate examination or stain microscope specimens.

Education and Training. Varies greatly depending on the type of work. All have high school diplomas or the equivalents, plus either 12 months in an approved school for technicians or two years of college. Some go on to take a bachelor's degree.

Cost of Training. Special schools are usually free, but a college program costs what any other in a similar institution would. Scholarships and grants depend on availability of federal funds.

Demand. Acute shortage likely to continue far into the future.

Places of Employment. Hospitals, clinics, private laboratories, public health and other government agencies.

Earnings. Vary widely depending on the level of technician. Least trained begin at about $4,000 to $8,000 a year and go up to $12,000 or more—and this is rising.

Chances for Advancement. Supervisory positions in own field. With college degree can rise to medical technologist.

Soure of More Information. National Committee for Careers in Medical Technology, 9650 Rockville Pike, Bethesda, Md. 20014.

DISPENSING OPTICIANS

These professionals work in cooperation with ophthalmologist (eye doctor) and optometrist (lens prescriber); fill written prescriptions for eyeglasses by having lenses ground, help select suitable frames and fit them.

Education and Training. High school diploma or its equivalent and a two-year college program with an associate's degree.

Cost of Training. About the same as any two-year college program in a similar institution.

Demand. Exceeds the supply and is likely to continue to do so far into the future.

Places of Employment. Retail eyeglass dispensing establishments or optical laboratories.

Earnings. Begin at about $6,000 a year. Those who own stores can make up to $20,000 a year and more.

Chances for Advancement. Own or manage a dispensing office or branch of a chain; supervise an optical laboratory.

Source of More Information. American Board of Opticiantry, 821 Eggert Road, Buffalo, N.Y. 14226.

INHALATION THERAPIST

This professional (also called a respiratory therapist) works with breathing problems, using and attending to equipment such as resuscitators, iron lungs, oxygen tents and incubators; even analyzing blood samples to evaluate the gases in it.

Education and Training. High school diploma or its equivalent, plus nine months to two years of training, either in a hospital-sponsored program or a college with an associate's degree.

Cost of Training. Hospital-sponsored programs usually free, but college programs cost the same as those in any similar institution. Scholarships and grants depend on federal funds available.

Demand. Far outstrips supply and will continue to for many years to come.

Places of Employment. Mostly in hospitals but also in research, health departments and industry.

Earnings. Begin at $6,000 to $10,000 a year and can go up to double that figure.

Chances for Advancement. Administrative, teaching and research positions open.

Source of More Information. American Association of Inhalation Therapists, 332 South Michigan Avenue, Chicago, Ill. 60604.

PHARMACIST

This professional mixes and dispenses medicines, tests them for purity and strength and provides information on the effects of drugs, even develops new ones.

Education and Training. High school diploma or its equivalent, five years (commonly) at college of pharmacy for a bachelor's degree, some go on to Ph.D.

Cost of Training. Varies, but about $1,700 a year is mentioned by educators as a good average figure for tuition.

Demand. Those in field say there are jobs waiting for any graduate; that there is a tremendous need and not enough students.

Places of Employment. Retail drug stores, pharmaceutical houses, hospitals, armed forces, public health agencies, research facilities, laboratories, salesmen to doctors, teachers in pharmacy college.

Earnings. Minimum salary in New York State for example is $13,500 a year, and the pharmacist who owns his store, particularly in a small town, may do much better.

Chances for Advancement. Go on to doctorate, research, administrative or supervisory positions, head of department.

Source of More Information. American Pharmaceutical Association, 2215 Constitution Avenue, N.W., Washington, D.C. 20037.

PHYSICAL THERAPIST

This professional evaluates physical disabilities; and with exercises and training techniques, massage and physical agents (heat, light, electricity, water) he relieves pain and restores muscle coordination, strength, use and endurance.

Education and Training. High school diploma or its equivalent, and a four-year college program with a bachelor's degree; perhaps also a master's degree, rarely a doctorate.

Cost of Training. About the same as any college program in a similar institution. Scholarships and grants hitherto widely available now depend on the availability of federal funds.

Demand. Experts predict the current shortage will continue for at least another five years.

Places of Employment. In hospitals, nursing homes, rehabilitation centers, schools, industry, government and private agencies, the armed forces, teaching or even private practice.

Earnings. Begin at $8,500 to $10,000 a year and in ten years can reach $20,000—and salaries are rising.

Chances for Advancement. Take supervisory positions in hospitals, agencies and other institutions, head teaching department; some with doctorates in anatomy or physiology even teach in medical schools.

Source of More Information. American Physical Therapy Association, 1156 15th Street N.W., Washington, D.C. 20005.

OCCUPATIONAL THERAPIST

This professional works primarily with the upper limbs, takes a psychological approach. Working skills—such as woodwork, printing or jewelry-making—are used to restore the muscle strength, coordination, the ability to perform the tasks of everyday living, even help the mentally ill.

Education and Training. High school diploma or its equivalent, and a four-year college program for a bachelor's degree. Sometimes a master's degree is also taken.

Cost of Training. About the same as any college program in a similar institution. Scholarships and grants have been widely available but primarily depend on the accessibility of federal funds.

Demand. Those in the field say there is still a shortage of these professionals and this will continue.

Places of Employment. In hospitals and psychiatric institutions, nursing homes and rehabilitation centers, government and private agencies, armed forces, industry, teaching, even private practice.

Earnings. In the same general area as the physical therapist but slightly lower. Salaries are on the rise.

Chances for Advancement. Supervisory positions in hospitals, agencies and other institutions, even State Director in a mental hygiene department; or head of a teaching department or do private practice.

Source of More Information. American Occupational Therapy Association, 251 Park Avenue South, New York, N.Y. 10010.

RECREATIONAL THERAPIST

This professional uses recreation to help rehabilitate the individual, whether physically or emotionally handicapped or disabled, mentally retarded or socially deprived. Recreational therapists are strongly psychologically-oriented.

Education and Training. High school diploma or its equivalent, a four-year college program for a bachelor's degree and another year for a master's degree.

Cost of Training. About the same as any college program in a similar institution. Scholarships and grants have been widely available but are primarily dependent on the state of federal funds for education.

Demand. These professionals are in very short supply and this is expected to continue into the future.

Places of Employment. In hospitals and psychiatric institutions; nursing homes and rehabilitation centers; agencies for the crippled, blind, mentally retarded, aged and the physically handicapped and disabled; teaching and some private practice.

Earnings. In general in the same area as the occupational therapist but can go up close to $50,000 (as director of recreation for a very large city). Salaries are on the rise.

Chances for Advancement. Supervisory and administrative positions in hospitals and other institutions, agencies and government, head a teaching department or occasionally do private practice.

Source of More Information. The National Recreation and Park Association, 1700 Pennsylvania Avenue, N.W., Washington, D.C. 20005.

DENTAL HYGIENIST

This professional cleans teeth, applies fluoride solutions to prevent decay, makes dental X-rays, examines teeth and mouths and teaches dental care.

Education and Training. High school diploma or its equivalent, and either a two-year college program with an associate's degree or a two-year course in a hygienist's school; perhaps a four-year college program with a bachelor's degree, or even go on to a master's degree.

Cost of Training. Either about what any college program in a similar institution would cost or very considerably less in the non-degree special schools.

Demand. In distinctly short supply and likely to remain so for quite some time to come.

Earnings. Begin in the $4,000 to $6,000 range and go up to $10,000. Salaries likely to rise.

Chances for Advancement. With a master's degree the dental hygienist can move into teaching, administrative and public health jobs.

Places of Employment. In private dental offices, in schools and hospitals, in public health programs.

Source of More Information. American Dental Hygienists' Association, 211 East Chicago Avenue, Chicago, Ill. 60611.

DENTAL ASSISTANT

This professional prepares office and patient for the dentist, hands him instruments and mixes his filling materials, does some dental laboratory work, develops X-rays.

Education Training. High school diploma or its equivalent, one or two years of vocational training. Often on-the-job training alone.

Cost of Training. Varies widely but considerably less than college program of same length.

Demand. Should have no trouble getting jobs.

Places of Employment. Private dental offices, some clinics and hospitals, some government agencies.

Earnings. Begin at about $3,500 and go up to $7,500.

Chances of Advancement. Limited.

Source of More Information. American Dental Assistants Association, 211 East Chicago Avenue, Chicago, Ill. 60611.

MEDICALLY TRAINED SERVICEMEN AND WOMEN

Each year some 30,000 highly trained health personnel leave the armed forces, but our country still suffers from an acute shortage of just such persons. The prestigious American Hospital Association points out how carefully the military services screen their candidates for health training, how these people are frequently evaluated during their training and must meet both academic and professional requirements. For advanced training, further screening and evaluation is carried out.

To help both these people and the country, the Department of Defense cooperates with the Department of Health, Education and Welfare in Operation MEDIHC (Military Experience Directed Into Health Careers). This joint program is intended to help medically trained personnel continue their careers as civilians, thus solving two problems. The serviceman is informed either by a "transition" officer or by mail, 90 days before discharge, about MEDIHIC. The interested serviceman need only fill out the MEDIHC qualification card outlining his or her background. This card is then sent to the MEDIHC agency in the state where the serviceman will locate—and here the information is matched with any job or educational opportunities, and both the serviceman and the institution are notified.

For example, 33 states now admit military corpsmen to the examination for licensed practical nurse without further training. And in the state of Washington a program called Medex has turned medical corpsmen into physicians' assistants to relieve the acute shortage of doctors. The only training is on the job with the physician.

Thus the returning medical corpsmen can find considerable opportunity today to take a place in the country's health care setup and utilize their training, often without any additional schooling. The place to begin is with Operation MEDIHC.

Finally, for both civilian and military personnel there are two overriding sources of information about health careers—of which there are far more than the 17 listed here:

(a) Division of Careers and Recruitment, American Hospital Association, 840 Lake Shore Drive, Chicago, Ill. 60611.

(b) American Medical Association, 535 North Dearborn Street, Chicago, Ill. 60610.

AMERICAN PRISONERS OF WAR

Mr. THURMOND. Mr. President, an editorial published in the July 15 issue of the State of Columbia, S.C., deserves the attention of this body. The editorial, entitled "Washington Had to Reject Devil's Bargain on POW's," correctly points out the valid reasons why President Nixon refuses to set a fixed date for the withdrawal of American forces from Vietnam merely on the basis of an implied Communist promise to release American prisoners of war.

Agonizing as it is to families of POW's, President Nixon recognizes that we must not sacrifice the years of investment, in terms of American lives and treasure, in Southeast Asia, in order to bring about conditions which might—only might—result in the release of our men held captive.

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

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

WASHINGTON HAD TO REJECT DEVIL'S BARGAIN ON POW'S

It is typical of the enemy's inhumanity that the latest "peace" proposal from Hanoi dangles before their anguished next of kin the issue of American prisoners of war. Fix a withdrawal date by the end of the year, Hanoi proposes, and the prisoners will be set free.

Despite pressure—understandable pressure—from some wives of captured servicemen in enemy hands, the Administration has rejected the proposal. It is hard to see how it could have done otherwise. An offer from the enemy, if otherwise unacceptable, is scarcely more acceptable because the enemy is using human captives as bargaining chips. Indeed, some will argue, any offer of this nature ought to be rejected out of principle.

This is ugly business, all right, but what choice is there? If the Administration is correct in believing that meeting the enemy's conditions would jeopardize South Vietnam's government and ultimately undermine the security of South Vietnam, then Hanoi's proposition takes on a sinister new meaning. Washington was being asked to sacrifice the crucial interests of most South Vietnamese for the sake of American prisoners of war. It was a devil's bargain.

Having consequently rejected it, the Administration now is reportedly in the process of formulating a counter-offer. What that offer will be, no one knows. But it is unlikely to propose total American withdrawal by the end of the year or any other time certain, this being the sure way (in the Administration's view) to guarantee failure of the Vietnamization program.

Must the enemy be kept in the dark in order for withdrawal to be accomplished without adverse effects on the Saigon Government? There is some evidence, surely, that this is the case—exhibit No. 1 being Hanoi's anxiety to pin down the United States to an explicit timetable. Hanoi, one gathers from the many references to a withdrawal by December 31, also wants the United States to clear out before the South Vietnamese army is fully prepared to defend the country unassisted.

That insistence on a pell-mell American withdrawal tips the enemy's hand as well as anything does. Such precipitous action on our part, it is plain, probably would doom South Vietnam and convert into an utter rout an American commitment that, chances are, can be concluded short of a total defeat.

One's heart goes out to the families of American POWs, who are so ruthlessly exploited by the North Vietnamese Communists. But it is precisely because Washington was dealing with an enemy capable of such cruel tactics that the latest offer had to be rejected—even though the decision to reject it caused new agony to families who, God knows, have suffered enough.

THE PENTAGON PAPERS AND THE "PURSUIT OF EMPIRE"

Mr. HARTKE. Mr. President, one of the outstanding article-length analyses of the content and meaning of the Pentagon Papers appears in the current—August—issue of the Progressive. It was written by that magazine's Washington editor, Mr. Erwin Knoll, whose bitter but inarguable conclusion it is that—

We know now that it was no "mistake," no "accident," no "quagmire" into which America was inadvertently drawn, one reluctant footstep at a time. We know that

over more than two decades, through five Administrations, we have been embarked on an inexorable pursuit of Empire, conceived, planned, and executed in our name by a small band of willful men whose disdain for mankind is matched only by their contempt for their fellow Americans.

That is a shocking indictment, Mr. President, but it is difficult to see how a thoughtful reading of the Pentagon papers could lead to any other view.

I ask unanimous consent that Mr. Knoll's article be printed at this point in the RECORD, and I urge all Senators to read it with the closest attention.

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

WHAT WE KNOW NOW

(By Erwin Knoll)

The Reverend Will Campbell of Nashville, Tennessee, and points South, who carries his Christian ministry with equal and unalloyed love to black revolutionaries and white Klansmen, knows how to preach a fearsome fire-and-brimstone sermon. I heard him once, many years ago, describe to members of a rural flock the damnation that awaited them on Judgment Day unless they mended their racist ways. "You'll look up from the Bottomless Pit," he thundered, "and you'll cry, 'Lord, Lord, we didn't know. We didn't know!' And the Lord, will look down over the edge of Glory and he'll say, 'Waaal, you know now!' and he'll slam down the lid."

Waaal, we know now. We know, thanks to the 7,700 pages of history and documentation compiled in the Pentagon, thanks to the newspapers that seized the opportunity to make the record public, how we were enticed, frightened, cajoled, deceived, seduced into wagging aggressive and brutal war in Indochina. We don't know all of it yet, and perhaps we never will, but we know enough. In a way we are lucky, for we have come to know before the final judgment day. And though our lords did their best to try to slam down the lid, their efforts were repulsed by the U.S. Supreme Court.

We know now that it was no "mistake," no "accident," no "quagmire" into which America was inadvertently drawn, one reluctant footstep at a time. We know that over more than two decades, through five Administrations, we have been embarked on an inexorable pursuit of Empire, conceived, planned, and executed in our name by a small band of willful men whose disdain for mankind is matched only by their contempt for their fellow Americans.

We know that even those of us who opposed the adventure from the beginning—as *The Progressive* did—were unable to explore the depths of official duplicity. When we accused our Government of being secretive, we hardly imagined the enormity of the secrets it held. When we charged that our Government was lying, we did not fathom the dimension of the lies. When we declared that our reputation, our ideals, our wealth, our young men's limbs and lives were being squandered in a criminal enterprise, we thought that the men who made decisions in our behalf did not understand the nature of the crime. We were wrong; they understood.

We know now that we have been fed a steady diet of deception. More than twenty years ago, when the Truman Administration discovered and proclaimed America's new role as "leader of the Free World," it simultaneously began overt and surreptitious financial and military aid to the doddering French colonial empire to help it hold the peoples of Indochina in subjugation. In the Eisenhower Administration, when the attempt had collapsed, America entered into a "commitment" to the government it had handpicked for South Vietnam and connived with it to cancel the Vietnamese unification elections that had been called for by the 1954 Geneva Accords. While U.S. propagandists told the world—and their own people—that the Communist North would not permit free elections, the Central Intelligence Agency told President Eisenhower that any election would be an overwhelming popular triumph for Ho Chi Minh, in the South as well as in the North.

American involvement intensified during the Kennedy years, and so did the resort to secrecy and deceit. At a press conference on February 14, 1962, President Kennedy announced that at the request of the South Vietnamese government of Ngo Dinh Diem, "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." He did not mention that almost a year previously he had ordered a program of covert hostilities against North Vietnam, including infiltration of agents and their aerial resupply, overflights for the purpose of dropping leaflets, and the formation of "networks of resistance, covert bases, and teams for sabotage and light harassment" inside North Vietnam.

Nor did President Kennedy mention that he had under consideration even then a proposal from General Maxwell Taylor, then chairman of the Joint Chiefs of Staff, that the first substantial contingent of American ground forces—8,000 men—be dispatched to South Vietnam. Taylor was careful, as the national security bureaucrats were always careful, to submit a "cover story" with his proposal. "My view," he told Mr. Kennedy, "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 providing a U.S. military presence in Vietnam capable of assuring Diem of our readiness to join him in a military showdown with the Vietcong or Vietminh. . . ."

Throughout 1963, as resistance to the corrupt and despotic Diem regime carried America's client government in Saigon to the brink of collapse, the Kennedy Administration issued a steady stream of encouraging progress reports to the American people. While embassy cables from Saigon predicted imminent disaster, Secretary of State Dean Rusk proclaimed on February 1 that "there are some definitely encouraging elements;" on February 13 that "the momentum of the Communist drive has been stopped;" on April 18 that "the South Vietnamese themselves are fighting their own battle, fighting well;" on April 22 that "there is good basis for encouragement. The Vietnamese are on their way to success and need our help; not just our material help—they need that—but our sympathetic understanding and comradeship."

By the late summer, when it was plain that Diem could no longer be counted on as America's viceroy in Vietnam, the United States began conspiring with the South Vietnamese military for his overthrow. Again, the emphasis was on secrecy and deceit. On October 2, Washington advised our embassy in Saigon: ". . . President today approved recommendations that no initiative should now be taken to give any active, overt 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 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 the country team." On October 30, McGeorge Bund, the President's special assistant for national security, cabled Ambassador Henry Cabot Lodge: "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." The coup was consummated on November 1.

The great leap forward into the credibility chasm occurred in the Johnson years, as America plunged deeper and deeper into a war it was determined to conceal. On March 17, 1964, National Security Action Memorandum Number 288 declared that it was U.S. policy "to prepare immediately to be in a position on seventy-two hours' notice to initiate the 'Retaliatory Actions' against North Vietnam, and to be in a position on thirty days' notice to initiate the program of 'Graduated Overt Military Pressure' against North Vietnam." Ten weeks later, when the President was asked at a news conference about charges (by Melvin R. Laird, then a Republican Representative from Wisconsin) that the Administration was "preparing to move the Vietnam war into the North," Mr. Johnson replied: "I know of no plans that have been made to that effect."

Through the summer and fall of 1964, as President Johnson ran for election as a moderate, a man of peace, against the reckless saber-rattling of Republican Senator Barry M. Goldwater of Arizona, the crisis managers in the Pentagon, the State Department, the CIA, and the National Security Council were making detailed preparations for a wider war—one which they understood would have to be deferred until after Election Day. Months before the Gulf of Tonkin incident, the document that would become the Tonkin Resolution was drafted to confer on the President virtually unchecked power to wage hostilities; it needed only an opportune pretext for presentation to the Congress. Meanwhile, covert "34A Operations" against North Vietnam were intensified, and U.S. destroyers were dispatched on "DeSoto Patrols" to gather intelligence and intimidate Hanoi. When one such patrol produced the Tonkin incident early in August, Defense Secretary Robert S. McNamara was asked why U.S. destroyers were in the Gulf. "It is a routine patrol," he replied, "of the type we carry out in international waters all over the world."

On September 3, Assistant Secretary of Defense John T. McNaughton drew up a memorandum headed PLAN OF ACTION FOR SOUTH VIETNAM, which included this list of "special considerations during next two months": "The relevant 'audiences' of U.S. action are the Communists (who must feel strong pressures), the South Vietnamese (whose morale must be buoyed), our allies (who must trust us as 'underwriters'), and the U.S. public (which must support our risk-taking with U.S. lives and prestige). During the next two months, because of the lack of 'rebuttal time' before elections to justify particular actions which may be distorted to the U.S. public, we must act with special care—signaling to the DRV [North Vietnam] that initiatives are being taken, to the GVN [South Vietnam] that we are behaving energetically despite the restraints of our political season, and to the U.S. public that we are behaving with good purpose and restraint."

By September 7, according to the Pentagon's historians, the planners had reached a "general consensus" in favor of a systematic U.S. bombing campaign directed at the North. But two weeks later, President Johnson told the American people: "There are those who say, you ought to go North and drop bombs, to try to wipe out the supply lines, and they think that would escalate the war. We don't want our American boys to do the fighting for Asian boys. We don't want to get involved in a nation with 700 million people and get tied down in a land war in Asia."

On February 7, 1965, as Lyndon Johnson settled in for a full term, McGeorge Bundy wrote in a memorandum to him: "We believe that the best available way of increasing our

chance of success in Vietnam is the development and execution of a policy of *sustained reprisal* against North Vietnam. . . . We may wish at the outset to relate our reprisals to those acts of relative high visibility such as the Pleiku incident. Later we might retaliate against the assassination of a province chief . . . we might retaliate against a grenade thrown into a crowded cafe in Saigon. . . . Once a program of reprisals is clearly under way, it should not be necessary to connect each specific act against North Vietnam to a particular outrage in the South. . . ."

On the same day the White House issued a statement about the enemy's "deliberate surprise attacks" on two U.S. barracks areas near Pleiku, South Vietnam: ". . . . These attacks were made possible by the continuing infiltration of personnel from North Vietnam. . . . As in the case of the North Vietnamese attacks in the Gulf of Tonkin last August, the response [bombing of the North] is appropriate and fitting. . . . We seek no wider war."

On April 1, Mr. Johnson chided reporters for being "too dramatic about our prophecies and predictions and I might say too irresponsible sometimes." There was, he assured them, "no far-reaching strategy that is being suggested or promulgated" for escalating the war. On the same day, according to National Security Action Memorandum Number 328, the President "approved the urgent exploration of twelve suggestions for covert and other actions" submitted by the CIA, approved the addition of 18,000 to 20,000 men to the U.S. "military support" forces in Vietnam (which already numbered 27,000), and approved a change of mission—from defense to offense—for the Marine battalions stationed in Vietnam. The change "had momentous implications," the Pentagon historians noted, but the President "was greatly concerned that the step be given as little prominence as possible."

The decision in mid-July to commit 200,000 U.S. troops to combat "was perceived as a threshold-entrance into an Asian land war," the Pentagon study pointed out. "The conflict was seen to be long, with further U.S. deployments to follow." But President Johnson told the press and the people at his next news conference, "It does not imply any change in policy whatever. It does not imply any change of objective."

We know now that there has never been any change of policy, any change of objective. We know that from the beginning of American intervention, U.S. policy has clung tenaciously to the goal of establishing a "free world bastion"—that is, an outpost of Empire—in Indochina. We know that the presence of a Communist regime in Indochina has been viewed as a threat to the "national security" of the world's foremost power—a threat so formidable that all means short of total annihilation could be invoked in the attempt to extirpate it. And we know that the men who held these views and acted in accord with them fiercely resisted any suggestion that they might have been mistaken. Most of the time, however, they simply ignored that possibility.

The basic considerations that govern American policy toward Southeast Asia were articulated by the National Security Council as early as January, 1954, in a statement approved by President Eisenhower. Its fundamental premise was that "Communist domination, by whatever means, of all Southeast Asia would seriously endanger in the short term, and critically endanger in the longer term, United States security interests. The statement emphasized that "in the conflict in Indochina, the Communist and non-Communist worlds clearly confront one another in the field of battle." The loss of that struggle, it warned, "would have the most serious repercussions on the U.S. and free world interests," might lead to Communist takeover of all of Southeast Asia, Indonesia, and India, and "endanger the stability and security of Europe."

This was the domino doctrine in its most primitive form, but American policy makers found it powerfully persuasive. On its strength, the National Security Council went on to contemplate the possibility that the United States might "become involved in an all-out war with Communist China, and possibly with the USSR and the rest of the Soviet bloc, and should therefore proceed to take large-scale mobilization measures."

In National Security Council Paper Number 5809, dated April 2, 1958, President Eisenhower directed the Government to "work toward the weakening of the Communists of North and South Vietnam in order to bring about the eventual peaceful reunification of a free and independent Vietnam under anti-Communist leadership."

From time to time, question about the inherent logic of U.S. policy were raised even within the national security establishment. Invariably, such challenges were brushed aside. In June, 1964, President Johnson asked the CIA whether "the rest of Southeast Asia necessarily [would] fall if Laos and South Vietnam came under North Vietnamese control." The agency replied:

"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."

That CIA analysis—a categorical rejection of the domino doctrine—was part of the agency's pessimistic assessment of the results likely to be attained by the bombing program that was about to win the Administration's approval. The CIA assessment was ignored. Five years later it was repeated, almost verbatim, for the benefit of the Nixon Administration, and again it was ignored. If President Nixon had pulled U.S. troops out of Vietnam at the beginning of his Administration and opened the way for Communist rule in Saigon, the CIA found, "We would lose Laos immediately. Sihanouk would preserve Cambodia by a straddling effort. All of Southeast Asia would remain just as it is at least for another generation." That vision of the future, we know now, did not suffice for a President determined to keep America from becoming "a pitiful, helpless giant."

The CIA memoranda, it should be understood, were rare examples of fundamental dissent in what was normally a monolithic planning process pursued by men who quarreled over tactics, usually agreed on strategy, and rarely indulged in introspection over basic goals. "There appears to have been, in fact, remarkably little latitude for reopening the basic question about U.S. involvement in the Vietnam struggle," the Pentagon's historians pointed out. Such major decisions as the landing of U.S. Marines at Danang in March, 1965—a "pivotal" move that set the stage for a U.S. land war in Asia—were made "without much fanfare—and without much planning."

Daniel Ellsberg, the former Vietnam planner whose act of conscience has made it possible for us to know what we now know, recalls no instance when considerations of morality entered into the planning process. Ellsberg's former chief in Vietnam, Major General Edward G. Lansdale, the original "Quiet American" who headed the pacification program, confirms the recollection. "We really didn't get into that type of discussion," Lansdale told *The New York Times*. "There was too much to do every day with immediate problems."

We know now that it was absurd to suggest, as each of our recent Presidents has suggested, that if-we-only-knew-what-they-knew we would cheerfully endorse their policies. We know now how little they really knew, and how often what they thought they knew had no relation to reality. We know that on the few occasions when those who did know tried to break through with the facts, their efforts were frustrated and even punished.

When the National Security Council met on August 26, 1963, Paul H. Kattenburg, a career Foreign Service Officer with ten years of direct experience with Vietnam, tried to tell President Kennedy's advisers that they were embarked on a disastrous course. "At this juncture," Kattenburg told Vice President Johnson, Rusk, McNamara, Taylor, and the others there assembled, "it would be better for us to make the decision to get out honorably." Support for the Saigon regime was dwindling rapidly, he maintained, and America was wasting its prestige and staining its honor in a losing cause. Rusk dismissed his analysis as "speculative," Johnson and McNamara agree with Rusk, and Kattenburg was on his way out of responsibility for Vietnam planning. His duties in the past eight years have included a stint as second in command of the American mission in Georgetown, Guyana. He will retire this month as an instructor at the Foreign Service Institute in Arlington, Virginia.

Under Secretary of State George W. Ball was luckier. A persistent advocate of "compromise solutions" in Vietnam, he was installed in the Johnson Administration as the "devil's advocate" in residence—a sort of latter-day court jester whose dissents were tolerated and even encouraged to demonstrate the Administration's willingness to hear—and ignore—all points of view. Ball enjoyed a monopoly in that role. When McNamara, deeply disillusioned with the failure of the war he had programmed with the latest scientific management techniques, began in 1966 and 1967 to disavow the views he had formerly espoused, there was no choice for him but to depart. In 1964, the Pentagon's "Sigma" war games had indicated that a direct bombing campaign directed at North Vietnam would not bring the enemy to its knees. The result of "Sigma" were dismissed. In 1967, McNamara concluded that the "Sigma" forecast had been correct. He was dismissed.

Walt W. Rostow, who succeeded McGeorge Bundy as Johnson's principal adviser on national security affairs, was not dismissed. For years he maintained that "calculated doses" of American airpower directed at North Vietnam would bring a halt to the insurrection in the South. For all we know, he still maintains, down in Austin, Texas, that it will.

We know now that the enemy knew all about what we were not permitted to know. We know that the elaborate secrecy precautions, the carefully contrived subterfuges, were intended not to deceive "the other side" but us. When President Johnson decided to widen the war in April, 1965, all members of the National Security Council received written instructions to this effect:

"The President desires that . . . premature publicity be avoided by all possible precautions. The actions themselves should be taken as rapidly as practicable, but in ways that should minimize any appearance of sudden changes in policy, and official statements on these troop movements will be made only with the approval of the Secretary of Defense, in consultation with the Secretary of State. The President's desire is that these movements and changes should be understood as being gradual and wholly consistent with existing policy:"

Was this designed to throw the enemy off guard? The enemy knew all about it. It knew when it began encountering American troops in combat. It knew when its bases and plants and homes and pogodas were being bombed.

It knew when its territory was invaded by infiltration teams and when its coast was harassed by South Vietnamese torpedo boats under American direction. I knew, but the American people didn't.

On July 10, 1965, the North Vietnamese Foreign Office produced—and Radio Hanoi broadcast to the world—a White Book on the Vietnam war. It was, as it turns out, a remarkably accurate document. It charged that American policy planners had decided at Honolulu in June, 1964, "to extend the war to North Vietnam in the form of destruction by air and naval forces." According to the Pentagon archives, Ambassador Henry Cabot Lodge had proposed at Honolulu a "selective bombing campaign against military targets in the North," and had won the backing of McNamara and Rusk.

"Since the beginning of 1964," Hanoi's White Book declared, "the U.S. ruling circles have many times discussed the policy of extending the war to North Vietnam. The strategists of the U.S. White House and Pentagon have worked out many plans on this question, of which Plan Number 6 of the Walt W. Rostow, the chairman of the policy planning staff of the U.S. State Department, is the most noteworthy." The Pentagon papers show such planning was constant and intense, and that Rostow submitted memoranda to McNamara and Rusk calling for increasing commitments of airpower and ground forces.

Rostow's proposals, according to the White Book, were "replenished and amended by John McNaughton, U.S. Assistant Defense Secretary, and now bear the name of the McNaughton Plan, calling for bombing and strafing raids on North Vietnam by the U.S. Air Force." The Pentagon archive includes McNaughton's draft of a "proposed course of action" on March 24, 1965, calling for increased air assaults on the North as well as an expanded role for U.S. "combat support" personnel.

A statement issued in December, 1965, by Nguyen Huu Tho, the chairman of the National Liberation Front, asserted that the United States had been operating under a "McNamara Plan" which was "aimed at pacifying the South within the two years of 1964 and 1965." This evolved, Tho added, into "a defensive strategic plan but also representing a new and greater effort by the U.S. imperialists to improve the critical situation of the puppet government and forces and to concentrate their forces on pacifying the main area under the Front's control." Three years later, when General William C. Westmoreland relinquished his Vietnam command, he recalled that the strategy for 1964-1965 had been first to halt a "losing trend" and pacify populated areas. In 1965, Westmoreland said, "the U.S. mission's efforts to support pacification . . . continued to be hampered by political instability."

Such statements by North Vietnam or the Vietcong received scant attention in the American media. They were merely "Communist propaganda," and our Government, which knew better, hardly bothered to issue rebuttals.

We know now that America spurned every opportunity to recognize the struggle in South Vietnam for what it was—a civil war waged by insurgents who were determined, first of all, to attain national sovereignty and independence. As a fledgling empire experimenting with the techniques of international manipulation and intrigue, we could not conceive our enemies were not equally subject to manipulation. It was—it had to be—obvious that the insurgents in black pajamas were no more than tools of Hanoi, of Peking, of Moscow.

The CIA had reported back in the Eisenhower Administration, that the American-backed Diem regime "almost certainly would not be able to defeat the Communists in countrywide elections." Yet the United States assumed—and continues to assume—that the insurrection had no popular base in the South and could not survive if Hanoi were forced, in Dean Rusk's memorable phrase, "to stop doing what she is doing."

In 1961, when the Kennedy Administration initiated covert hostilities against the North, a State Department White Paper cited "ominous" evidence of increasing infiltration of fighting men and supplies into the South, though it acknowledged that many of these were Southerners who had gone North after Diem had canceled the 1956 elections provided for by the Geneva Accords. In 1962, however, a close Kennedy adviser, Michael Forestal, reported that "the vast bulk of both recruits and supplies come from inside South Vietnam itself." In 1963, William Jorden, the Vietnam expert who had written the 1961 White Paper, was dispatched on a three-month fact-finding trip to prove the thesis of major aggression directed by North Vietnam against the South. He returned with the news that "we are unable to document and develop any hard evidence of infiltration."

Jorden's report caused consternation in the Special Group Counter-Insurgency, which President Kennedy had established under the direction of his brother, Robert, and General Maxwell Taylor. Charles Maechling Jr., staff manager of the Special Group, recalled the April 5, 1963, meeting last year in an article for the *Foreign Service Journal*. "To the utter astonishment of those who heard [Jorden's] briefing, and Attorney General Kennedy's cross-examination of him, this supposedly honest observer found nothing to indicate that the insurgency was anything but homegrown," Maechling wrote, "Until 1964 all the military advisers back from Vietnam made the same report: There was plenty of instigation from the North—but hardly 'massive aggression'."

The Pentagon itself concluded that "the vast majority of Vietcong troops are of local origin," and found "little evidence of major supplies from outside sources. . . . Most arms being captured or stolen from GVN [South Vietnamese] forces or from the French during the Indochina war."

On August 18, 1964, a cable from the U.S. mission in Saigon (which called for "a posture of maximum readiness for a deliberate escalation of pressure against North Vietnam") still referred to the basic problem in the South as "the VC insurgency." Three months later, however, a DRAFT POSITION ON SOUTHEAST ASIA circulated by Assistant Secretary of State William P. Bundy set out his plan to "publicize the evidence of increased infiltration" from North Vietnam along with explanations of "the differences between the present estimates and those given in the past."

The same draft paper proposed a system of "graduated military pressures against North Vietnam" and declared that the United States "would be alert to any sign of yielding by Hanoi, and would be prepared to explore negotiated solutions that attain U.S. objectives in an acceptable manner. The United States would seek to control any negotiations and would oppose any independent South Vietnamese efforts to negotiate."

We know now that peace has never been on the American agenda. Hanoi knew it as long ago as 1965. Its White Book that year declared that while "the U.S. President was prattling about his hoax of unconditional discussions, the U.S. imperialists took new and very cynical and dangerous steps in their policy of war adventure." North Vietnamese Premier Pham Van Dong said in September, 1965: "President Johnson talks about peace in an attempt to cover up his war schemes. The more he talks about peace, the more he steps up the war."

But President Johnson's was not the first Administration to fear that peace might break out in Vietnam. In the Kennedy Administration, in a memorandum to Rusk on August 30, 1963, Assistant Secretary of State Roger Hilsman urged U.S. help and encouragement to those plotting a coup against Ngo Dinh Diem on grounds that Diem might move toward "neutralization negotiations" with the Communists.

In March, 1964, President Johnson wasted no words in disposing of the idea of peace negotiations looking toward a neutralized Vietnam—an idea that had been advanced by French President Charles de Gaulle and the Secretary General of the United Nations, U Thant, among others. "It ought to be possible to explain in Saigon," Mr. Johnson cabled Ambassador Lodge, "that your mission is precisely for the purpose of knocking down the idea of neutralization wherever it rears its ugly head and on this point I think that nothing is more important than to stop neutralist talk wherever we can by whatever means we can."

"We must continue to oppose any Vietnam conference," William Bundy wrote in a memorandum on August 11, 1964, and America did. When Washington set out its terms for negotiations, the Pentagon historians observed, the conditions were "tantamount to unconditional surrender" for the other side. In 1965, McNamara proposed diplomatic overtures "laying the groundwork for a settlement when the time is ripe," but the Pentagon historians note that this "amounted to little more than saying that the United States should provide channels for the enemy's discreet and relatively face-saving surrender when he decided that the game had grown too costly."

While President Johnson was proclaiming periodic bombing pauses and avowing his eagerness to "go anywhere, any time" for peace, the State Department prudently cautioned embassies abroad: "Insofar as our announcement [of a bombing pause] foreshadows any possibility of a complete bombing stoppage, in the event Hanoi really exercises reciprocal restraints, we regard this as unlikely. . . ."

We know now that the pious affirmations of America's commitment to "the Vietnamese people and their right to self-determination" were hypocritical cant. We thought at the time that Washington had no business telling the Vietnamese what was good for them; we know now that Washington wasn't telling them that at all—it was merely telling them what was good for *us*.

"We are there, first, because a friendly nation has asked us for help against the Communist aggression," President Johnson solemnly declared in his State of the Union address on January 4, 1965. Ten weeks later, Assistant Secretary of Defense McNaughton, writing in the best style of the Pentagon systems analysts, offered a more accurate appraisal of "U.S. aims":

"Seventy per cent—To avoid a humiliating U.S. defeat (to our reputation as guarantor).

"Twenty per cent—To keep SVN (and the adjacent) territory from Chinese hands.

"Ten per cent—To permit the people of SVN to enjoy a better, freer way of life.

"ALSO—To emerge from crisis without unacceptable taint from methods used.

"NOT—To 'help a friend,' although it would be hard to stay in if asked out."

The attitude of American bureaucrats toward their official clients in Saigon was the lace curtain counterpart of the treatment dealt out to "drinks" and "slopes" and "gooks" by American soldiers in the field. Diem had once been celebrated by Lyndon Johnson as "the Churchill of Asia," but Hilsman's memo calling for his overthrow proposed that the United States "encourage the coup group to fight the battle to the end and to destroy the palace if necessary to gain victory." On November 1, 1963, when Diem's palace was under siege, he placed a pathetic last call to Ambassador Lodge, who preserved the icy dignity appropriate to a

proconsul of Empire dealing with lesser breeds without the law. Diem asked what was "the attitude of the United States" toward the coup, and Lodge, who had been urging its support for many months, replied: "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." This exchange followed:

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 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. . . . If I can do anything for your physical safety, please call me.

We know that monstrous arrogance accrues to those who wield the vast power of the State without being held accountable to the people. As early as 1954—and as late as 1964—they seriously (and calmly) contemplated the possibility of using nuclear weapons in Indochina. They called their "conventional" bombing campaign "Rolling Thunder" and said it was "cheap." They disposed of mere mortals in the manner of Olympian gods. In the draft of his Plan of Action for South Vietnam on March 24, 1965, McNaughton wrote:

"It is essential—however—badly SEA (Southeast Asia) may go over the next one to 3 years—that U.S. emerge as a 'good doctor.' We must have kept promises, been tough, taken risks, gotten bloodied, and hurt the enemy very badly. We must avoid harmful appearances which will affect judgments by, and provide pretexts to, other nations regarding how the United States will behave in future cases of particular interest to those nations—regarding U.S. policy, power, resolve, and competence to deal with their problems."

Their game was power, and it was the only game worth playing. Taylor impatiently complained that "there was a danger of reasoning ourselves into inaction," the Pentagon historians recall. "From a military point of view," Taylor said, "the United States could function in Southeast Asia about as well as anywhere in the world except Cuba." Assistant Secretary of State William Bundy asserted that "basic doubts of the value of Southeast Asia and the importance of our stake there" could be disposed of by mounting an "urgent public relations campaign. Walt Rostow, ever the effervescent optimist, assured Dean Rusk:

"I know well the anxieties and complications on our side of the line. But there may be a tendency to underestimate both the anxieties and complications on the other side and also to underestimate that limited but real margin of influence on the outcome that flows from the single fact that we are the greatest power in the world—if we behave like it."

Part of behaving like it, we know now, was to transform the language into something unrecognizable and unrelated to human beings. They wrote "scenarios" for "carrot-and-stick approaches" and for "progressive squeeze-and-talk" techniques. They planned "an orchestration of communications" and "a crescendo of additional military moves against infiltration targets." They "interdicted" and "defoliated" and carried out "surgical strikes" against "targets of opportunity." They issued "signals" and conducted "limited external actions" which carried a promise of "assured destruction." They coined a thesaurus of synonyms for death.

We know now that war crimes were committed in our names—not little war crimes of the kind for which we prosecute Lieutenant Calley and Captain Medina, but big war crimes like those for which we executed our fascist enemies only a quarter of a century ago. The Nuremberg Charter—*our* Nuremberg Charter—outlaws the "planning, preparation, initiation, or waging of a war of aggression or a war in violation of international treaties, agreements, or assurances." The Charter of the United Nations—*our* U.N. Charter—provides that parties to an international dispute must seek a solution by negotiation or other peaceful means, refraining from force or the threat of force.

We know now how and why and by whom a million people or more were destroyed. Only one major question remains unanswered, and the answer will not be found in further Pentagon disclosure, or in court proceedings, or even in Congressional investigations. It is a question we must answer for ourselves.

Now that we know what we know, what are we going to do?

UNITED STATES-CHINA POLICY

Mr. JAVITS. Mr. President, I ask unanimous consent to have printed in the RECORD the text of my testimony on United States-China policy, given before the Senate Committee on Foreign Relations, on June 24, 1971. The hearings of the Foreign Relations Committee on China policy have attracted major new public attention pursuant to President Nixon's announcement on July 15 of his forthcoming trip to the Peoples' Republic of China. My request to have my statement during those hearings printed in the RECORD—although my statement preceded the President's announcement by 3 weeks—results from the numerous requests I have received for it from persons interested in the process of rethinking of China policy now underway in the Congress as well as within the executive branch.

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

U.S. CHINA POLICY, TESTIMONY OF SENATOR JAVITS, A MEMBER OF THE FOREIGN RELATIONS COMMITTEE DELIVERED AT THE COMMITTEE'S HEARING ON U.S. CHINA POLICY THURSDAY, JUNE 24, 1971, ROOM 4221 NSOB, 10 A.M.

Despite the important changes which have already occurred in the tone and substance of U.S.-China relations over the past six months—and the pace of those changes has been swift—the U.S. faces the danger of being overtaken by events respecting the evolution of a new relationship with the Peoples Republic of China. A very important "moment of truth" on the question of China's representation in the United Nations toward the end of this year will occur. In my judgment, it is important that the Senate express its "advice" on this crucial policy issue, especially as the record still shows the Senate to be in a position of categoric opposition to the admission of the Peoples Republic of China into the United Nations.

With nine cosponsors, I introduced S. Res. 37 on February 2 of this year. This resolution grew directly out of my experience as a delegate to the United Nations General Assembly in the fall of 1970, where I was assigned responsibility for the Chinese Represenation issue. At that time, I was instrumental in bringing about a shift of emphasis in the U.S. position—away from opposition to Peking's admission, with emphasis rather on preserving representational rights for the Republic of China on Taiwan.

I feel that my sense of urgency was justified by the outcome of the General Assembly vote, in which a majority—for the first time—supported the Albanian resolution calling for the admission of the Peoples Republic and the explusion of the Republic of China. The effect of the majority vote in favor of the Albanian resolution was obviated by the U.S.-sponsored "Important Question" resolution which established that any change in Chinese representation was an important question requiring a two-thirds majority.

It now appears highly doubtful—even if it were desirable—that the Important Question device could again succeed in obviating the Albanian formula, if those are the only two choices presented to the General Assembly this fall. Clearly, a new approach is needed urgently if the United States is not to invite a major diplomatic defeat.

Much more than "face" is involved, in my judgment. Another "winner-take-all" collision—regardless of its outcome—could seriously jeopardize further progress in normalizing U.S.-China relations—a goal which now seems to have high priority both in Washington and Peking. It would be much harder for the Nixon Administration to move forward in achieving better relations with the Peoples Republic, if Peking succeeds in gaining admission under the harsh and vindictive terms of the Albanian resolution. Peking itself probably understands this, too.

Given the history of the past 20 years in the U.N., for which the United States is appreciably responsible, adoption of the Albanian resolution would inevitably constitute an historic diplomatic rebuff for the U.S. in the United Nations—perhaps causing a backlash of U.S. public opinion against the U.N. which could seriously damage the U.N. itself.

Moreover, if the Republic of China is expelled from the U.N. under the terms of the Albanian resolution, the U.N. could, in effect, be taking a position that Taiwan is rightfully part of the territory of the Peoples Republic of China. In any case, under such circumstances, Peking would undoubtedly press its claim to possession of Taiwan as vigorously as possible, perhaps even to the point of securing a resolution condemning the U.S. for its treaty to defend Taiwan.

There have been subtle indications that Peking—without relinquishing its longstanding claims—may well prefer to avoid a serious diplomatic confrontation with the U.S. over the status of Taiwan, at least at this time. The emphasis in Peking's recent statements regarding Taiwan has been on the withdrawal of U.S. military forces from Taiwan—rather than on earlier demands for a repudiation of the U.S.-Republic of China defense treaty, or for the immediate handover of Taiwan. If Peking is willing to "bend" on Taiwan, the chances for finding a new Chinese representation formula would be enormously increased.

Peking's emphasis on the removal of U.S. forces stationed on Taiwan may well be related to its fear that the potent U.S. nuclear capacity on Okinawa will be transferred to Taiwan, pursuant to the return of Okinawa to Japan. Peking may also be seeking to test the "sincerity" of the Nixon doctrine, with its emphasis on the pull-back and noninvolvement of U.S. forces in Asian nations on China's periphery.

The U.S. has already ceased patrols of the Taiwan Straits by units of the Seventh Fleet—a measure initiated during the Korean War. Peking responded favorably and quickly. I see no reason why the U.S. cannot declare its intention to remove its forces from Taiwan, concurrently with the withdrawal of U.S. forces from Vietnam. Such a demonstration of U.S. flexibility and sensitivity to Peking's military fears could help promote further flexibility in Peking.

A Military Assistance Advisory Group (MAAG) of appropriate, modest size is all that is needed, even under the terms of our

mutual defense agreement. Peking lacks the military capacity to seize Taiwan by amphibious or airborne attack—and shows no plans of acquiring the necessary capacity in the near future.

Accordingly, I would urge the Administration to issue a declaration of intent to withdraw U.S. forces from Taiwan, concurrently with the withdrawal from Vietnam—as an important and timely element in the effort to defuse the Chinese Representation status of Taiwan issues before the pressure of time locks us (and Peking) into our old positions of confrontation in the U.N. this fall.

In reviewing the terms of S. Res. 37—which was introduced back on February 2—I am struck by how much forward movement has been achieved in the direction advocated by its terms respecting overall U.S.-China relations. We have had, of course, the dramatic break-through of "ping-pong" diplomacy.

Also, I wish to take this opportunity to commend President Nixon for his important initiatives respecting trade regulations, the lifting of travel restrictions, and the continued projection of a diplomatic posture of reconciliation with mainland China. Moreover, the press has carried numerous reports of intensive reviews, discussions and diplomatic exchanges by the Nixon Administration respecting a new position of the Chinese representation issue. The task is not simple but the timing is urgent.

The time has now come, in my judgment, for the U.S. to play an active role in finding a new formula which will provide for U.N. membership for the People's Republic of China, carrying with it occupancy of the permanent seat on the Security Council and to provide for continuing U.N. membership participation for the Republic of China on Taiwan. This is clearly the best policy for the U.S., and I believe that it is at least an interim solution which would command broad support in the General Assembly.

It is possible that either or both Peking and Taipei might refuse to participate in the U.N. under the conditions I have suggested. That would be most regrettable, in my judgment. Nonetheless, the door would always then be open to both to participate—and at a minimum, the absence of Peking from the U.N. no longer would be the result of an outmoded, unrealistic and counterproductive policy of the U.S.

A number of the younger, more "left" inclined U.S. China scholars have advocated that the U.S. accept Peking's terms respecting the status of Taiwan, as the price of better relations and securing Peking's participation in the U.N. I disagree with this view for several reasons. First, I am convinced that such a course by the U.S. would, in my judgment, virtually assure the ascendancy of the harder-line elements in Peking and reinforce Peking into its old position of intransigence and militancy—a position which Peking now seems very desirous of modifying. Any "half-way" abandonment of Taiwan by the U.S., far from improving relations, could soon lead to a serious confrontation between the U.S. and the People's Republic.

Second, a policy of total abandonment is a wrongful and impossible course for the U.S. Leaving aside moral considerations, abandoning Taiwan would make sense only if the U.S. pursued a policy of radical detente with China, aimed at establishing a close Washington-Peking axis as the foundation of our Asia policy. Such a radical policy is neither desirable or possible, in my judgment. Our relations with mainland China is a key element of our Asian policy—but must always be judged in the context of overall Asia policy. It is in this crucial regard that the U.S. must shape its China policy in consonance with our relations with Japan and our other Asian friends and allies. Their interests and their attitudes are important, and sometimes complicating factors. This is especially true respecting the question of Taiwan, an issue of great importance to Japan particularly.

The challenge of finding a way to bring the Peoples Republic of China into the council of nations on terms which are at least minimally tolerable to the parties concerned is one of the most urgent now facing the Nixon Administration. In importance, it perhaps ranks only behind the SALT negotiations and ending the Vietnam War—and it is closely related to both of these efforts.

Over the perspective of a decade, the greatest benefit likely to flow from Peking's participation in the U.N. will be the engagement of Peking in the international nuclear arms control negotiations and agreements conducted under U.N. auspices. I feel that there are now mutually compelling reasons for Washington and Peking also to work together in the international arms control field. China's attitude toward SALT ought to be a benign one. Like Washington and Moscow, Peking too stands to gain from a SALT agreement restraining the nuclear arms race, for superpower nuclear might be an even greater potential threat to China than it is to the U.S. or Russia—and in recent years Peking has been on different occasions in a posture of confrontation with both superpowers. Even if relations between Peking and Moscow continue to deteriorate, a SALT agreement could nonetheless benefit Peking by reducing the chances that the USSR will acquire a strategic posture allowing it the option of a preventive nuclear first strike against China.

The U.S. has a particular incentive in bringing China into nuclear arms control arrangements because, even under the Nixon Doctrine, the U.S. is pledged to provide a "nuclear shield" to our Asian friends and allies along China's periphery. Thus, under the Nixon Doctrine, the chances of nuclear embroilment with China might be greater than conventional embroilment of the Vietnam or Korea varieties. Accordingly, a key element in the success and viability of the Nixon Doctrine strategy could be the achievement of nuclear arms control arrangements with China.

Peking too has a special incentive to support international nuclear arms control agreements in the post-Vietnam period. The Non-Proliferation Treaty is central in this respect, for the two nations generally deemed most likely to "go nuclear" are India and Japan—China's greatest potential rivals and enemies in Asia. China clearly has major incentive in preserving the inhibitions against India or Japan "going Nuclear"—for China's strategic position would be gravely deteriorated if Peking were faced not only with a nuclear USSR and USA but also nuclear close neighbors of such consequence as India and Japan.

In closing, let me reiterate my strong feeling that an important new tide is flowing in U.S.-China relations—potentially a very benign tide—and this is without any derogation of my every wish to seek detente and accommodation with the USSR. Nonetheless, I perceive a danger that the tide could be diverted into most troublesome channels, if a day is not found to handle the Chinese representation on question in the U.N. General Assembly this fall.

UNIVERSAL VOTER REGISTRATION FOR FEDERAL ELECTIONS

Mr. KENNEDY. Mr. President, later this week, on behalf of myself and a number of other Members of the Senate, I plan to submit an amendment to S. 382, "The Federal Election Campaign Act of 1971." The purpose of the amendment is to establish a system of universal voter registration for the Nation. The amendment would contain the following principal provisions:

First, it would provide a simple post card system of voter registration, in which any citizen could register to vote merely by filling out a post card application form.

Second, burdensome residence requirements under existing laws would be abolished. Simply by filling out the address of his residence on the post card form, a citizen would establish his voting residence.

Third, a new computerized agency created within the Census Bureau—the Universal Voter Registration Administration—would process the post card forms, compile voting lists by precinct throughout the country, and make the lists available to State and local election officials at appropriate times before any election.

Fourth, use of the new system would be mandatory for all Federal elections and optional for State and local elections. Where the system is used for State and local elections, however, the Federal list must be accepted intact. No person entitled to vote in Federal elections can be deleted from the list for failure to meet other qualifications.

The time has come to take another major step forward in our national quest for universal suffrage. To be sure, we have made great strides in recent years. But always in the past, our efforts have ignored one of the most burdensome qualifications for voting—the requirement of registration, a requirement that operates to disfranchise tens of millions of Americans in every Federal election.

The history of the Nation since the Civil War is marked with significant milestones along the route we have taken to broaden our democracy and increase the base of participation by our citizens in the political life of the Nation. We have forbidden the use of race or sex as a qualification for voting. We have outlawed poll taxes. We have granted the franchise to citizens of the District of Columbia in presidential elections. A long line of civil rights acts and court decisions, especially in the decade of the fifties and sixties, has expanded the right to vote and ended many of the most flagrant discriminations against citizens at the polls. And, only last year, we lowered the voting age to 18, thereby giving the franchise to millions of young Americans who had been forced to bear all the other burdens and responsibilities of citizenship, but had been denied the most basic right of all in our democratic society, the right to vote.

Now that we have stripped away so many other blatant impediments to the right to vote, the existing practices of voter registration in America can be seen all the more clearly for what they are—an arbitrary, obsolete, and unfair system by which vast numbers of Americans are silenced at the polls. In spite of the progress we have made in extending the franchise, the voting record of America ranks among the worst of all the great democracies of the Western world.

Of the 120 million potential voters in the presidential election of 1968, only 73 million—or 61 percent—actually went to the polls. Forty-seven million people stayed home, at a time when the winner—President Nixon—was receiving only 31 million votes. Incredible as it may seem, half again as many people stayed away from the polls as voted for the man who is our President.

In 1970, in Britain, by contrast, 72 percent of the eligible voters went to the polls, and yet they called it one of the lowest turnouts in history, the lowest since 1935. In the most recent elections in other democratic nations, the turnout has been even higher—75 percent in Ireland, 76 percent in Canada, 80 percent in France, 87 percent in West Germany, 89 percent in Sweden and Denmark.

The low turnout of American voters has been a consistent flaw in the political life of our Nation for many years. In the presidential election of 1900, the turnout was 73 percent. Not once since then has our voter turnout exceeded 66 percent. Seven times it fell below 60 percent. Twice, in 1920 and 1924, it fell below 50 percent.

And yet, it has not always been this way. Throughout the greater part of the 19th century, voter turnout in our presidential elections ranged in the neighborhood of 70 to 80 percent. The highest turnout was in 1876, when 82 percent of the potential voters went to the polls. The lowest was in 1852, when "only" 70 percent did so.

It is no coincidence, therefore, that the turn of the century, which saw the advent of voter registration, also saw a sharp decline in voter turnout. According to a recent study, registration was adopted at the turn of the century partly for the worthy purpose of prohibiting the abuses of machine politics in the growing cities of the North, and partly for the darker purpose of disfranchising black citizens in the South. Today, as this history strongly implies, the requirement of voter registration is the largest single obstacle to the right to vote in America.

The figures in 1968 tell the story. Of the 120 million potential voters in the presidential election of 1968, only 82 million—or 68 percent—were registered to vote and therefore eligible to go to the polls on election day. But of that number, fully 73 million, or 89 percent, actually went to the polls and cast their ballots.

The lesson is clear. Americans who are registered are Americans who vote. Of the 47 million citizens who stayed home on election day, the overwhelming majority—38 million, or 81 percent—were not registered to vote. Only 19 percent of those who stayed home were citizens who were registered to vote.

THE PRESENT SYSTEM OF VOTER REGISTRATION

Clearly, the paramount cause of America's dismal record of voter participation today is our inadequate system of voter registration. Virtually without exception, the registration laws of the 50 States and the District of Columbia are a nightmare of confusing, conflicting, and overlapping requirements, ranging from Missouri, which has six different registration systems for cities, depending on their size, and a seventh system available to counties at their option, to North Dakota, which has no statewide laws requiring voter registration, although local jurisdictions may do so at their option.

Typically, State and local registration rolls are unwieldy, inaccurate, and obsolete. A large percentage of the names are persons no longer qualified to vote because of death, conviction of a crime, change of residence, or other reasons. In order to keep the lists at least reasonably current, the States are driven to the use of arbitrary rules, such as the disqualification of voters who fail to vote in a previous election, or requirements of annual or periodic reregistration.

The burdens of our present system of voter registration are multiple. Frequently, they are a thin disguise for blatant racial discrimination against the right to vote. The hearing records of Congress during the debates of the Voting Rights Act of 1965 and its extension in 1970 are replete with examples of such discrimination.

For some citizens, registration means loss of income through loss of time on the job or time away from business. Many individuals simply cannot take time off to register during working hours, and are thereby relegated to the status of second-class citizens.

For others, the most important burden is the sheer difficulty and inconvenience of the registration process. Too often, registration is an obstacle course for the voter instead of the incentive to total participation it ought to be. The obstacles are enormous. Many citizens find it difficult to determine where and when they can register. They refuse to endure the long lines and waiting periods. They are baffled by the inaccessibility of registration offices. In some States, registration offices may be open only a few hours a day or week. Other States prohibit precinct, neighborhood, or mobile registration. They allow registration only in the county courthouse, which may require a trip downtown or even out of town. Frequently, the expense of the trip itself is sufficient to inhibit registration—a de facto poll tax that frustrates the right to vote.

For still others, there is the problem of early registration deadlines. In a number of States, the registration books close weeks or months before the election, and there is no opportunity whatever to register in the period immediately preceding the election. In Mississippi, the registration offices close 4 months before the election—the rolls are routinely purged after the deadline, so that a citizen erroneously removed from the list has no opportunity to register again. In 14 other States with early registration deadlines—Arizona, California, Colorado, Georgia, Hawaii, Kentucky, Michigan, Montana, Nevada, New Jersey, New Mexico, Ohio, Pennsylvania, and Rhode Island—the registration books close more than a month before the election.

For yet another group of citizens, especially those who travel frequently, who are away from home for extended periods, or who are ill or disabled, the problem is the lack of any procedure for absentee registration. Although virtually every State has established absentee voting procedures, few have taken the additional step of establishing absentee registration procedures as an alternative to the traditional requirement that registration must be in person.

And finally, for another substantial group of citizens, the burden is one of unreasonable reregistration requirements. In Texas, for example, annual reregistration is required, a procedure declared unconstitutional by a Federal district court earlier this year and now subject to an appeal. Other States require voters to renew their registration so frequently that many citizens simply find themselves unable to keep up with the requirements. Often a citizen arrives at the polls to vote, only to be told that his registration has been canceled because he failed to vote in the previous election, even though he was never given notice of the cancellation.

An especially insidious aspect of the problem of registration is the evidence that the burden of State and local registration requirements falls most heavily on the poor, the black, the uneducated, and manual and service workers. For example, according to a census study of the 1968 election, 87 percent of those with a college degree are registered to vote, whereas only 49 percent of those with 1 to 4 years' education are registered. And, two decades of hearings in Congress on Civil Rights Acts and Voting Rights Acts have overwhelmingly demonstrated the ease with which voter registration requirements lend themselves to discriminatory application.

THE BURDEN OF RESIDENCE REQUIREMENT

Impediments to the right to vote of a different sort, but no less burdensome for millions of citizens, are the hundreds of different State and local residence requirements that now exist throughout the Nation. Typically, under present voting laws a potential voter must fulfill three different resident requirements before he is entitled to vote—he must have resided in his State for periods ranging from 6 months to a year; he must have resided in his county for periods from 30 days to 6 months; and, he must have resided in his precinct for periods from 10 to 30 days. In some jurisdictions, the minimum residence requirement is lower; in many, it is substantially higher.

In the quieter and less mobile era of our history when these residence requirements were imposed, the burden was not as huge as it is today. The Census Bureau estimates that every year, 20 million Americans, or 10 percent of the population, move their residence from one State to another. On the average, each family in the Nation moves its residence once every 4 years.

The plight of the disfranchised mobile voter in America is well known, and no extended discussion is needed here. As many experts have noted, the right of a citizen to travel freely from State to State is one of our fundamental rights protected by the Constitution, and the exercise of that right should never trigger the loss of an even more basic constitutional right, the right to vote.

Last year, as part of the statute low-

ering the voting age to 18, Congress took a significant step to alleviate the burden of so-called "durational" residence requirements by reducing such requirements to 30 days for voting in presidential elections.

Now the time is ripe for Congress to go further, and there is growing sentiment in the Senate to make the same 30-day requirement applicable to all Federal elections. Indeed, a bill to this effect is about to be intrduced in the Senate by Senator JOHN TUNNEY of California, with strong bipartisan support, and similar legislation has already been introduced by Senator HAROLD HUGHES.

RACKGROUND OF EFFORTS TOWARD UNIVERSAL VOTER REGISTRATION

In recent years, discussions of various proposals to establish a system of universal voter registration for the United States have dwelled essentially exclusively on what may be called local action methods—that is, door-to-door canvassing at the local level—at the initiative of local jurisdictions. Each of two major studies of the decade of the sixties has recommended this approach, partly because it is the approach apparently responsible for the higher voter turnouts in foreign democracies, and partly because of philosophical and constitutional objections to methods relying on the initiative of the Federal Government.

The first study was made by the President's Commission on Registration and Voting Participation, established by President Kennedy in March of 1963, chaired by Richard Scammon, the Director of the Census Bureau at that time, and charged with the task of determining the reasons for low voter turnout in America, and recommending solutions. The Commission's report in November of 1963 was a major milestone in the analysis of the complex psychological and legal factors that lie at the heart of the problem.

The Commission made more than 20 major recommendations to end restrictive legal and administrative procedures inhibiting the right to vote. In the area of voter registration, the Commission urged the State to adopt procedures to make registration easily accessible to every citizen. As patterns to be followed, the Commission pointed to the example of Canada and noted a number of States and communities in America that had successfully used registration procedures involving door-to-door canvassing, deputy registrars, and mobile registration units.

The second major study was prepared by the Freedom to Vote Task Force, established by the Democratic National Committee in 1969 and chaired by Ramsey Clark, the former Attorney General of the United States. Notwithstanding its partisan sponsorship, the report of the task force, entitled "That All May Vote," is a persuasive nonpartisan document challenging the Nation to end the abuses we have endured for so long and to act to increase the strength of our democracy. As the report states:

People who vote believe in the system. They participate. They have a stake in government. But, to the nonparticipants their stake in government is not so apparent. Their alienation from the system is harmful not only in their own lives, but it threatens the survival of democracy itself.

Registration efforts must not be concerned with how people vote. The important consideration is that they vote. We can live with decisions made by a full electorate, but those who do not participate may be unwilling to live with decisions they had no voice in making. We must do everything within our power to encourage them to vote. Let the people choose.

The report of the task force made clear that voter registration is the real villain, the principal barrier that stands between the citizen and the ballot box. As in the case of the 1963 Commission study, the report pointed to the success of local action for voter registration in South Dakota, Idaho, and in parts of California and Washington, and urged a similar program for America. The proposal was introduced in legislative form in the 91st Congress by Senator INOUYE, a member of the task force, and it has been reintroduced as S. 1199 in the present Congress.

Because of doubts that have been raised about the feasibility of the local-action approach to voter registration, progress has been slow in efforts to implement such proposals. More and more, attention has turned to the alternative of a Federal system of voter registration to achieve the universal system we need.

The Senate took a major step in this direction last June, when it approved by the vote of 47 to 31 an amendment to the draft bill, authorizing Selective Service offices to register 18-year-olds to vote at the time they register for the draft. And Senator HUMPHREY is offering a similar proposal to use the facilities of the Internal Revenue Service to promote voter registration.

In large measure, recent Supreme Court decisions have eliminated possible constitutional objections to a Federal system of universal voter registration. Now and for the foreseeable future, I believe that such a system is the only hope we have for pulling ourselves out of the present morass of registration requirements.

THE SOUTH CAROLINA EXPERIENCE

In the face of growing demands imposed on outdated voter registration procedures, a number of cities and counties throughout the Nation have begun to use computers to modernize their procedures. In 1967, South Carolina became the first and only State to centralize its voters registration procedure through a computer system on a statewide basis Although registration in South Carolina continues to be initiated through the county registration boards in the State and citizens must still appear in person to register at the local boards, their applications are now forwarded to the State data processing office, where the information is stored and processed.

The familiar but cumbersome ledger books that used to form the registration record in South Carolina have now been replaced by magnetic tapes in a computer system. The records are continuously kept current through data provided to the State agency from various sources; for example, the bureau of vital statistics provides monthly reports on persons who have died, and the State and Federal courts provide data on persons convicted of crimes. Prior to the new system, the registration records were rarely cleaned for any reason.

On the basis of the data in the computer files, official lists of registered voters for each county and precinct are printed and made available to local officials 10 days before each State, county, municipal, or other election. Thus, it is no longer necessary to use the entire county ledger for a municipal election, or to copy manually from the county rolls the names of persons eligible to vote in elections held in smaller jurisdictions. Since the computer lists contain all the information provided by the voter when he registered, election officials are able to identify registrants easily at the polls. Under the previous system, only the voter's name and address were on the rolls.

As a result of the vastly increased efficiency of the new system, the county registration boards in South Carolina that used to be open only a few days a month are now open on a daily basis during normal courthouse hours. During the first year of the new system, 850,000 South Carolina voters were registered, the highest figure in the history of the State. The total cost of the computer portion of the system is approximately $170,000 a year, and the entire store of registration information is contained on five reels of computer tape.

A SYSTEM OF UNIVERSAL VOTER REGISTRATION FOR THE NATION

At a single stroke, the system of universal voter registration I favor would eliminate the arbitrary and unfair requirements of residence and registration that now operate to disfranchise so many of our citizens. Durational residence requirements would be abolished for Federal elections, and registration would involve a procedure no more complicated than filling out a post card form and placing it in the mail. Local control of the actual election process would remain unchanged, but virtually the entire financial cost and administrative burden of voter registration would be lifted from the States and transferred to the Federal Government.

The program would be administered by a new bipartisan agency to be established in the Census Bureau. Citizens would register to vote simply by filling out the post card form and mailing it to the new agency. Merely by specifying the address of his residence on the form, the citizen would determine his voting residence. There would be no requirement of residence for a specific period of time. The system would thus do away not only with burdensome registration requirements, but also with unfair residence requirements that operate to bar voters in almost every State.

With the assistance of computers, the information would be stored, divided according to election districts, and made available by the Census agency to appropriate State and local election officials, as the official list of eligible voters.

Use of the new voter registration list

would be mandatory in Federal elections, and optional for State and local elections. I believe, however, that the simplicity, efficiency, and cost savings of the system would lead to its rapid acceptance for State and local elections as well, so that within a brief period of time, the Nation would have a truly universal voter registration system for all elections. Our system of democracy deserves no less.

In its details, the system would function as follows:

First, a new bipartisan agency—the Universal Voter Registration Administration—UVRA—will be established in the Bureau of the Census to organize and administer a program of universal voter registration for all Federal elections, and to assist States in their registration for State and local elections. The UVRA will be authorized to establish State and regional data processing centers to carry out its functions. The agency will be under the direction of an administrator and two associate administrators, no more than two of whom can be members of the same political party. The new agency is created in the Bureau of the Census because that agency has established a long-standing reputation of efficiency and confidentiality, and has already developed the computer programs and technology essential to the implementation of a successful universal voter registration system.

Second, individuals will register to vote through post card voter registration forms, to be mailed free of charge to UVRA. The post card forms will be of the type which allows visual scanning by computers to read the information. They will be widely available in post offices and other Federal agencies, and will also be available to private voter registration groups. Where appropriate, bilingual forms will also be available. In addition, any State or local jurisdiction will be authorized to send its current registration records to UVRA for assimilation into the new Federal system.

Third, the information on the post card forms will include only the name, address, ZIP code, and date of birth of the individual, together with a statement that the individual is not disqualified from voting under State or local law by reason of conviction of a crime or adjudication of mental incompetence. In addition, the individual may specify his party affiliation if he wishes to register for primary elections. UVRA registration will remain valid for 4 years, or for longer periods according to State law.

Fourth, the post card form will also include a line for the signature or mark of the individual, and a statement of the penalty for fraudulent registration. The penalty will be a fine of not more than $10,000, imprisonment for not more than 5 years, or both. The form will also include a statement that the signature or mark of the individual attests to the accuracy of the information he provides on the form.

Fifth, UVRA registration will close 30 days before primary, general, or other elections. UVRA will compile lists of registered voters by local precincts and forward the lists to the appropriate State or local election officials. Simply by having his name on the list, any person will thereby be authorized to vote in Federal elections. States will be able to supplement and update the lists in advance of the Federal election. However, in cases where a State removes a name from the list, notice of the removal must be given promptly to UVRA and to the individual, together with the reason for the removal.

Sixth, use of the UVRA list will be mandatory for all Federal elections and optional for State and local elections. If State and local officials decide to use the UVRA lists for State and local elections, they may not delete anyone from the list for failure to meet other qualifications.

Seventh, UVRA will be authorized to establish appropriate procedures for individuals to verify their registration. It will also inform each voter of the location of his polling place, so that on election day every citizen will know where he must vote.

Eighth, to protect the right of privacy, UVRA information and voting lists will not be available to any other Federal agency and will not be made available by UVRA to any private source. In addition, UVRA will not draw on information collected for other purposes by other Federal data centers, such as the Internal Revenue Service or the Social Security Administration. The UVRA system will be used for voter registration and no other purpose. However, to the extent that State or local law requires voting lists to be publicized, UVRA information may become public at that level, although the information still may not be used by any Federal agency.

CONSTITUTIONAL JUSTIFICATION

In light of a long line of Supreme Court decisions in the area of voting rights in the decade of the sixties, and especially the decision by the Court in *Oregon* v. *Mitchell*, 400 U.S. 112 (1970)—the 18-year-old voting case decided last December—there is solid constitutional support for the establishment of a nationwide system of universal voter registration in the United States. Indeed, although the issue may be somewhat less clear-cut, there would also be ample constitutional justification for the extension of the Federal registration system to State and local elections as well.

As in the issues surrounding the Voting Rights Act Amendments of 1970, which Congress passed last year, the issue in the current context concerns the power of Congress to legislate by statute in the area of State and local election requirements.

There can be no question, of course, that the Constitution grants to the States the primary authority to establish qualifications for voting. Article I, section 2 of the Constitution and the 17th amendment specifically provide that the voting qualifications established by a State for members of the most numerous branch of the State legislature shall also determine who may vote for U.S. Senators and Representatives. Although the Constitution contains no specific reference to qualifications for voting in presidential elections or State elections, it has traditionally been accepted that the States also have primary authority to set the qualifications in these areas as well.

At the same time, however, these constitutional provisions are only the beginning, not the end of the analysis. They must be read in the light of all the other specific provisions of the Constitution, including the great amendments that have been adopted at various periods throughout the Nation's history. Most recently, a month ago, the 26th amendment, lowering the voting age to 18, became part of the Constitution, and conferred power on the Congress to enforce the new amendment by appropriate legislation.

The constitutional issues must also be interpreted in the light of the basic Supreme Court decisions interpreting the provisions in question. Although a State may have primary authority under article I of the Constitution to set voting qualifications, it has long been clear that it has no power to condition the right to vote on qualifications prohibited by other provisions of the Constitution, including the various amendments to the Constitution. No one believes, for example, that a State could deny the right to vote to a person because of his race or his religion.

Thus, the Supreme Court has specifically held that the equal protection clause of the 14th amendment itself prohibits certain unreasonable State restrictions on the franchise:

In *Carrington* v. *Rash*, 380 U.S. 89 (1965) the Court held that a State could not withhold the franchise from residents merely because they were members of the Armed Forces. Obviously, the rationale of this decision is directly applicable to the present national controversy over the voting residence of students.

In *Harper* v. *Virginia Board of Elections*, 383 U.S. 663 (1966), the Court held that a State could not impose a poll tax as a condition of voting.

In *Katzenbach* v. *Morgan*, 384 U.S. 641 (1966), the court upheld the constitutionality of a statute passed by Congress overriding State literacy requirements in English and conferring the franchise on voters literate in Spanish.

But the key Supreme Court precedent supporting a universal voter registration system for Federal elections is Oregon against Mitchell. In that important decision the court not only sustained the constitutionality of a Federal statute lowering the voting age to 18 for Federal elections, but also upheld the constitutionality of two other provisions in the 1970 statute, provisions that were applicable not only to Federal elections, but also to State and local elections.

A provision abolishing State literacy requirements altogether;

And, a provision reducing the residence requirements for voting in presidential elections to 30 days, and requiring the States to make available appropriate absentee registration and absentee voting procedures for such elections.

The Mitchell decision is especially significant because of the substantial majority by which the Supreme Court up-

held the constitutionality of the literacy and residence provisions of the 1970 statute passed by Congress

To be sure, the provision lowering the voting age to 18 in Federal elections was sustained by the narrow margin of 5 to 4, with Justice Black casting the deciding vote on the basis of the power of Congress under article I, section 4, of the Constitution to regulate the time, place, and manner of conducting Federal elections.

At the same time, however, in spite of the narrow vote on the 18-year-old issue, the Court upheld the validity of the literacy and residence provisions by overwhelming majorities—9 to 0 in the case of the literacy provision, and 8 to 1 in the case of the residence provision, with only Justice Harlan dissenting on the later issue.

The crucial link in the reasoning of the Justices leading to the strong majority in favor of the residence aspect of the case was their view that the provision was a valid exercise of the power of Congress under the necessary and proper clause of the Constitution to protect the constitutional right to change one's residence and to travel freely from State to State, a right that had been clearly reaffirmed by the Supreme Court as recently as 1966, in its decision in *United States* v. *Guest,* 383 U.S. 745 (1966).

Similarly, the crucial link in the reasoning of the Justices leading to the unanimous decision upholding the literacy provision in the statute was their view that the provision was a valid exercise of the power of Congress to enforce the 15th amendment of the Constitution, which bars racial discrimination in voting.

The present proposal for a system of universal voter registration for Federal elections, involving action by Congress in the areas of both residence and registration as qualifications for voting, is easily supported under the literacy and residence rationales of Oregon against Mitchell, since it would be action by Congress to promote the right to travel and to end racial discrimination in voting. No substantial distinction can be drawn on the basis that the residence provisions in the Mitchell case applied only to presidential elections, whereas the proposed universal registration system would apply to all Federal elections. As Justice Stewart stated in discussing the residence provision in the Mitchell case, in an opinion joined by Chief Justice Burger and Justice Blackmun:

> I have concluded that, while S. 202 applies only to presidential elections, nothing in the Constitution prevents Congress from protecting those who have moved from one state to another from disenfranchisement in any Federal election, whether congressional or presidential. 400 U.S. 112, 287.

Further, as I have indicated, the constitutional rationales supporting the literacy and residence provisions in the Mitchell case might easily support the extension of the universal voter registration proposal to State and local elections as well. A fortiori, however, the proposal is clearly valid for Federal elections as an exercise by Congress of its power under article I of the Constitution to regulate such elections, and I urge the Senate to adopt it.

THE THREAT OF THE MILITARY-INDUSTRIAL COMPLEX OF THE SOVIET UNION

Mr. THURMOND. Mr. President, in a day when our so-called military-industrial complex is being debunked by liberal opinion makers, it is gratifying to note that some in our country still recognize the threat of the military-industrial complex of the Soviet Union.

An editorial entitled "The Crime of Unpreparedness" was published in the July 9 issue of the Greenville News of Greenville, S.C. The editorial states clearly what is at stake if we cut too deeply into our defense establishment.

I ask unanimous consent that the editorial be printed in the RECORD.

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

[From the Greenville (S.C.) News, July 9, 1971]

THE CRIME OF UNPREPAREDNESS

One of former President Eisenhower's most quoted public utterances is his farewell message warning against the "military-industrial complex" in America. It is a special favorite of the left and the peacenik element.

Less well known, because it is ignored by most major influence-makers, is another Eisenhower quote about the military establishment. It is this:

"Until war is eliminated from international relationships, unpreparedness for it is well nigh as criminal as war itself."

Given the current increasing emphasis on reducing military appropriations in favor of welfare state and other domestic items and the constant hammering away at the military-industrial complex, the country needs to examine the other side of the coin as presented in the second Ike quote.

Anybody who thinks for a minute that war has been eliminated from this earth is only deluding himself. He who argues that war is unthinkable is deluding others. Major warfare is a constant threat in the Middle East and along the Chinese-Siberian border. Events completely beyond the control of any American could lead to a conflagration which would engulf the entire world, including the United States.

Only the most naive could ignore the fact that this nation's potential enemies possess and constantly improve a vast military-industrial complex. The Soviet Union's expanding missile, air and naval power is undeniable.

Also undeniable is the Soviet Union's avowed aim to impose its system upon the entire world. That fact often is glossed over or ignored, even though Soviet leaders never miss an opportunity to emphasize their ultimate goal.

The surest way to involve the entire world in another war of unprecedented horror would be to allow the imperialist Soviets to believe they could win a military conflict with the non-Communist nations.

That, of course, would happen should the defense establishment—the military-industrial complex, if you please—of the United States be weakened sufficiently.

While there is need to reduce considerable waste in defense spending and to ride herd over defense contracts, the greatest danger this country and the world faces is the threat of cutting too deeply into America's defense program. Parts of it, the Navy for instance, is in dire need of modernization at considerable cost.

As President Eisenhower said, failure to guard against war by refusing to keep well prepared for war, would be a heinous crime.

THE PERILS OF COEXISTENCE WITH COMMUNISM

Mr. ALLEN. Mr. President, events of the past few weeks in the area of diplomatic relations with Communist nations suggest a dramatic reversal of this Nation's foreign policy as it relates to international communism.

I am very much concerned that we not become mesmerized by rhetoric in support of the goals of detente and rapprochement, as desirable as they may seem. I hope, too, that the unquestioned desire on the part of the American people for peace will not blind us to realities concerning the nature and objectives of our adversary. World peace is a highly commendable goal—but not peace purchased at any price or peace achieved by any means.

Mr. President, in view of the rapidity of reversals of foreign policies, and in view of the worldwide implications of these changes, it might be helpful to refresh our memories concerning certain basic Marxist-Leninist tenets which have not changed.

Mr. President, in this connection, the July 1971, issue of the American Bar Association Journal contains an article by Charles T. Baroch entitled "The Brezhnev Doctrine." In the process of analyzing this doctrine and its implications, Mr. Baroch calls attention to the meaning of "the law of peaceful coexistence" as conceived by Communist jurists who describe coexistence as—

> A specific form of class struggle between socialism and capitalism in the international arena. . . . Peaceful coexistence between the two systems does not exclude revolutions in the form of armed uprisings and just national liberation wars against imperialist oppression, which occur within the capitalist system.

Mr. Baroch is eminently qualified to write on these subjects. He is a scholar in residence for the American Bar Association's Standing Committee on Education About Communism and its Contrast With Liberty Under Law. He received a J.D. degree from Charles University Law School, Prague, Czechoslovakia, and M.A. and Ph. D. degrees from Harvard where he served as Research Fellow, Russian Research Center for 5 years.

Mr. President, Mr. Baroch has rendered a timely and most useful service in reminding us of certain Marxist-Leninist tenets and a world view shaped by these tenets, which is:

> A world engulfed in an irreconcilable confrontation between the two antagonistic socioeconomic systems—capitalism and socialism—which is bound to end with a revolutionary transformation of capitalist society according to Marxist-Leninist tenets.

To this supranational revolutionary end everything is subordinated, including interests of whole nations (their sovereignty, equality, independence, etc.) as well as the interests of individuals, irrespective of whether they are part of the capitalist or socialist system.

Mr. President, I commend Mr. Baroch's article as worthy of thoughtful consideration of Members of the Senate and 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:

THE BREZHNEV DOCTRINE

(By Charles T. Baroch)

More than two years ago the non-Communist world was shocked by the ruthless intervention of Warsaw Pact armed forces in the Czechoslovak Socialist Republic. The alleged purpose of the intervention was "to defend the socialist character" of a member of the world socialist system and its "socialist achievements".

The Warsaw Pact countries, especially the U.S.S.R., were accused, even by some Communists, of having violated Czechoslovak sovereignty and right of self-determination. Non-Communist reaction was well summed up by the indignant editorial in *The New York Times* of September 28, 1968, in which the name "Brezhnev Doctrine" may have been coined:

The latest Kremlin attempt to justify the invasion of Czechoslovakia is further indication of Stalinism ascendant in Moscow.

The earlier attempt to claim a status of semi-legality on the basis of a supposed invitation to the invaders from high Czechoslovak Government and Communist party leaders has apparently been discarded. Instead, Pravda now enunciates what must be called the *Brezhnev doctrine*, though the same thinking was manifest in the brutal repression of Hungarian freedom in 1956. The core of this doctrine is the assertion that Communist-ruled states enjoy neither genuine sovereignty nor genuine rights of territorial integrity, that the Soviet Union may at any time it deems proper send troops into any such states in order to pressure Communist rule.

What permits the Soviet Union to issue and even to implement such doctrine is, of course, Soviet military power. This reliance on force and contempt for law must raise fears among others that some day Moscow will decide that the sovereignty and territorial integrity of non-Communist nations is also being interpreted too abstractly and without due attention to class principles.

Questions arise as to the origin and scope of this allegedly new doctrine. It seems that the editorialist who coined the term, which has become an international household word, had in mind an analogy with certain American policy pronouncements now, with the acquiescence of other states, part of customary international law. Analogy with the most famous of these, the Monroe Doctrine, is very tempting, but, as I hope to demonstrate, despite superficial similarity, the so-called Brezhnev Doctrine is precisely its opposite in every respect.

There are three fundamental problems regarding the Brezhnev Doctrine: (1) Can it be attributed to Brezhnev? (2) What is its relation to international law? and (3) What are its real content and implications?

PERSONAL DECISIONMAKING BY COMMUNIST LEADERS IS MINIMAL

Certain aspects revealing a conventional, narrow understanding of the Communist world outlook are usually stressed by authors considering the Brezhnev Doctrine. It is assumed that the *Secretary General* of the Communist Party of the Soviet Union (C.P.S.U.), with the approval of the Politburo, formulated a *new* doctrine of the *limited* sovereignty of a member of the socialist system of states. Yet, there is in Communist-controlled states very little personal decision making by individual leaders, however exalted their positions. The "fraternal assistance" to Czechoslovakia was a vital policy decision of the C.P.S.U. Politburo based on evaluation of the global situation and recommendations by several departments of the C.P.S.U. Central Committee apparatus, of which the present Secretary General is a product. He therefore hardly deserves to be honored as the doctrine's originator.

There is the widespread conviction, also, that this doctrine represents a new foreign policy formula or, at least, a revival of policy discarded after Stalin's death. It is enough, however, to consult earlier Communist documents to see the fallacy of this view.

THE 1957 DECLARATION REAFFIRMS BASIC MARXIST-LENINIST TENET

In 1957, for instance, following the suppression of Polish and East German unrest and the Hungarian uprising of the year before, the ruling Communist Parties of the twelve socialist countries met in Moscow to define the Communist co-ordinated policy for the later 1950s and 1960s. They sought to outline basic rules of conduct to avoid the pitfalls of mechanical copying of C.P.S.U. methods (the so-called dogmatism) and, what was considered even more dangerous, of revisionism of Marxist-Leninist tenets or right-wing opportunism. Their declaration stated:[1]

In our epoch, world development is determined by the course and results of the confrontation [*sorevnovaniye*][2] between two diametrically opposed social systems [socialism versus capitalism]. [In that confrontation] the strengthening of the unity and fraternal cooperation of the socialist [communist-controlled] states and of the Communist and Workers' Parties of all countries and closing the ranks of the international working class, national-liberation and democratic movements take on special importance.[3]

While asserting that "the socialist countries base their relations on the principles of complete equality, respect for territorial integrity, state independence and sovereignty as well as non-interference", the declaration emphasizes that, however important, these principles *"do not exhaust* the essence of their relations". (Emphasis added.) Fraternal, mutual assistance is an integral part of these relations and "finds its expression in the principle of socialist internationalism,"[4] which has thus been elevated to a fundamental doctrine, superimposed on international law in socialist interstate relations.

In order to offset the dangers of revisionism, the twelve participating parties forcefully reaffirmed the correctness of the basic Marxist-Leninist tenet that "the processes of the socialist revolution and socialist construction are governed by a number of basic 'laws,' applicable in all countries embarking on the socialist path."[5] Their declaration then lists these generally valid principles and rules of conduct binding on all Communist Parties, ruling or nonruling alike:

1. Leadership of the toiling masses by the working class, whose vanguard is the Marxist-Leninist Party, in bringing about a proletarian revolution in one form or another [either by peaceful or violent (civil war) means] and in establishing some form of the dictatorship of the proletariat;

2. Alliance of the working class with the bulk of the peasantry and other strata of the toilers;

3. Abolition of capitalist ownership and establishment of public ownership of the basic means of production;

4. Gradual socialist reorganization [collectivization] of agriculture;

5. Planned development of the economy with the aim of building socialism and communism;

6. Completion of a socialist revolution in the sphere of ideology and culture and formation of numerous intelligentsia devoted to the working class, the toilers and the cause of the socialism;

7. Elimination of national oppression and the establishment of equality and fraternal friendship among people;

8. *Defense of the achievements of socialism*[6] [emphasis added] against encroachments of external and internal enemies; solidarity of the working class of a given country with the working class of other countries—proletarian internationalism.[7]

Two observations should be made with regard to the 1957 declaration. The Soviet delegation to the 1957 conference was headed by the then First Secretary of the C.P.S.U. Nikita S. Khrushchev, who, for all his reputation as promoter of peaceful coexistence, in 1956, as will be remembered, had given fraternal military assistance to orthodox Hungarian Communists led by Janos Kadar in their effort to preserve socialist achievements in that country.

Also, the same basic rules for Communist conduct defined in the 1957 declaration are quoted, as we shall see, in Brezhnev's arguments to justify the 1968 Warsaw Pact occupation of Czechoslovakia. A constantly deteriorating situation (from a Communist viewpoint) had developed there, with the local Communist Party in disarray and losing its total control (dictatorship) over the state,[8] resembling the 1956 Hungarian crisis.

In the view of the Warsaw Pact governments this situation fully justified armed intervention, aimed at restoring the Communist Party power monopoly. The non-Communist world, however, branded it as "contrary to every elementary rule of international law, to say nothing of the UN Charter".[9]

It is of major interest, therefore, to look next into the Communist attitude toward these elementary rules of international law, which are essential for normal intercourse among states. Since legal norms are basically rules and guidelines of conduct, whether of individuals or states, the importance of understanding the Soviet legal system and its underlying philosophy cannot be overemphasized in our search for communist policy motivation. Secretary of State William P. Rogers summed it up very well when as Attorney General he wrote in this *Journal:*

"When we talk about competing with International Communism in the realm of ideas, we are talking in large measure about the ideas which are the basis of our legal system."[10]

The so-called Brezhnev Doctrine has often been qualified in the non-Communist world as a doctrine of limited sovereignty, applicable only to a socialist state. What, briefly, is the Communist concept of state sovereignty within the international law context?

STATE CONCEPT DIFFERS FROM TRADITIONAL NOTIONS

The state concept—and sovereignty is an important attribute of the state—as defined in the Marxist-Leninist theory of state and law differs substantially from traditional notions. The theory of the origin, nature and aims of the state was formulated by Lenin, a lawyer by education, who relied heavily on Frederick Engels's work, *The Origin of the Family, Private Property and the State.* As is well known, Engels tied the state's origin to the appearance on the historical scene of private ownership of the means of production and the resulting split of society into antagonistic classes. The state emerged, and continued to exist, as an organ of class rule (slave-owners over slaves, feudal lords over serfs).

At present, Marxist-Leninist theory distinguishes between two basic forms of class society; in one the classes are *hostile* and *antagonistic* towards each other and are engaged in bitter class conflict (bourgeoisie vs.

Footnotes at end of article.

the working class in a capitalist state); the other, after doing away with private ownership of the means of production, is identified by cooperation of *friendly* classes (the working class and *kolkhoz* [collective farm] peasantry in a proletarian-socialist state) in a joint task and aim: building socialism and, ultimately, communism.

Marxism-Leninism disclosed the *class* nature of the state, and, in a society with antagonistic classes, it considers the state as a machine of suppression. "The state"—noted V. I. Lenin—"is a machine used to support the domination of one class over another." The figurative word "machine" immediately indicates the gist of the class nature of the state; it helps to explain that a state like any machine is a tool in the hands of people, a tool which multiplies their strength as representatives of the ruling class. Consequently, the state in its essence is an instrument of a dictatorship—of class domination.[11]

The state in a capitalist society, according to Marxism-Leninism, serves as an instrument for the oppression of the majority (the toiling masses) by the minority (the *bourgeoisie*). The state of the dictatorship of the proletariat, on the other hand, serves as an instrument of suppression of a minority (the remainder of the vanquished exploiting classes) by an overwhelming majority (the working class and the peasants). Only after the complete victory of socialism does the state cease to be an organ of class domination; under socialism it continues to serve as an instrument of political power of the friendly classes of toilers.

POPULAR SOVEREIGNTY IS A FICTION

In theory, the working class rules the proletarian-socialist state and is thus the bearer of its sovereignty. In fact, however, popular sovereignty is a fiction in such a state because of the unique position of the Communist Party, a position equivalent, ultimately, to one of exclusive and total control over the state. The ruling Communist Parties not only formulate policy for all aspects (economic, political and cultural) of society's life, but they also select cadres for the state apparatus who carry out and supervise their policy.[12] This is justified by the party's claim to be the vanguard of the working class in its revolutionary mission to transform the world.

The class character of the Communist-controlled party-state and, consequently, of its sovereignty introduces a new international or, better to say, supranational concept into interstate relations between socialist states themselves as well as between "capitalist" and "socialist" states.

In their interstate or, rather, interparty relations, Communist-controlled states claim to be primarily guided by the principles of socialist internationalism and not by general international law,[13] although, Soviet jurists assert:

"The socialist states consistently uphold the observance in international intercourse of the generally recognized democratic principles of international legality and law . . . they are inserting a new content into old legal forms, a new quality arising from the *socialist* character of those states."[14] [Emphasis added.]

This process is being described as the formation of a separate socialist international law, which will gradually replace general international law "when the world socialist system will occupy a dominant position in all areas of international relations".[15]

Meanwhile, intercourse between socialist and capitalist states is allegedly regulated by norms of general international law, often called by Communist jurists "the Law of Peaceful Coexistence" between states of the two antagonistic social systems. It is not a law of peaceful intercourse in the traditional, non-Communist meaning, but a set of norms operating in a historical situation characterized by the absence of major (nuclear) conflict between the two systems, whose "coexistence" is described as:

A specific form of class struggle between socialism and capitalism in the international arena. . . . Peaceful coexistence between the two systems does not exclude revolutions in the form of armed uprisings and just national liberation wars against imperialist oppression, which occur within the capitalist system.[16]

In this context the international law principles of the sovereignty of a capitalist state and noninterference in its internal affairs, despite formal acceptance by the Communists, are logically also subordinated to the overriding aims of class struggle (for example, international civil war) and are devoid of traditional significance.

It appears that the negative influence of the Brezhnev Doctrine on international law's validity is self-evident.

BREZHNEV'S ROLE HELPS TO EXPLAIN HIS DOCTRINE

For an understanding of the real content and implications of the Brezhnev Doctrine, we must return to Brezhnev's role, even though the doctrine may not be so new and he is not its author. It would be a great mistake to minimize the influence of this most important representative of the C.P.S.U. Central Committee apparatus, which wields enormous power emanating from the party's totalitarian control over the Soviet state and, indirectly, even over the world socialist system. In his public pronouncements the Secretary General interprets and communicates to the world the genuine "Brezhnev Doctrine", a complex set of concepts and motivations which make the C.P.S.U. and other Communist Parties "tick", despite their "rifts". We speak here, of course, of the Communist world view, the Marxist-Leninist doctrine, which is the global, ideological framework of the Communist Parties.

In a recent collection of speeches and articles the Secretary General summarizes "the Party's experience in directing communist construction and the foreign policy of the USSR".[17] It is C.P.S.U. directed foreign policy interpreted by Brezhnev, then, that will offer us an insight into the problem of "sovereign" relations among communist-controlled states, and, ultimately, also, between those states and their noncommunist counterparts.

INVASION OF CZECHOSLOVAKIA HAS BEEN AN IMPORTANT TOPIC

The invasion of Czechoslovakia in August, 1968, a critical foreign policy decision within the socialist system, has been an important topic in Brezhnev's speeches. On November 12, 1968, his address to the Congress of the Polish United Workers (*i.e.*, Communist) Party showed not only concern with a local (Czechoslovak) problem but reflected the communist global view:

"We are living, comrades, in a complicated, stormy and interesting time. The revolutionary process, which centers around the *confrontation of the two principal social systems* of our epoch—socialism and capitalism— is progressing irresistibly."[18] [Emphasis added.]

He admonishes the Communists of the socialist countries that the recent activization in Czechoslovakia of forces hostile to socialism should be understood in terms of this confrontation and that—

It is vitally important . . . to carry high the banner of socialist internationalism and constantly strengthen the solidarity and cohesion of the socialist countries.[19]

Despite remarks in support of the observance of traditional sovereignty of all states, Brezhnev emphasizes the special importance for the Communists of defending the sovereignty of states which have chosen the road of building socialism. He equates the sovereignty of a socialist country with building "a society free of every oppression and exploitation". True consolidation of sovereignty and independence requires that—

Each socialist country determine the concrete forms of its development along the path toward socialism, while taking into account the specific character of its national conditions.[20]

But, Brezhnev warns, in order to uphold "socialist" sovereignty:

"There exist also *generally binding principles* of socialist construction, whose neglect could lead to a retreat from socialism. . . . And when internal and external forces hostile to socialism make an attempt to reverse the development of a socialist country *in the direction of the restoration of the capitalist system* . . . then this threat represents not only a problem for the people of that country, but a common problem and task of all socialist countries."[21] [Emphasis added.]

Mutual fraternal assistance, based on principles of socialist internationalism, includes, according to Brezhnev, direct military intervention, even though only as "an extraordinary measure, in order to nip in the bud the threat to the socialist order".

Brezhnev did not elaborate on these generally binding principles and rules, knowing quite well that his host, Gomulka, was one of the signers of the 1957 declaration of the twelve Communist and Workers' Parties that spelled them out in detail.

Two years later, in a monumental discourse, "The Work of Lenin Lives and Triumphs", on April 21, 1970, Brezhnev again reminded his listeners, Communists and sympathizers from practically every country in the world, of the "collapse" of the antisocialist plot in Czechoslovakia, proving "the great importance of the international solidarity of the socialist countries". He remarked, "Neither our friends nor our enemies doubt its force and effectiveness—and that is very good."

When we compare this speech with the 1957 Moscow Declaration, the remarkable continuity of Marxist-Leninist thinking should not surprise us. Prepared by the same apparatus, it repeats the declaration's main points almost word for word: The path of different countries to socialism, and the socialist system itself, are characterized—"as has been emphasized by the fraternal Parties"—by "common landmarks", the socialist revolution in some form which crushes the state machinery of the exploiters and replaces it by the state (dictatorship) of the proletariat; the proletarian (socialist) state, which, in turn, liquidates the exploiter classes, socializes the means of production and inaugurates a cultural revolution in Lenin's meaning.

As for the socialist system once constructed, its fundamental obligatory characteristics are: the rule of the toilers, implemented through the control of the Marxist-Leninist party over society's development; social ownership of the means of production and a planned economy; education of the entire people in the spirit of the ideology of scientific communism; and, last but not least, a foreign policy based on the principles of proletarian-socialist internationalism.

Bearing in mind the doctrinal continuity displayed by the C.P.S.U. apparatus, it is only natural that Brezhnev should publicly deny not only authorship but also the very existence of a "Brezhnev" doctrine. Speaking in Moscow on June 9, 1969, before an international conference of seventy-five Communist and Workers' Parties held to consider the tasks of the struggle against imperialism, he accused "the imperialist propagandists" of having—

Footnotes at end of article.

Fabricated and circulated the notorious doctrine of limited sovereignty [and of] slandering the principle of proletarian internationalism by contrasting it *artificially* with the principles of independence, sovereignty and equality of national detachments of the workers' and communist movement [Communist Parties].[22] [Emphasis added.]

In support of his argument he quoted as "by no means obsolete" Lenin's definition: "to be an internationalist means to do the utmost possible in one country *for* the promotion support and stirring up of revolution *in all countries.*"[23]

The genuine "Brezhnev Doctrine" is, then, a restatement of the Marxist-Leninist world view; a world engulfed in an irreconcilable confrontation between the two antagonistic socioeconomic systems—capitalism and socialism—which is bound to end with a revolutionary transformation of capitalist society according to Marxist-Leninist tenets. To this supranational revolutionary end *evertyhing* is subordinated, including interests of whole nations (their sovereignty, equality, independence, etc.) as well as the interests of individuals, irrespective of whether they are part of the capitalist or socialist system.

The present Secretary General may, of course, at some future date be replaced by another *apparatchik* (prominent member of the C.P.S.U. Central Committee apparatus), who will continue promoting the Marxist-Leninist doctrine, the true driving force behind the Communist effort.

FOOTNOTES

[1] Pravda, November 22, 1957, page 1. Represented were the Communist Parties of Albania, Bulgaria, Hungary, Vietnam, East Germany, China, North Korea, Mongolia, Poland, Rumania, the U.S.S.R., Czechoslovakia and Yugoslavia. All but Yugoslavia signed the document.

[2] The widely used English equivalent, "competition", is a misleading translation in the author's opinion, since it does not reflect this struggle's irreconcilable charter.

[3] Pravda, November 22, 1957, page 1.

[4] *Ibid.*

[5] *Ibid.*

[6] *"Zavoyevaniya sotsializma"* (achievements of socialism), in the author's opinion, is better translated literally "conquests of socialism", since it reflects the Communist large-scale application of crude force and legalized error in transforming society.

[7] Pravda, November 22, 1967, page 1.

[8] Read a more detailed analysis of the situation in the author's brochure. The Soviet Doctrine of Sovereignty, the So-Called Brezhnev Doctrine, published by the American Bar Association Standing Committee on Education About Communism and Its Contrast With Liberty Under Law (1970).

[9] The New York Times, September 28, 1968, page 32.

[10] Roger, *Our Great Goal: Peace Under Law,* 45 A.B.A.J. 1181 (1959).

[11] Fundamentals of the Theory of State and Law [in Russia], legal textbook of the Sverdlovsk Law Institute (1969).

[12] *Id.* at 197–198.

[13] Tunkin, Theory of International Law [in Russian] 504 (1970).

[14] Korovin, *Proletarian Internationalism and International Law,* Soviet Yearbook of International Law—1958 [in Russian] 55 (1959).

[15] Usenko, *International Law in the Intercourse of Socialist Countries,* Soviet Yearbook of International Law—1966–1967 [in Russian] 44 (1968).

[16] 4 *Philosophical Encyclopedia* [in Russian] at 452–454.

[17] Brezhnev, The Leninist Policy Course: Speeches and Articles 1964–1970 ([in Russian] 3.

[18] *Id.,* Volume 2, at 325.

[19] *Id.* at 328.

[20] *Id.* at 329.

[21] *Ibid.*

[22] *Id.* at 397.

[23] *Ibid.*

CURRENT STRIKES CRIPPLE OREGON FOREST PRODUCTS INDUSTRY

Mr. HATFIELD. Mr. President, I think we are all familiar with the crippling effect that the west coast dock strike, now in its fourth week, is having on our commerce with the Orient. The work stoppage has tied up ships and halted trade in ports from southern California to Puget Sound.

I want to bring to the attention of the Senate the particularly devastating effect the strike is having on the forest products industry, specifically on the wood chip market.

Chips and other residue at sawmills, plywood mills, and other plants are amassing at a dangerous rate. With space to store them dwindling rapidly, the sawmills themselves are threatened with a shutdown. Such a calamity, if it occurs, will have national consequences. Already there are some threats to the economy.

Pyramiding the disastrous effects of the dock strike is the railroad strike, which hit the Union Pacific and Southern Railroad last week. Now the Southern Pacific is shut down. Due to the railroad strike, chips and wood residue—along with lumber itself—cannot be moved, in many cases, from even the wood processing plants, let alone be shipped overseas, where much of it ordinarily is bound.

Tying up these shipments—which are mainly to Japan—wreaks its effect on our balance of payments. And this at a time when the Nation is trying desperately to improve our balance-of-payments position. Until this interruption, the volume of chip exports was on the rise.

I ask unanimous consent that an article from the June 1971 Pulpwood Annual showing this rise appear at the end of my remarks.

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

(See exhibit 1.)

Mr. HATFIELD. Another threat to our economy as a result of this situation is the fact that a shortage of lumber and lumber products will mean higher prices in building construction. This is another calamity, for we in Congress have set a national goal of 26 million new and rehabilitated housing units in this decade. We do not want to be priced out of that goal.

In the West, many small communities are entirely dependent upon the wood industry for their livelihood. In these one-industry towns a shutdown of a sawmill or a plywood plant means a shutdown of the town.

Take the town of Kinzua, Oreg., for instance. A shutdown of the lumber mill there means unemployment for the 350 of the 500-odd residents. The mill produces an average of 10 carloads of finished lumber and wood chips a day. These are hauled out on a company line and picked up by the Union Pacific. With the Union Pacific closed down by the strike there is no way for Kinzua to ship its lumber products.

The Portland Oregonian newspaper was told by the mill's general manager that continuation of the strike past the middle of this week will mean real trouble. He said that lumber produced there can be stored but the big problem is what to do with the chips—that is, the residue. If the strike lasts much longer than this week a total shutdown will have to be considered, the official said.

The worries at Kinzua are echoed in dozens of little lumber towns in eastern Oregon and along the Columbia River.

Communications from numerous lumber and plywood companies tell the same story.

U.S. Plywood-Champion Papers, Inc., at Eugene, Oreg., reports:

> We are at our chip storage capacity right now and are facing plant shutdowns.

Cliff Pearson, vice president of the Roseburg Lumber Co., Roseburg, Oreg., says:

> It's a question of how long we can continue to pile up chips which should go to Japan out of Coos Bay. But even more important, in my opinion, is how we are going to pick these chips up again. In other words, we'll have to handle current chip shipments at the same time that we must get rid of the tremendous inventory created by the strike. Yet there are no more boats and no more rail cars available.

Emory E. Moore, president of Vanply, Inc., of Albany, Oreg., reports his company has a 30-day supply of Philippine mahogany for its prefinishing and lauan siding operations and after that "we'll be down." He said:

> Our export chips are piling up. We'll have no more room by Labor Day and would be forced to shut down.

Says William Swindells, Jr., senior vice president at Willamette Industries, Inc., Portland Oreg.:

> Box car shortages are intensified since shipments of lumber destined for overseas are under an embargo. Therefore, much needed cars stand loaded in the port areas. Lumber we are unable to ship sits out in the sun. Meanwhile our orders are going to Canadian manufacturers with the possibility that we may suffer a permanent loss of business.

Needless to say, these problems for the producers and suppliers are matched by problems for the consumer. The stoppage can lead to shutdowns of other businesses and to higher prices for all concerned.

The handling of chips and other residue by the lumber industry in recent years represents a giant step forward. Not so many years ago, most of this residue incurred in the process of preparing timber for the market was regarded as waste. To dispose of it, much of it was burned.

However, increased efficiency and improved technology in the industry has found new uses for these former wastes. In addition to being used as fuel to produce electric power at some sawmills, the residue now is utilized in the production of new products like hardboard and particleboard. It also is used as mulch and other soil additions in agriculture and gardening as well as in the production of pulp and paper. In addition, there are

lesser products such as wood flour and manufactured fuel logs. In fact, more than three-fourths of all mill residues now are put to use. The forest products industry may soon be able to say that it uses all but the whine of the saw.

It is obvious that the uses to which wood industry residues are put to use eliminate the sources of much solid waste pollution as well as air pollution, which results from the burning of the wastes.

The untoward accumulation of chips and other residue at wood industry plants due to the shutdowns in shipping and railroads brings a new threat of air pollution. If the residue cannot be moved, it may have to be burned. Burning would be in conflict with air pollution control measures and, in some cases, in violation of new State and local laws against burning.

Further, the revenues lost from the erosion of a part of the residue chip market would have to be made up from higher lumber and plywood prices or by lower stumpage prices for timber growers. Higher product prices would add to the rising cost of housing.

The possible accumulation of residue at wood plants can be envisioned when one considers the total residue production around the country. It is upwards of 4 billion cubic feet per year, including both the currently used and unused residue.

Nationwide, mill residues account for about 30 percent of the 64 million cords of domestically produced virgin fiber consumed in pulp mills. In the South mill residues account for 20 percent and in the West mill residues are the major supply to pulp mills.

Industry, consumer and Government alike are harmed by the prolonged shutdown at our west coast ports and by the railroad strike.

It is to the interest of all of us—in the Congress, the administration, and the general public—to accelerate efforts to settle the strike of the International Longshoremen's Union at our west coast ports, the United Transportation Union walkout at the railroads and the long strike of the Western Pulp and Paper Workers against six Weyerhaeuser pulp plants.

EXHIBIT 1

A BRIEF LOOK AT THE WORLD OF CHIP EXPORTS; AN EXAMINATION OF CURRENT AND FUTURE TRENDS IN CHIP EXPORTS IN THE PACIFIC NORTHWEST REGION

(By William E. Davis)

This report is not intended as a definitive survey of the chip export world. Rather, it is offered as a general overview of the subject, with a look at current trends and what's likely to happen in the near future in the Oregon and Washington area.

Last year chip exports to Japan from Washington, Oregon and California ports amounted to some 1,759,000 bone-dry units. The volume of exported chips is currently on the rise and it is expected that last year's total volume will be exceeded. A species breakdown shows that about 95% of the material exported is Douglas fir, with the remainder being primarily hemlock from the Columbia River region.

HIGHER PRICES APPARENT IN CONTRACTS

In the area of contracts, the new ones are reflecting steep price escalations (during the fourth quarter of last year, the value per short ton from the Oregon Custom District stood at $19.83 and from Washington at $20.13). Terms of the new contracts are long—5 to 10 years—but there is a move to renegotiate prices every year. One Japanese company is currently contemplating negotiating prices every six months.

A look at chip sources reveals that chips for the domestic and export markets are still largely supplied from outside sources such as sawmills, plywood plants etc. Because of high chip prices, however, many of the larger pulp and paper companies are starting to install their own chip plants and curtail, or cut out completely, buying chips from outside sources. But, as in the past, it still remains standard operating procedure for the big pulp and paper companies to help smaller sawmills and plywood plants finance chipping and chip transportation equipment.

Experience is showing that the independent chip plant operators are successful only to the extent that they have the ability to store chips, or shut down completely, when there is an oversupply. With this flexibility there seems to be a bright future for these plants.

PROFITABLE TRANSPORT DISTANCE IS UNKNOWN

From the chipping site to the export site, how far can you transport chips and still make a profit? At present this seems to be an open question. A new export facility at Coos Bay, Oregon, which will start operation in July and ship 12,000 monthly, plans to bring in chips from as far away as Colorado, Utah, Montana and Idaho. So, there seems to be no prescribed formula for success based on some average hauling distance.

What kind of chip volume is being exported monthly? Since much of the data concerning chip exports is considered confidential by the major exporting companies, it is difficult to gather specific information. However, listed below are the five major exporting companies as well as the size and number of ships used monthly.

WHAT THE MAJOR COMPANIES SHIP OUT

Each month Weyerhaeuser Co. sends nine ships to Japan. These ships break down as follows: one 6,000-unit, six 8,000-unit, one 12,000-unit and one 14,000-unit. This gives Weyerhaeuser a total shipping capacity of 80,000 units per month.

Roseburg Lumber Co. sends out 30,000 units monthly in two 8,000-unit ships and one 14,000-unit ship. This company will have another 14,000-unit ship coming on the line in July.

U.S. Plywood-Champion Papers ships out 26,000 units monthly in three 6,000-unit vessels and one 8,000-unit vessel.

Georgia-Pacific Corp. exports 20,000 units per month in two 6,000-unit and one 8,000-unit vessels.

International Paper Co. at Longview, Washington, sends Japan 16,000 units monthly in two 8,000-unit ships.

Since Japan is also importing an increasing volume of chips from countries such as Canada, New Zealand, Australia and Malaysia (Japan's talks on pulpwood supply with the U.S.S.R. apparently been slowed considerably), U.S. chip prices must remain competitive, but overall, the chip export future appears bright.

As mentioned earlier, the 1971 volume of chips exported is expected to be higher than last year's volume. In addition to the new export facility at Coos Bay, several major companies are exploring the possibility of exporting chips from Portland.

PRESENT PRICE DECLINE SEEN AS TEMPORARY

At present there is a surplus of chips on the market as a result of a cutback in pulp production (by as much as 30% in some companies), and the volume of chips produced by satellite chipping plants. This has caused chip prices to decline somewhat, but chip producers see this as temporary and look to the future optimistically.

During the times of lagging chip prices many observers see pulp export as becoming increasingly important, and view the Communist countries (particularly in view of the thawing relationship between the U.S. and People's Rep. of China) as representing a great potential market. The long-term chip future should remain bright, as additional U.S. pulp capacity goes to captive domestic markets. The trend to long-term chip contracts supports this view.

In British Columbia, Alberta, and Saskatchewan, pulp expansion is directed to more market pulp, but much of it is for U.S. mills.

ZERO DEPLOYMENT

Mr. HART. Mr. President, over the past weekend, the press has carried a number of stories about what is reported to be this Nation's latest proposal for an arms limitation agreement with the Soviet Union.

One section of the reported proposal would permit each nation to install an ABM system around its capital or at three sites to protect land-based missiles.

Without pretending to know whether the stories are accurate, but on the possibility that the report was leaked as a trial balloon, I would like to make one comment on the proposal. Actually, the comment is just to reaffirm a position I have long held and is appropriate to the SALT talks, whether or not the reports are correct.

History indicates that we have been most successful in securing arms limitation agreements when we have exercised restraint. That was the posture this Nation took in securing agreements to ban nuclear weapons in the Antarctic, to ban nuclear testing in the atmosphere, and to halt proliferation of nuclear weapons. The nations did not reach agreements when the United States had a monopoly on nuclear warheads or when the Soviet Union held a commanding lead in the development of intercontinental missile delivery systems.

A position seeking zero or minimum deployment of additional nuclear weapons also makes sense when both nations already have enough such weapons to destroy each other several times over.

It is with these thoughts in mind then that I urge the United States to seek a SALT agreement based on deployment of as few additional nuclear weapons as possible.

Prof. Marshall D. Shulman, director of Columbia University's Russian Institute, offered comments on this approach when he testified before a Senate Foreign Relations subcommittee on July 14.

I ask unanimous consent that excerpts from Dr. Shulman's testimony, as printed in yesterday's Washington Post, be printed in the RECORD.

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

THE "BARGAINING CHIP" AS A SALT STRATEGY

It is worth noting that in the internal debates on SALT within the Soviet Union, such U.S. efforts to force the pace of the strategic competition as the deployment of Safeguard and MIRV have had the effect of weakening the case of those in the Soviet Union who have argued that arrangements with the United States for the stabilization

of the strategic arms competition are possible. . . .

It is also clear that the effect of the "bargaining chip" rationale for further armament measures by the United States has been the opposite of what was intended. Although it is true that these measures have put before the Soviet leadership the prospect of a further expensive round in the arms competition as the alternative to a SALT agreement, what is more significant is that the Soviet leadership feels itself obliged to match each step with comparable measures, for it cannot allow itself, for both domestic and international reasons, to be pressured into an agreement on unfavorable terms. Perhaps the "bargaining chip" theory may be sound diplomacy under some circumstances, but it is clear that in the strategic weapons field it provides dynamism for the arms race. . . .

Over the long run, it would seem more effective for the United States to base its negotiating tactics and its military procurements on the principle that security in the realm of strategic weapons is best served by a stable equilibrium at as moderate a level as can be managed through explicit or tacit agreement with our adversaries. To achieve this will require us to break the cycle of interaction between the two countries by the exercise of political leadership, deciding military policies in terms of this conception of security rather than leaving them to be decided by the pressures of the military services, the upward tug of technology, the overaction of military planners, or the misguided rationalizations of self-deceptive bargaining techniques.

SUPREME COURT RULINGS

Mr. THURMOND. Mr. President, liberals everywhere are applauding the recent Supreme Court ruling upholding the right of the New York Times to publish the purloined Pentagon papers. Implicit in this decision was the premise that the Government should avoid "prior restraint."

But what is it but prior restraint when the Federal Government can compel the States to submit in advance any proposed legislation they have for approval by Federal agents? Such restraint has been imposed upon Southern States for several years now.

When South Carolina challenged the Voting Rights Act in the Supreme Court, many of the same Justices who opposed "prior restraint" against the New York Times indicated their approval when such restraint was aimed at Southern State laws. As Justice Black correctly pointed out, such a Federal law "approaches dangerously near to wiping out the States as useful and effective units in the Government of our country."

Mr. President, an editorial published in the July 8 issue of the State of Columbia, S.C., correctly reveals the double standard of which I speak.

I ask unanimous consent that the editorial, entitled "New York Times and the South Receive Uneven Justice," be printed in the RECORD.

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

NEW YORK TIMES AND THE SOUTH RECEIVE UNEVEN JUSTICE

At the root of the Supreme Court decision upholding the right of the *New York Times* to publish the purloined Pentagon Papers was an oft-stated premise that the government should avoid "prior restraint."

Would that the same court had been as concerned about prior restraint five years ago when it validated a congressional statute which clearly imposed prior restraint on South Carolina and other Southern states. We refer to the Voting Rights Act of 1965 and, in particular, Section 5 of that act.

Let it be recalled that a vindictive Democratic Congress, miffed that a number of Southern states had forsaken the Democrats and supported Republican Barry Goldwater in the 1964 presidential election, undertook to penalize the offending states with hobbling controls.

Without requiring any showing of illegal or discriminatory conduct as a prerequisite for punitive controls, the Congress simply lumped together those states in which voters had not cast ballots in numbers satisfactory to congressional evaluators.

Such states (all Southern with the exception of Alaska) were required to suspend their literacy tests for voters, irrespective of any factual showing as to whether the tests had been abused.

Furthermore, the states were prohibited from altering their election laws without prior approval (the corollary of prior restraint) by either the federal judiciary or the office of the Attorney General of the U.S.

When South Carolina challenged the Voting Rights Act in the Supreme Court, many of the same justices who decried "prior restraint" against the *New York Times* subscribed fully to the proposition that such restraint could be properly applied against suspect Southern states.

Only Justice Hugo Black lodged any substantial complaint against such high-handed procedure. (This was, to be sure, before Chief Justice Warren Burger and Associate Justice Harry Blackmun joined the court.) Said Mr. Justice Black:

"A federal law which assumes the power to compel the States to submit in advance any proposed legislation they have for approval by federal agents approaches dangerously near to wiping out the States as useful and effective units in the government of our country."

Just a few weeks ago, a three-judge federal court in Mississippi revived Black's dissenting views in the South Carolina case and applied them to a situation which found Mississippi caught in the procedural vise of the Voting Rights Act. Regretfully, the Mississippi judges pointed out that as members of an inferior court they had no choice but to follow the precedent set by the Supreme Court's majority in the South Carolina case.

But that necessity did not keep them from observing:

"If we were free to perform our judicial duties according to our ability and agreeably to our understanding of the Constitution of the United States, we would, to a man, concur with Mr. Justice Black's views that Section 5 of the Voting Rights Act of 1965 is clearly unconstitutional . . .

"In the case at bar, the application of the vicious 'conquered province' theory embodied in this section is uniquely opprobrious because of the State of Mississippi's humiliation in bringing its laws to Washington for bureaucratic approval has been met with an obtuse, patronizing failure by the federal government official to discharge the duties Congress placed upon him. The unhappy result is that additional coals of discord are heaped upon the head of an already strained federalism."

Is it too much to ask that the Supreme Court of the United States accord South Carolina and other Southern states the same relief from prior restraint that it grants to the *New York Times*?

GOVERNOR'S MERIT AWARD TO MISS LONETTA SUBLETT

Mr. COOK. Mr. President, recently one of Kentucky's school systems, the Taylor County school system, was awarded the Governor's Merit Award for outstanding education innovation in the use of an audio informational retrieval system.

Miss Lonetta Sublett, superintendent of the Taylor County school system, applied to the U.S. Department of Education for the grant and was honored for her leadership and achievement by the Governor at the executive mansion.

I commend Miss Sublett on her sincere interest in the betterment of our schools and in her progressive attempts to individualize education. The money was made available to the Taylor County school system through Federal funds and is just another indication of how our tax money can be used effectively. Our educational programs need our continued support when they can produce such results.

I ask unanimous consent that the article published in the Central Kentucky News on Miss Sublett's success be printed in the RECORD.

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

TAYLOR SCHOOL SYSTEM HONORED

The Taylor County School System has been awarded the "Governor's Merit Award", for "outstanding educational innovation in the use of an audio informational retrieval system."

The award was presented to School Superintendent Miss Lonetta Sublett, by Governor Louie B. Nunn in ceremonies at the state capitol on Thursday afternoon of last week.

The audio retrieval system, is one of many innovations started during Miss Sublett's tenure as superintendent, and was installed by use of federal funds from the United States Office of Education in a grant applied for by Miss Sublett and handled through the Kentucky Department of Education.

Present in the House of Representatives' Chamber last week as the governor greeted some 160 state educators was Mrs. Spiro T. Agnew.

The schools were lauded for following a total school innovative approach, offering every student a learning experience that permits maximum individual achievement.

A reception for the winners and guest was held at the Executive Mansion following presentation of the awards.

U.S. INVOLVEMENT IN INDOCHINA

Mr. HATFIELD. Mr. President, Mr. Morton Halperin and Mr. Leslie Gelb wrote a guest editorial in the July 16 issue of Life magazine entitled "What Chance is 'Reasonable' in Vietnam? Mr. Halperin and Mr. Gelb are well qualified to write on our involvement in Indochina. Mr. Halperin served as Deputy Assistant Secretary of Defense, and then as a member of President Nixon's National Security Council staff. Mr. Gelb, while in the Defense Department, directed the preparation of the now famous Pentagon Papers. Thus, their thinking deserves our careful attention. In their editorial, they make the argument in favor of a

date certain for our total withdrawal, and contrast that with the alternatives that seem to be pursued by the administration.

With the President's dramatic announcement about his forthcoming trip to China, there has been much speculation about the future of our involvement in Indochina.

My conclusion is that it is now all the more imperative for Congress to legislate a date for our total military withdrawal. In my judgment, such an action, as advocated by these experts, would be a momentous step in preparing the climate for the President's journey of peace to the People's Republic of China.

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:

WHAT CHANCE IS "REASONABLE" IN VIETNAM?
(By Leslie H. Gelb and Morton H. Halperin)

With presidential adviser Henry A. Kissinger coming home from a "fact-finding" trip to Saigon and Paris, the Nixon administration is in the midst of yet another reappraisal of American Vietnam policy. The Pentagon papers indicate that such reevaluations are episodic. As in the past, the public can only be dimly aware of what options are being seriously debated. The President's choice involves as much what he decides to tell the American people as what he decides to do.

We believe that only an unambiguous public gesture can now end the divisions in our country. The Senate for the first time has gone on record in favor of a complete withdrawal within nine months. The publication of the Pentagon papers has intensified the debate about governmental credibility. And, in the midst of this, the Vietcong on July 1 put forward another in a long line of peace proposals.

This new seven-point proposal, like its predecessors, is a construct of Marxist rhetoric and Talmudic precision. The Vietnamese Communists use words very carefully to state their position in a way that raises hopes without giving anything away. They present a familiar list of moral imperatives that the United States "must" do in order to bring peace to Vietnam: ending "Vietnamization," dismantling all bases, withdrawing "all troops, military personnel, weapons, war materials," bring about a coalition government.

But in the following paragraph, which enunciates their conditions for action, as distinguished from the moral imperatives, they simply state: "If the U.S. sets a terminal date for the withdrawal from South Vietnam in 1971 of the totality of U.S. forces [and Allied forces], the parties will at the same time agree on" 1) safe withdrawal and 2) the release of American POWs, beginning and ending with the withdrawal of U.S. forces.

The message seems to be this: if we set a 1971 terminal date, there will be a ceasefire against American forces, a concurrent release of prisoners, and ostensibly no prohibitions on future American military and economic assistance to the Saigon regime. This interpretation is supported by North Vietnam's Le Duc Tho in his press interview of July 6.

We cannot be certain that this is really Hanoi's meaning. In the past, when we asked them what such and such a phrase meant, they only would say that we should look at the totality of their proposal. Thus we can only learn what they mean by putting forward a concrete proposal of our own which includes a terminal date for our presence and simultaneous release of prisoners.

Of course, if release of our POWs alone were our basic goal, the President would have every reason to accept the Hanoi position. But the real issue is, as it has always been, how important a non-Communist Vietnam is to American security. In this regard, everything that the President has *said* indicates that his Vietnam policy is not much different from that of each of his post-World War II predecessors. His stated goal is, as their goal was, a non-Communist South Vietnam. For President Truman, that meant beginning a program of military assistance to enable the French to fight the Vietminh. For President Eisenhower, it meant massive aid totaling 80 percent of the French effort in 1954 and, after the Geneva Conference, the introduction of an American military mission. For President Kennedy, it meant sending 15,000 American advisers to Vietnam and meddling in South Vietnamese domestic politics. For President Johnson, it meant Americanization of the war. For President Nixon, it is Vietnamization with phased withdrawal of American troops, along with invasions of Laos and Cambodia. The American policy in Vietnam is now described by President Nixon as assuring a "reasonable chance" for survival of the Saigon government. The difficulty is not with the phrase but with what meaning it is given. In fact, "reasonable chance" reasonably defined could provide a basis for uniting the American people.

So far, however, "reasonable chance" seems to add up to an ambiguous holding action: it has meant withdrawing most of the American forces in order to cut American casualties and costs, thereby, the President hopes, maintaining domestic support for the war. It has meant withdrawing slowly enough with hawkish enough rhetoric to reduce the chances of what the President has called "a nightmare of recrimination"—the right-wing reaction.

It seems to portend keeping two American residual forces in the battle as long as necessary: one on the ground in Vietnam providing assistance to the South Vietnamese and defending itself, and the other in Thailand and offshore on carriers conducting bombing raids throughout Indochina. It surely will mean continuing large-scale military and economic assistance to the South Vietnamese government.

While these actions can be interpreted in various ways, they are consistent with the notion that the President is doing everything that our domestic politics will permit to support the current Saigon government for the indefinite future.

Many would argue that we have long since given the Saigon government a "reasonable chance." We have fought their war for them for six years, killing many of the best enemy troops. At least for the past three years, we have given top priority to the equipping and training of South Vietnamese forces. The Saigon government has an army larger than its opponents, and it can draw ample recruits from the population under its control. These facts do not mean that the Saigon government would survive a complete American withdrawal. The simple truth is that we do not understand much more about South Vietnam today than we did in 1946, and we just do not know whether the Saigon government can survive or not.

President Nixon is really asking for continued American support for the war—for what everyone, including the President himself, seems to concede is only a marginal improvement of an uncertain chance that the current Saigon government will indeed be able to survive.

What the President hopes to gain is surely more than overbalanced by what he risks in continuing the war.

First, whatever Hanoi's current terms are, they are almost certain to increase as the size of our force diminishes. When 50,000 or fewer American troops are left in South Vietnam, Hanoi might demand that the United States also cease aid to Saigon and perhaps even change that government in return for the release of the prisoners.

A second risk is that if Hanoi does step up military pressure against this shrunken American force, the President might feel that he had no alternative than to respond by what he has called "decisive escalation" against North Vietnam. Most observers would say that the President simply cannot afford the domestic political repercussions of escalation now. But most of them were saying that before Laos and Cambodia. Indeed, most U.S. escalations of the war were preceded by predictions that they would not occur.

Beyond these two risks lies a third: namely, the risk of breaking the fragile link of trust between the President and the people. Presidents always want to keep open their options and retain their flexibility. But when the issue is Vietnam today, the President's desire for ambiguity must give way to the public's right to clarity.

President Nixon seems prepared to run these risks for two reasons. He still believes what most Southeast Asian specialists, including those within the government, have long since ceased to believe: that prospects for a "generation of peace" depends on the outcome in Vietnam.

The president also fears the growth of radicalism at home. Such domestic reaction is indeed something to worry about. The political left has started calling for war crimes trials. Their goal seems to be to establish wide-ranging individual, if not national, guilt. The Calley trial sparked the political right. Their goal will be to find out who is to blame for America's not winning this war. This emerging "scapegoatism" is frightening. President Nixon is on the mark here.

It is now the President's obligation to unite the country by stating an unambiguous policy. The new NLF proposal opens the way for doing so by apparently allowing the President to define "reasonable chance" as an American withdrawal with the Saigon government free to receive American military and economic aid. If President Nixon were to define "reasonable chance" in these terms, few here would quarrel with that decision, and it would almost certainly open the way at last to an end to our military involvement in Indochina.

It may well be the only way to give ourselves—these United States—a reasonable chance.

CAMPAIGN REFORM

Mr. PROUTY. Mr. President, several days ago, the distinguished Republican leader (Mr. SCOTT) placed in the RECORD an itemized account of all outstanding debts and negotiated settlements associated with the last few election campaigns. This list set out in detail "who owes how much to whom and for how long."

If campaign reform is to mean anything at all, it certainly should mean that no candidate is entitled to a special advantage over his opponent. As the ranking Republican member of the Committee on Rules and Administration, I supported Senator SCOTT's amendment prohibiting the extension of unsecured credit to candidates by certain businesses because I felt that the amendment put everyone on notice that no one is entitled to a free ride.

Mr. President, I ask unanimous consent to have printed in the RECORD several news accounts pertaining to Senator SCOTT's investigation and his amendment.

There being no objection, the items

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

[From the Baltimore Sun, July 24, 1971]

WHEN THE CANDIDATES FLY NOW, NOBODY BOTHERS TO PAY LATER

WASHINGTON.—Airlines are stuck with over $2.1 million in unpaid debts run up by political candidates and their campaign organizations. Telephone companies have nearly $400,000 in similar unpaid bills.

In addition to the Democratic and Republican National Committees, debtors listed include President Nixon, the late Robert F. Kennedy, Senator Hubert H. Humphrey (D., Minn.) and former Senator Eugene J. McCarthy (D., Minn.).

The Senate GOP leader, Hugh Scott, put the figures in the *Congressional Record* yesterday in urging adoption of an election-reform bill amendment to curb political deadbeats.

"This business of trying to run political campaigns on the cuff is distinctly unfair and places a burden which not only should not be on the companies but is actually forcing them into making involuntary and illegal contributions," the Pennsylvanian told the Senate.

In talking with newsmen he jibed at Mr. McCarthy, who he said apparently is going to run for President again, as one "who doesn't run a shirt-sleeve campaign but one on the cuff."

Examination of the documents Mr. Scott put on record showed that American Airlines alone reported that as of last April 30 it had outstanding debts of $1,337,834 incurred by candidates for federal office from 1962 on.

LISTING OF DEBTS

Here is the list it gave of candidates or political organizations and the amount owed by each:

Republican National Finance Committee, $151,871; Richard M. Nixon, $69,376; National Democratic Committee, $426,833; Robert F. Kennedy, $415,120; Hubert H. Humphrey, $138,762, and McCarthy for President, $135,872.

R. M. Bressler, vice president and treasurer of the airline, said in a letter to the Civil Aeronautics Board that because of "the substandard credit relations" it has experienced with candidates, it now is asking for personal guarantees in all cases.

WRITE-OFFS, SETTLEMENTS

Trans-World Airlines, in a June 2 report to the Civil Aeronautics Board, said its outstanding accounts showed $221,519 owed by United Democrats for Humphrey, $25,091 for a Humphrey charter, and $13,196 by the GOP National Committee.

Trans World also reported that on February 24, 1969, it had written off $6,867 by McCarthy for President, and on November 14, 1968, had settled for $9,485 a debt of $16,352 owed by McCarthy for President.

Other airlines also reported unpaid campaign debts, as did A.T.&T., Western Union and General Telephone and Electronics. An itemization of unpaid telephone bills covered page after page.

An unpaid Kennedy for President account totaling $30,690 was reported as settled in July 1969 for $15,395.

"LARGE DEBTS . . . NO MONEY"

Johnson Flying Service, Inc., of Missoula, Mont., reported that still unpaid is a $2,910 bill incurred on September 20, 1968, by Mr. Humphrey and charged to the Democratic National Committee.

The company said it had tried to collect but "they state that they cannot pay as they have a large quantity of debts and no money."

Mr. Scott's amendment to the election reform bill would prohibit extension of unsecured credit to candidates for federal office by airlines, telephone companies and other industries regulated by the government.

He previously had requested the General Accounting Office to compile a report on all outstanding debts of candidates to such companies, along with any negotiated settlements.

NEARLY COMPLETE

Mr. Scott said the report is nearly complete and reveals "totally unacceptable campaign practices by both political parties not to mention the federal common carriers themselves."

Corporate contributions to political campaigns are forbidden by law, but Mr. Scott said that if a candidate fails to pay his bills, he has in effect received an involuntary contribution.

[From the Washington Post, July 24, 1971]

SCOTT ASKS CAMPAIGN CREDIT BAN

Senate Republican Leader Hugh Scott yesterday proposed forbidding political candidates to put telephone, telegram, travel and similar campaign expenses on the cuff.

Scott conceded his move, proposed as an amendment to a pending bill to limit campaign advertising expenses, was aimed at Democratic presidential contenders.

"Isn't that the name of the game?" he asked newsmen with a grin.

Scott's amendment would bar certain federally regulated industries such as airlines, telephone companies and the like, from extending "unsecured credit" to political candidates—in other words, no unlimited charge accounts.

He said both parties and their candidates still have enormous bills outstanding from previous campaigns, such as $208,000 owed by the Democrats and $112,000 by the Republicans to Eastern Airlines alone.

Scott said the worst offender is former Sen. Eugene J. McCarthy (D-Minn.), an unsuccessful contender for the 1968 Democratic presidential nomination who it is said will enter next year's primaries in another bid for the White House.

Scott said McCarthy still owes $475,000 to just one telephone company from his 1968 effort.

"He favors everything except paying his bills," Scott said. "McCarthy doesn't run a shirt-sleeve campaign; everything is on the cuff."

He said there are also thousands of dollars in bills still unpaid from the 1968 campaign of the late Sen. Robert F. Kennedy (D-N.Y.) for the presidential nomination, including one of $414,000 to American Airlines.

Scott put a lengthy list into the Congressional Record of what he said were documented unpaid campaign debts for both parties and their candidates.

The documents, in the form of replies from officials of affected companies to requests of the Civil Aeronautics Board and the Federal Communications Commission, showed that even President Nixon had whopping unpaid bills from his 1968 campaign.

American Airlines reported its balance due from Richard M. Nixon as of April 30 this year of $69,376—$2,666 left over from the election year and $66,710 incurred in 1969. United Airlines reported the Nixon-Agnew campaign still owes them $75,180.

American also reported an unpaid balance for Sen. Hubert H. Humphrey (D-Minn.), Nixon's 1968 opponent, of $138,762; United said the Humphrey-Muskie ticket is indebted to them for $79,083.

Several officials said they have written off some of the campaign debts as uncollectable. R. M. Bressler, vice president and treasurer of American, said "We now ask for personal guarantees in all cases involving individual candidates and can report we have declined the applications of at least two well-known candidates in the last year where guarantees have not been forthcoming."

[From the Washington Star, July 23, 1971]

SCOTT HITS 1968 AIR TRAVEL, PHONE DEBTS

(By James Doyle)

Senate Minority Leader Hugh Scott, R-Pa., disclosed today that inquiries to government regulatory commissions had revealed that Democratic and Republican political candidates owe more than $2.1 million in outstanding airline bills and nearly $400,000 in outstanding telephone bills.

Scott submitted an amendment to the proposed Federal Elections Campaign Act of 1971 to forbid the granting of unsecured credit by the transportation and communications industries.

Scott said his amendment would permit the candidates to use credit cards, as they do now, but would prohibit the companies from issuing cards if the candidates' ability to pay was dubious.

Scott introduced information from a number of companies indicating that they were unable to require huge deposits from candidates because they could not pinpoint the volume of business the candidate would generate and were prohibited by non-discriminatory clauses in federal regulations from setting a high deposit figure.

Scott said that most of the outstanding debts belong to Democratic candidates and the Democratic National Committee.

His figures showed that as of April 30, 1971, the Democratic National Committee had an outstanding debt with American Airlines of $426,833, most of it left over from the 1968 campaign.

The Robert F. Kennedy political organization owed American Airlines $415,120; the Hubert Humphrey campaign owed $138,762, and the Eugene McCarthy campaign owed $135,872.

The Richard M. Nixon campaign owed American Airlines $69,376, and the Republican National Finance Committee owed American $151,871.

Almost all of these debts dated back to the 1968 presidential campaign.

Trans-World Airlines listed debts of $246,000 for the Humphrey campaign and $13,000 for the Republican National Committee.

A debt of $16,352.36, incurred by the McCarthy campaign in 1968 was settled for a payment of $9,485, TWA reported, and another McCarthy debt of $6,867.36, incurred in 1968, was written off Feb. 24, 1969.

TWA said political debts "are handled in the same manner as any other account" but did not explain the criteria for negotiating a lesser payment or completely writing off a debt.

United Air Lines listed an outstanding debt of $79,000 for the Humphrey-Muskie campaign and $75,000 for the Nixon-Agnew campaign. The Nixon campaign used United charters throughout 1968 and 1970.

An outstanding debt of $12,000 was listed by United for the Democratic National Committee with the notation "incurred by R. F. Kennedy."

Eastern Airlines listed a Humphrey-Muskie debt of $208,000 and a Republican National Committee debt of $112,000.

Western Airlines said it had no outstanding campaign debts, but had written off a "ticket by mail" invoice for $376.00 incurred in May, 1968, by "Senator Ted Kennedy and a Mr. Burke," and written off in September 1969.

The American Telephone & Telegraph Co. submitted a breakdown for its various regional companies, and said it wrote off some debts "after significant collection effort has been made" without success.

The breakdown did not segregate Democratic and Republican candidates but it showed written-off debts of $2,200 in Pennsylvania, $6,000 for Pacific Bell Telephone, $7,700 for New England Telephone Co., $1,200 for Michigan Bell and $48,000 for Indiana all of it from the McCarthy for President campaign.

The McCarthy campaign had another $5,600 debt written off by Northwestern Bell.

The General Telephone Companies submitted similar figures showing a total indebtedness from political campaigns of $68,386.14.

Scott said the total outstanding debt to A.T. & T. was about $76,000 for the Democrats.

ECONOMIC RAMIFICATIONS OF VIETNAM WAR

Mr. HATFIELD. Mr. President, Mr. Harold Willens has been at the forefront of those who have reawakened the American business community to the serious economic ramifications of the war in Vietnam and our swollen military budget. Mr. Willens is convinced that the wide spectrum of American business cannot prosper in an economic climate that is soured by the war and distorted by inflated military expenditures. Recently he wrote a letter to President Nixon which outlines much of the thinking behind Mr. Willens' efforts. I ask unanimous consent that the letter and an Associated Press article about Mr. Willens be printed in the RECORD.

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

APRIL 28, 1971.

President RICHARD M. NIXON,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I happened to be visiting South Vietnam when the world heard the welcome news that our ping pong players would be visiting China.

That same day an American soldier gave me a copy of *The Serviceman's Daily Prayer*, a leaflet which he said was widely distributed to our military personnnel in Vietnam. The leaflet, bearing the address: Service Prayer, 2936 Bremen Street, Columbus, Ohio 43224, contains these words:

"Bestow your blessing on my country and on all who fight against the evils of Communism."

Yesterday Secretary of State Rogers, in speaking about Chinese-American relations, stressed *political diversity* as a fact of life we cannot change and should accept. Secretary Rogers is right and realistic. By initiating a thaw in Chinese-American relations you were right and realistic, Mr. President.

But your action and your Secretary of State's words are being undermined by the exposure of young American minds to the inflammatory words of the prayer leaflet and similarly irrational military propaganda revealed by the recent CBS documentary: "The Selling of the Pentagon."

Business has trained me to operate pragmatically. A pragmatic evaluation indicates that our foreign policy in recent years has been counterproductive. Our international behavior has operated against our self-interest. In fact we have inflicted severe damage upon ourselves through a foreign policy which has not kept abreast of changing realities.

One of these realities is the changing nature of communism which has itself fragmented into a number of political divergencies. Changes in communism have been matched by changes in capitalism. My first employer, were he to return from the dead, would be astonished by the "social benefits" we have adopted over the past 35 years.

It seems logical to assume and project a succession of further changes "in our direction" within communist countries if international tensions can gradually be eased. Public statements on various occasions reveal your awareness that such easing of tensions would greatly benefit our country.

The dangers and burdens of an endless arms race and misadventures like Vietnam dramatize the advantage of accepting prudent calculated risks for peace. We will be more likely to take such calculated risks if we begin to look upon peace as an incremental process rather than something which appears suddenly and full-blown. And above all we must recognize that the small specific steps in such an incremental process depend upon limited, tentative trust in the other side. That kind of trust can never be developed if our people look upon ideological competitors as mortal theological foes.

Successful businessmen are always conscious of competitors. But I have seen healthy companies destroyed by competitor-obsession. Perhaps there is a lesson to be learned from this, Mr. President. If we become obsessed by our ideological competitors we cannot do justice to improving and winning willing adherents for our own great "product"—free enterprise democracy.

I very much hope, Mr. President, that you will take steps to put an end to the distribution of this prayer leaflet and everything else which furthers the intermingling of theology with foreign policy. Because I realize how complex and massive a job that is, and because I feel the Congress should be willing to help you in this, I am sending copies of this letter to each Senator and Congressman.

Sincerely,

HAROLD WILLENS.

BUSINESSMAN'S PEACE ACTIONS GOT HATE MAIL

(By John Cunniff)

NEW YORK.—Four years ago Harold Willens, a Los Angeles executive and real estate developer, and Henry Niles, then chairman of Baltimore Life Insurance Co., formed Business Executives Move for Vietnam Peace (BEM).

"At that time," said Willens, "anybody who spoke out against the war was considered the enemy or a nut."

The hate mail flooded in, Willens said, considerably faster than the membership applications. Willens and Niles felt, however, that the war was a mistake of historical magnitude, a military blunder, a political scandal.

BEM advocated that the businessman-citizen speak out on the issue. But its founders soon realized few establishment figures either cared or perhaps dared to. They disliked tangling with stockholders; they didn't want to rock the boat.

BEM drew memberships steadily, however. And then, since BEM was a one-issue organization, Willens in 1969 founded BEF, or Businessmen's Educational Fund, to fight on a broader scale what he felt was the militarization of America.

Willens, its chairman, devoted what his wife said was 101 per cent of his time to speeches, membership work, lobbying and, most recently, to a Vietnam trip. Results? Willens thinks he has succeeded to some extent.

In recent months the attitudes of some businessmen appear to have changed. Within the past year the heads of Bank of America, International Business Machines and E. I. du Pont have spoken against the war and blamed it for domestic problems.

Willens, a 57-year-old millionaire grandfather and former Marine, was asked if he felt a major change really has occurred in the business attitude.

"I think the line of the pragmatist and the idealist are meeting," he replied. "Damn few businessmen think we are unpatriotic now. All of them relate inflation to the war, for example."

Do you really think you can end wars?

"Yes. Maybe there'll be little ones. But my feeling is that since we've always had wars it is no reason to extrapolate into the future. We changed the name of the game when technology developed the ultimate weapon."

Isn't that being overly idealistic?

"We have to get away from the fuzzy thinking that says wars are inevitable and that peace is a utopian concept. Either man or war is obsolete. We have to decide."

But why should businessmen try to take a leadership role?

"The businessman's role is critical because he thinks pragmatically. He knows how to build. Peace must be constructed. It is an incremental thing, like constructing a building by putting in the foundation, then the first story and so on. It is a step-by-step operation."

Won't demilitarization weaken the nation's security?

"The present direction is counterproductive to the best interests of the country. Escalation has brought us into disastrous wars, bled our resources and kept us from solving critical domestic problems that erode our strength.

"The other approach, to seek peace, is a calculated risk, such as you take in business. There may not be immediate success. The armaments race grew step by step. De-escalation can proceed in the same way."

It was suggested to Willens that many people feel business executives can only hurt their own particular cause by speaking out on this subject. This lit the Willens fuse.

"Self-interest tells the corporate executive he's got to get in there. The businessman must redefine the corporate and individual responsibility. He must redefine it because his company is dependent upon the nation's policies.

"In order to be responsible to the stockholders, the executive has to act in accordance with the new realities. He must realize that in fact he is doing a deep disservice to stockholders, because business can only thrive in a healthy economy.

"He can't hide in a paneled office. He cannot hide behind the corporate curtain and protect the interest of stockholders, his country and himself.

"I don't think the businessman's alibi is any better than others—than the clergyman who fears what his parishioners will say or the physician who fears his patients."

PAKISTAN: THE THING SPEAKS FOR ITSELF

Mr. SAXBE. Mr. President, in law there is a doctrine entitled Res Ipsa Loquitur, meaning "the thing speaks for itself." The pictures in both Time and Newsweek today graphically illustrate a tragedy of immense proportions. It is too bad that the CONGRESSIONAL RECORD cannot reprint these pictures.

For several weeks now I have called to the attention of my colleagues, through the RECORD, the dreadful fate of millions of refugees in East Pakistan. Senator CHURCH and I have introduced an amendment with 32 cosponsors to the Foreign Assistance Act which would suspend America's aiding and abetting this terrible crime. I plead with my colleagues to look at the photographs in these two magazines. Nothing more need be said; nothing more can be said.

I ask unanimous consent that some articles regarding Pakistan be printed in the RECORD.

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

BENGAL: THE MURDER OF A PEOPLE

It seemed a routine enough request. Assembling the young men of the village of Haluaghat in East Pakistan, a Pakistani Army major informed them that his wounded soldiers urgently needed blood. Would they be

donors? The young men lay down on makeshift cots, needles were inserted in their veins—and then slowly the blood was drained from their bodies until they died.

Govinda Chandramandl forgets who told him first, but when he heard that an amnesty had been pledged to all refugees, he immediately set off on the long walk home. With his two teen-age daughters by his side, Chandramandl trudged through monsoon-drenched swamplands and past burned-out villages. When he neared his scrap of land, soldiers stopped him. As he watched in helpless anguish, his daughters were raped—again and again and again.

He was about 3 years old, and his mother was still in her teens. They sat on ground made muddy by the steady drizzle of the summer rains. The baby's stomach was grotesquely distended, his feet swollen, his arm no thicker than a man's finger. His mother tried to coax him to eat some rice and dried fish. Finally, the baby mouthed the food feebly, wheezed—and died.

Few people seem more alien to Americans than do the Pakistanis. When thousands of them perish in various natural disasters that regularly plague their country, the newspaper account of their suffering have a curious unreality. And yet today, no one can escape the nightmare vision of Pakistan's civil war: another 6 million or more driven into desperate exile as the result of a deliberate effort to terrorize an entire people. It is as if a city the size of Richmond, Va. had been obliterated and the population of New York made suddenly homeless. Even in a world jaded by war and atrocity, suffering on that scale still comes as a sickening shock.

And there is more to it than that. Far more horrifying than the prospect that Pakistan may destroy itself are the signs that its brutal civil war could spark yet another, wider conflict between Moslem Pakistan and its archenemy, Hindu India. Last week, Pakistan's President Mohammed Yahya Khan angrily declared that if India expands its surreptitious support of Bangla Desh, as the secessionist Bengal nation is known, "I shall declare a general war—and let the world take note." The world would have to. For should that happen, Pakistan's ally, China, and India's ally, Russia, would be hard-pressed to avoid involvement. And the United States could be faced with the dangerous necessity to choose sides.

Already, the realities of geopolitics have confronted the U.S. with the thankless task of choosing between strategic and humanitarian considerations. Straining to preserve its influence with Yahya's government, yet anxious to help the suffering Bengalis, America has succeeded only in embroiling itself in a bitter controversy. Last week that controversy was intensified when Sen. Edward Kennedy disclosed the contents of confidential messages from U.S. diplomats in Pakistan. "Specter of Famine Hangs Over East Pakistan," read one cable. "Prospects for Averting Widespread Hunger, Suffering and Perhaps Starvation Not Repeat Not Good." Kennedy's clear implication was that the Nixon Administration was seeking to cover up the magnitude of the Bengali tragedy. And, not content with that, he went on to intimate that the U.S. had plans to send police teams to East Pakistan to help Yahya's Punjabi soldiers suppress Bengali resistance.

TWO DIVERGENT CULTURES

Such a cold-blooded move, should it ever come to pass, would ensnarl the U.S. in one of the most intractable racial and cultural conflicts of modern times. Physically and politically, Pakistan is unique among the world's nation's; between its rugged, relatively empty western region and its desperately overpopulated eastern region lie 1,000 miles of Indian territory. And more than space divides the two parts of Pakistan. It is a nation of two radically divergent cultures, of two totally different peoples who have despised each other through history. The lighter-skinned, aggressive Punjabis of West Pakistan scorn the Bengalis of the east as spiritless peasants or tricky tradesmen. And the Bengalis, whose rich rice land and lucrative jute crops have paid Pakistan's bills ever since the founding of the country in 1947, regard the Punjabis as barbarians—and, to make matters worse, oppressive barbarians who have monopolized Pakistan's government and army. Snapped one Bengali leader: "We have never been anything but a colony of the west."

Chafing after decades of subjugation, the Bengalis responded with frenzied enthusiasm when their fiery, leonine hero, Sheikh Mujibur Rahman, led them to the polls last December in Pakistan's first free elections after twelve years of military rule. Spurred on by the flambouyant oratory of Mujib (as his worshipful followers call him), the Bengalis voted in such numbers that Mujib and his Awami League won an absolute majority of seats in the country's new National Assembly. Suddenly it seemed that Bengal's time had come. But as it turned out, Mujib's platform of economic and diplomatic autonomy for the east was too great a threat to be endured by Punjabi leaders. Unwilling to play second fiddle to Mujib, West Pakistan's most popular politician, the left-leaning Zulfikar Ali Bhutto, refused to participate in the new Parliament. And in the end President Yahya abruptly postponed the opening of the assembly indefinitely.

PLANS FOR SLAUGHTER

Within hours of Yahya's decree, Mujib proclaimed a general strike in East Pakistan. To this day, Pakistani officials maintain that Yahya personally appealed to Mujib for a compromise that would heal the nation's wounds. But most observers believe that Yahya had other plans all the while. Weeks before the Yahya-Mujib meeting actually took place, the President and his right-hand man, Lt. Gen. Tikka Khan, were already mapping out plans for Mujib's arrest, the dissolution of the Awami League and the slaughter of Bengali nationalists.

Known as "the bomber of Baluchistan" for his indiscriminate use of air and artillery strikes in crushing a local tribal revolt in 1965, Tikka Khan apparently persuaded Yahya to buy time for the army to build up its strength in Bengal. Accordingly, Yahya made his bid for discussions with Mujib. And while the two leaders talked—and Bengalis as well as the world at large looked for a compromise that might save Pakistan—the army pulled off a logistics coup. Flying the long over-water route around southern India with Boeing 707s commandeered from Pakistan International Airways the army doubled its troop strength in Bengal to 60,000 men. When Tikka gave the word that all was ready, Yahya flew out of Dacca. And that very night, the bomber of Baluchistan unleashed his troops.

Under instructions to strike brutally on the theory that a savage surprise attack would snuff out resistance quickly, the army obeyed its orders with a vengeance. Tanks crashed through the streets of East Pakistani's capital of Dacca, blasting indiscriminately at men and buildings. With cold ferocity, Punjabi soldiers machine-gunned clusters of citizens while others set fire to slum hutches throughout the city. Soon, the city was littered with bodies, and the campus of Dacca University—a hotbed of secessionism—was a bloody shambles.

Throughout that blood-drenched night and in the days and weeks that followed, the carnage continued. And the massacres were not limited to Dacca but were carried on throughout the countryside as well. After a desperate visit to his native village on the Indian border, a sobbing Bengali journalist told how the land had been devastated: "I passed through a dozen villages which had been burned and deserted, with bodies everywhere being eaten by crows. The smell! The horror! I kept praying it would not be like that at my village. But it was. The village was just a mass of charred rubble and corpses. My wife and child were missing. There was just one old lady alive and she could no longer talk. She just sat on the ground, shaking and moaning."

With the passing of time, the magnitude of the slaughter has diminished, but there has been no lessening in the brutality of the Pakistani Army. Last week, *Newsweek's* Loren Jenkins, who was in Dacca the night that Gen. Tikka Khan's troops launched their campaign of murder, cabled the following report on conditions in East Pakistan now:

Four months after the first flush of bloodletting, East Pakistan still lives in fear. But instead of being the cowering, groveling fear that the army sought to instill, it is a sullen fear tinged with quiet defiance and hate. It is a fear based on the appreciation of a very harsh reality, not a fear that marks people of broken spirit. Walking along a Dacca street recently, I met a journalist I had known before. Our eyes met and he nodded, but he appeared embarrassed. Glancing nervously all around, he muttered, "My God, my God. Civilized man cannot describe the horror that has been done." An hour later another friend explained: "We have been ordered not to talk to foreign journalists. We are scared. We live in terror of the midnight knock on the door. So many people have been killed. So many more have disappeared. And more vanish every night."

One who vanished in the night was Mujib, who is now reportedly held in prison in the western garrison town of Mianwali. A hero before, Mujib has now become a martyr. For all his conspicuous faults, he has become the symbol of Bengali patriotism. Yet Yahya, almost boastfully, told a recent visitor, "My generals are pushing for a military trial for Mujib and for his execution. I have agreed and the trial will be held soon." No policy could be more short-sighted or more likely to harden Bengali resistance. As one Western diplomat told me, "Yahya is simply out of his mind. He still doesn't even understand what the army has done. He thinks they can kill off a couple of hundred thousand people, try Mujib for treason, force a return to order and all will be forgotten. This is utter nonsense. These people will not forget."

GUERRILLA RESISTANCE

Indeed, the minds of Bengalis are emblazoned with the memories of these months of terror. Despite the terror, signs of resistance to the army creep up everywhere. In Dacca, street urchins hawking the local papers slip mimeographed communiques from the government-in-exile into the newspapers. On ferry boats in the countryside, where all passengers are under the watchful eyes of the army, strangers sidle up and whisper of massacres or point out areas in the dense Madhupur jungle where the "Mukti Bahini," or Liberation Army, is hiding. All over the country, the resistance is rapidly taking on the earmarks of a classic guerrilla war. And East Pakistan is ideal guerrilla terrain reminiscent of South Vietnam's Mekong Delta—a labyrinth of sunken paddies, jute fields and banana groves.

That the Mukti Bahini are capitalizing on their few assets is brought home daily. They have cut the key railroad to Dacca from the port of Chittagong and have also severed the parallel road. More than 60 per cent of the interior's food supplies moves over those routes and there is virtually no prospect of restoring them until peace is also restored. The rebels' recent coup in blowing up three power stations in Dacca has underscored the point that no city or village is safe from their campaign to bring the economy to a halt.

Most important, however, is the fact that the rebels now seem to be winning what every guerrilla needs—the support of the populace. Two months ago, villagers in Noakhali province pleaded wtih the Mukti Bahini not to blow up a bridge because it would bring army retaliation. Last week, those same villagers sought out the guerrillas and asked them to destroy the bridge.

To be sure, the guerrillas are no match for the federal army. While they have rallied some 20,000 Bengali fighters to their cause (and expect another 10,000 recruits to join them next month after clandestine training in India), the inadequately armed rebels still face 60,000 well-equipped professional soldiers. And despite its covert aid, India has cautiously hesitated to recognize the Bangla Desh government-in-exile. One reason for this restraint is the genuine and costly problem the New Delhi government faces in caring for the 6 million Bengali refugees now in India. NEWSWEEK's Tony Clifton, who has reported the anguish of the refugees since the beginning of Pakistan's civil war, filed this report last week from Calcutta:

The strain on India has become almost unbearable. The refugees are still swarming across the border in hordes ranging as high as 40,000 a day, and as P. N. Luthra, the former Indian Army officer in charge of the refugee program, told me, "I'm now responsible for the care of a small country." It is costing India $3 million a day to feed, clothe, house and provide vital medicine for the Bengalis, a financial drain that is crippling to the already marginal Indian economy. Worse yet, lack of available funds has meant a shortage of virtually everything in the refugee camps—and the inevitable result has been suffering, disease and death. To Luthra, the only conceivable resolution of the tragedy is for the world to put the utmost pressure on Pakistan to stop the carnage so the Bengalis will feel safe in going home.

Yet for all their suffering, the Bengalis themselves maintain their stoicism. It is the monsoon season in India, but the monsoon here is not like the great monsoons of Hollywood. Instead of roaring and thundering, the rain falls softly and steadily, dribbling through the canvas tents to soak the refugees, turn earth floors to mud and flood inadequate drains. But the refugees stand patiently, calf deep in stagnant water, eager to tell me their stories so I can tell others. I collect a notebook of horror—rape and murder and kidnaping. They tell me how they saw their children stabbed, their husbands or brothers executed, their wives collapse with fatigue or sickness. The stories are all new, and all the same. And I remember Luthra's plaintive question, "How can we think the human race is evolving to a higher level when it lets this go on?"

As the military repression and the guerrilla sabotage goes on. It poses an ever-increasing threat to the future of Pakistan itself. Already, experts say, the country's economy is a shambles. Since the fighting began, exports have plummeted, the vital jute crops that are Pakistan's biggest foreign exchange earner not unharvested, and the vast consumer market of the eastern region on which West Pakistan's factories lived has vanished along with the refugees and rebels. "In short, Yahya's government faces the genuine danger of bankruptcy," warns a Western economist in Dacca. Equally genuine is the danger of mass starvation. "Unless something is done soon," the same economist adds, "there is going to be a famine here that will make all the prior suffering look like nothing." But in the end, the greatest threat to Pakistan is the flaring hatreds that Yahya's army has spawned. "Pakistan died in March," says a Karachi editor. "The only way this land can be held together is by the bayonet and the torch. But that is not unity, that is slavery. There can never be one nation in the future, only two enemies."

THREAT OF WAR

The area already has enemies enough. In recent weeks, Islamabad and New Delhi have traded insults and accusations at a dizzying rate and there is a real possibility that angry words may escalate into war. Indeed, some Indians even claim to see an economic motive for going to war; according to the Institute for Strategic Studies in New Delhi, it would be cheaper for India to fight Pakistan than to continue to care for millions of Bengali refugees. "It hasn't come to that yet," sighed one U.S. official last week. "But India has considered a military thrust, apparently very seriously." And Pakistan too has weighed the use of force against its neighbor in retaliation for India's support of the Mukti Bahini.

The gravest danger from any such hostilities is the possibility that Communist China and Russia would become involved. Chinese Premier Chou En-lai has denounced "Indian expansionists" and has promised Yahya that Peking would support the Pakistanis "in their just struggle to safeguard their state sovereignty." And Chou could handily translate his pledge into action—by ordering Chinese troops stationed along the Indian border to provoke skirmishes, or by infiltrating "advisers" to reinforce the Pakistani Army. "Pakistan has some promises from Peking to take military action of its own should war begin," warns a U.S. diplomat, "and India is trying to extract some counterbalancing promise of military aid from Russia. That could lead to catastrophe."

AN AGONIZING CHOICE

Any such involvement by the two Communist superpowers would confront the United States with a cruel dilemma. Pakistan, despite the undeniable brutality of its policy toward the Bengalis, is a long-standing American ally and a country that the U.S. is desperately trying to keep out of Peking's sphere of influence. At the same time, India is Asia's biggest nation with a democratic tradition, dating back to Gandhi and Nehru, and as such, occupies a special position in the U.S. portfolio of friendly nations. To choose between the two would be agonizing. One U.S. analyst of foreign affairs, drafting a scenario for U.S. actions should a subcontinent war break out, remarked: "Our first move obviously would be to try to play the peacemaker, much as Russia did at Tashkent in 1966 during the last Indo-Pakistani war. If that failed, the U.S. might be able to sit it out, so long as Russia and China were involved only as suppliers of the two combatants. But if they got directly engaged, it would then be almost impossible for Washington to remain aloof. We would have to gamble on one side or the other, give them at least the logistical aid they needed and hope we had chosen the winner."

Rhetoric and contingency plans aside, none of the world's three great powers wants to embroil itself militarily in the Indian subcontinent. But that does not rule out the possibility that they could become involved against their will. In the meantime, the future of Pakistan and, possibly, the lives of millions of other Asians, depend on Yahya Khan. And at the moment the Pakistani President remains determined not to relent—ignoring the fact that he may be creating out of nationalist guerrillas the core of a potential Communist insurgency. "The tragedy of Pakistan really is that Yahya is oblivious to what he is doing, oblivious to the cost of his actions," a diplomat in Islamabad remarked somberly last week. "There is only one man alive who could save Pakistan now, and that is Mujib. Yahya vows that Mujib must die. But the day he hangs by the neck, Pakistan will hang with him."

THE POLITICS OF RELIEF

If some Americans are still only vaguely aware of the plight of the Bengali refugees, Beatles George Harrison and Ringo Starr intend to pound the message home this week. In their first public appearance together since the famous rock group split up, George and Ringo plan a benefit performance at New York's Madison Square Garden, with all proceeds to go to homeless Bengali children. And theirs is only one of many efforts—by the International Rescue Committee, Catholic Relief Services, UNICEF and Americans for Childrens Relief among others—designed to stir the U.S. conscience over the genocidal civil war in Pakistan.

Many private citizens now involved in Bengali relief are veterans of similar operations during the Biafran tragedy two years ago. And most are dismayed that, unlike the rescue of Biafran children, which aroused such widespread sympathy, world reaction to the Bengali refugee emergency seems almost apathetic by comparison. Ironically, the sheer magnitude of the suffering in East Pakistan may, in itself, be partly to blame. "Bengali refugees must now form the largest group of displaced persons in the world," said Dr. Daniel L. Weiner, who recently returned from a fact-finding tour for the IRC. "It is a problem that has to be dealt with on an international scale; no private effort can possibly handle this load. Private agencies can only alleviate some aspects of the mess. But the very size of the probem seems to paralyze people—it's not so much a lack of interest as a feeling of helplessness."

Busy: To the extent that any organized international effort has been mounted to alleviate Bengal's misery, the U.S. Government can take credit. Washington has committed $70.5 million to the aid of East Pakistani refugees in India (as compared with $11 million from the Soviet Union). More than 360,000 tons of U.S. food grains are in the transport pipeline to East Pakistan. For the present, according to U.S. specialists, the threat of mass starvation in the region is not due to any lack of supplies but to poor distribution. Though the U.S. has given Pakistan $2 million to charter relief ships, the Pakistani Army has used most of them so far to transport troops and ammunition. "They are so damned busy trying to re-establish their control over East Pakistan," snapped a State Department aide, "that they haven't looked beyond their own noses."

Such complaints suggest that Washington has had little success in influencing President Mohammed Yahya Khan to moderate his policies. Yet the Nixon Administration has justified its aid to the Yahya regime mainly on the ground that such support will give Washington leverage over Islamabad. In the face of mounting domestic criticism of that policy, however, the U.S. has recently begun to waffle. In requesting a total of $131.5 million in aid to Pakistan next year, the State Department recently promised Congress that the money would be held back until Pakistan begins to minister to its homeless millions. But skeptical observers recalled that the U.S. slapped a similar ban on military aid to Pakistan last April—only to have it emerge later on that Pakistani freighters were still hauling U.S.-supplied ammunition and spare parts, ordered before the ban took effect, back to Karachi. And last week, Sen. Stuart Symington charged that the ban was still full of holes. The Administration, said Symington, was guilty of "semantics, ambiguous statements on the public records without clarification and no effort to present the actual facts until pressed to do so."

Strategic: Privately, U.S. diplomats concede that, above all else, Washington is trying to maintain good relations with Pakistan out of strategic considerations. One U.S. diplomat warned against the end of an American role on the subcontinent. "If India and Pakistan bleed each other into impotence, and our influence has vanished," he argued, "the area could become a playground for the Soviet Union and China." Added a colleague with startling bluntness: "We are

more interested in stability than morality at the moment . . . Right now the chance for stability, slim as it is, seems to lie with Yahya."

Yet, the price of a cold geopolitical approach to the problem may itself prove to be unacceptable in the end. For one thing, Washington's calculated reluctance to bring added pressures on Islamabad by openly cutting off aid put it at odds with the World Bank and the other members of an eleven-nation consortium, all of whom have deferred development programs in Pakistan until the government in Islamabad works out a "political accommodation" with the eastern region. (Even the World Bank, however, has not been able to escape the controversy swirling around Pakistan. After World Bank president Robert McNamara tried to suppress a critical report drafted by a team of investigators who recently visited Pakistan, The New York Times got hold of the document and splashed it on its front page.) Subsequently, McNamara sent a letter to the Pakistani Government apologizing for the news leak.

Moreover, Washington's equivocation has already enraged India, where most officials are convinced that Yahya could not continue his policy of repression without outside help. "Supply of arms to Pakistan by any country in the present context amounts to condoning genocide in Bangla Desh," charges India's Foreign Minister Swaran Singh. "It could have an impact on Indo-U.S. bilateral relations as well." Thus, rightly or wrongly, the Administration's pragmatic stance on the Pakistani question has promoted an impression of official U.S. indifference to the human agony of a strife-torn land—an impression that is at odds with the traditional image of a concerned and compassionate America.

[From Time magazine, Aug. 2, 1971]

PAKISTAN: THE RAVAGING OF GOLDEN BENGAL

Over the rivers and down the highways and along countless jungle paths, the population of East Pakistan continues to hemorrhage into India: an endless unorganized flow of refugees with a few tin kettles, cardboard boxes and ragged clothes piled on their heads, carrying their sick children and their old. They pad along barefooted, with the mud sucking at their heels in the wet parts. They are silent, except for a child whimpering now and then, but their faces tell the story. Many are sick and covered with sores. Others have cholera, and when they die by the roadside there is no one to bury them. The Hindus, when they can, put a hot coal in the mouths of their dead or singe the body in lieu of cremation. The dogs, the vultures and the crows do the rest. As the refugees pass the rotting corpses, some put pieces of cloth over their noses.

The column pushing into India never ends, day or night. It has been four months since civil war broke out between East and West Pakistan, and the refugees still pour in. No one can count them precisely, but Indian officials, by projecting camp registrations, calculate that they come at the rate of 50,000 a day. Last week the estimated total passed the 7,500,000 mark. Should widespread famine hit East Pakistan, as now seems likely, India fears that the number may double before the exodus ends.

Hundreds of thousands of these are still wandering about the countryside without food and shelter. Near the border, some have taken over schools to sleep in; others stay with villagers or sleep out in the fields and under the trees. Most are shepherded into refugee camps where they are given ration cards for food and housed in makeshift sheds of bamboo covered with thatched or plastic roofing. Though no one is actually starving in the camps, food is in short supply, particularly powdered milk and baby food.

NO MORE TEARS

Life has been made even more miserable for the refugees by the monsoon rains, that have turned many camps into muddy lagoons. Reports Dr. Mathis Bromberger, a German physician working at a camp outside Calcutta: "There were thousands of people standing out in the open here all night in the rain. Women with babies in their arms. They could not lie down because the water came up to their knees in places. There was not enough shelter, and in the morning there were always many sick and dying of pneumonia. We could not get our serious cholera cases to the hospital. And there was no one to take away the dead. They just lay around on the ground or in the water." High-pressure syringes have speeded vaccination and reduced the cholera threat, but camp health officials have already counted about 5,000 dead, and an estimated 35,000 have been stricken by the convulsive vomiting and diarrhea that accompany the disease. Now officials fear that pneumonia, diphtheria and tuberculosis will also begin to exact a toll among the weakened refugees. Says one doctor: "The people are not even crying any more."

Perhaps because what they flee from is even worse. Each has his own horror story of rape, murder or other atrocity committed by the Pakistani army in its effort to crush the Bengali independence movement. One couple tells how soldiers took their two grown sons outside the house, bayoneted them in the stomach and refused to allow anyone to go near the bleeding boys, who died hours later. Another woman says that when the soldiers came to her door, she hid her children in her bed; but seeing them beneath the blanket, the soldiers opened fire, killing two and wounding another. According to one report from the Press Trust of India (P.T.I.), 50 refugees recently fled into a jute field near the Indian border when they heard a Pakistani army patrol approaching. "Suddenly a six-month-old child in its mother's lap started crying," said the P.T.I. report. "Failing to make the child silent and apprehending that the refugees might be attacked, the woman throttled the infant to death."

CORDON OF FIRE

The evidence of the bloodbath is all over East Pakistan. Whole sections of cities lie in ruins from shelling and aerial attacks. In Khalishpur, the northern suburb of Khulna, naked children and haggard women scavenge the rubble where their homes and shops once stood. Stretches of Chittagong's Hizari Lane and Maulana Sowkat Ali Road have been wiped out. The central bazaar in Jessore is reduced to twisted masses of corrugated tin and shattered walls. Kushtia, a city of 40,000, now looks, as a World Bank team reported, "like the morning after a nuclear attack." In Dacca, where soldiers set sections of the old City ablaze with flamethrowers and then machine-gunned thousands as they tried to escape the cordon of fire, nearly 25 blocks have been bulldozed clear, leaving open areas set incongruously amid jam-packed slums. For the benefit of foreign visitors, the army has patched up many shell holes in the walls of Dacca University, where hundreds of students were killed. But many signs remain. The tank-blasted Rajabagh Police Barracks, where nearly 1,000 surrounded Bengali cops fought to the last, is still in ruins.

Millions of acres have been abandoned. Much of the vital jute export crop, due for harvest now, lies rotting in the fields; little of that already harvested is able to reach the mills. Only a small part of this year's tea crop is salvageable. More than 300,000 tons of imported grain sits in the clogged ports of Chittagong and Chalna. Food markets are still operating in Dacca and other cities, but rice prices have risen 20% in four months.

Fear and deep sullen hatred are everywhere evident among Bengalis. Few will talk to reporters in public, but letters telling of atrocities and destroyed villages are stuck in journalists' mailboxes at Dacca's Hotel Intercontinental. In the privacy of his home one night, a senior Bengali bureaucrat declared: "This will be a bitter, protracted struggle, maybe worse than Viet Nam. But we will win in the end."

Estimates of the death toll in the army crackdown range from 200,000 all the way up to a million. The lower figure is more widely accepted, but the number may never be known. For one thing, countless corpses have been dumped in rivers, wells and mass graves. For another, statistics from East Pakistan are even more unreliable than statistics from most other places (*see* TIME Essay). That is inevitable in a place where, before the refugee exodus began, 78 million people, 80% of them illiterate, were packed into an area no larger than Florida.

HARSH REPRISALS

The Hindus, who account for three-fourths of the refugees and a majority of the dead, have borne the brunt of the Moslem military's hatred. Even now Moslem soldiers in East Pakistan will snatch away a man's *lungi* (sarong) to see if he is circumcised, obligatory for Moslems; if he is not, it usually means death. Others are simply rounded up and shot. Commented one high U.S. official last week: "It is the most incredible, calculated thing since the days of the Nazis in Poland."

In recent weeks, resistance has steadily mounted. The army response has been a pattern of harsh reprisals for guerrilla hit-and-run forays, sabotage and assassination of collaborators. But the Mukti Bahini, the Bengali liberation forces, have blasted hundreds of bridges and culverts, paralyzing road and rail traffic. The main thrust of the guerrilla movement is coming from across the Indian border, where the Bangla Desh (Bengal Nation) provisional government has undertaken a massive recruitment and training program. Pakistani President Agha Mohammed Yahya Khan last week charged that there were 24 such camps within India, and Indians no longer even bother to deny the fact that locals and some border units are giving assistance to the rebels.

Half of the Mukti Bahini's reported 50,000 fighters come from the East Bengal Regiment, the paramilitary East Bengal Rifles, and the Bengali police, who defected in the early days of the fighting. Young recruits, many of them students, are being trained to blend in with the peasants, who feed them, and serve as lookouts, scouts and hit-and-run saboteurs. Twice the guerrillas have knocked out power in Dacca, and they have kept the Dacca-Chittagong railway line severed for weeks. Wherever possible they raise the green, red and gold Bangala Desh flag. They claim to have killed 25,000 Pakistani troops, though the figure may well be closer to 2,500 plus 10,000 wounded (according to a reliable Western estimate). Resistance fighters already control the countryside at night and much of it in the daytime.

Only time and the test of fire will show whether or not the Mukti Bahini's leaders can forge them into a disciplined guerrilla force. The present commander in chief is a retired colonel named A.G. Osmani, a member of the East Pakistani Awami League. But many feel that before the conflict is over, the present moderate leadership will give way to more radical men. So far the conflict is nonideological. But that could change. "If the democracies do not put pressure on the Pakistanis to resolve this question in the near future," says a Bangla Desh official, "I feel for the consequences. If the fight for liberation is prolonged too long, the democratic elements will be eliminated and the Communists will prevail. Up till now the Communists do not have a strong position.

But if we fail to deliver the goods to our people, they will sweep us away."

By no means have all the reprisals been the work of the army. Bengalis also massacred some 500 suspected collaborators, such as members of the right-wing religious Jammat-e-Islami and other minor parties. The Biharis, non-Bengali Moslems who fled from India to Pakistan after partition in 1947, were favorite—and sometimes innocent—targets. Suspected sympathizers have been hacked to death in their beds or even beheaded by guerrillas as a warning to other villagers. More ominous is the growing confrontation along the porous 1,300-mile border, where many of the Pakistani army's 70,000 troops are trying to seal off raids by rebels based in India. With Indian *jawans* facing them on the other side, a stray shot could start a new Indo-Pakistani war—and one on a much more devastating scale than their 17-day clash over Kashmir in 1965.

Embroiled in a developing if still disorganized guerrilla war, Pakistan faces ever bleaker prospects as the conflict spreads. By now, in fact, chances of ever recovering voluntary national unity seem nil. But to Yahya Khan and the other tough West Pakistani generals who rule the world's fifth largest nation, an East-West parting is out of the question. For the sake of Pakistan's unity, Yahya declared last month, "no sacrifice is too great." The unity he envisions, however, might well leave East Pakistan a cringing colony. In an effort to stamp out Bengali culture, even street names are being changed. Shankari Bazar Road in Dacca is now called Tikka Khan Road after the hard-as-nails commander who now rules East Pakistan under martial law.

HONEYED SMILE

The proud Bengalis are unlikely to give in. A warm and friendly but volatile people whose twin passions are politics and poetry, they have nurtured a gentle and distinctive culture of their own. Conversation—*adda*—is the favorite pastime, and it is carried on endlessly under the banyan trees in the villages or in the coffeehouses of Dacca.

Typically, Bangla Desh chose as its national anthem not a revolutionary song but a poem by the Nobel-prizewinning Bengali Poet Rabindranath Tagore, "Golden Bengal":

Come Spring, O mother mine!
Your mango groves are heady with fragrance,
The air intoxicates like wine.
Come autumn, O mother mine!
I see the honeyed smile of your harvest-laden fields.

It is indeed a land of unexpectedly lush and verdant beauty, whose emerald rice and jute fields stretching over the Ganges Delta as far as the eye can see belie the savage misfortunes that have befallen its people. The soil is so rich it sprouts vegetation at the drop of a seed, yet that has not prevented Bengal from becoming a festering wound of poverty. Nature can be as brutal as it is bountiful, lashing the land with vicious cyclones and flooding it annually with the spillover from the Ganges and the Brahmaputra rivers.

IMPROBABLE WEDDING

Even in less troubled times, Pakistanis were prone to observe that the only bonds between the diverse and distant wings of their Moslem nation were the Islamic faith and Pakistan International Airlines. Sharing neither borders nor cultures, separated by 1,100 miles of Indian territory (*see map*), Pakistan is an improbable wedding of the Middle East and Southeast Asia. The tall, light-skinned Punjabis, Pathans, Baluchis and Sindhis of West Pakistan are descendants of the Aryans who swept into the subcontinent in the second millennium B.C. East Pakistan's slight, dark Bengalis are more closely related to the Dravidian people they subjugated. The Westerners, who eat wheat and meat, speak Urdu, which is written in Arabic but is a synthesis of Persian and Hindi. The Easterners eat rice and fish, and speak Bengali, a singsong language of Indo-Aryan origin.

The East also has a much larger Hindu minority than the West: 10 million out of a population of 78 million, compared with 800,000 Hindus out of a population of 58 million in the West. In British India days, the western reaches of what is now West Pakistan formed the frontier of the empire, and the British trained the energetic Punjabis and Pathans as soldiers. They scorn the *lungi*, a Southeast Asian-style sarong worn by the Bengalis. "In the East," a West Pakistani saying has it, "the men wear the skirts and the women the pants. In the West, things are as they should be."

TWENTY FAMILIES

The West Pakistanis were also determined to "wear the pants" as far as running the country was concerned. Once, the Bengalis were proud to belong to Pakistan (an Urdu word meaning "land of the pure"). Like the Moslems from the West, they had been resentful of the dominance of the more numerous Hindus in India before partition. In 1940, Pakistan's founding father, Mohammed Ali Jinnah, called for a separate Islamic state. India hoped to prevent the split, but in self-determination elections in 1947, five predominantly Moslem provinces, including East Bengal, voted to break away. The result was a geographical curiosity and, as it sadly proved, a political absurdity.

Instead of bringing peace, independence and partition brought horrible massacres, with Hindus killing Moslems and Moslems killing Hindus. Shortly before his assassination in 1948, Mahatma Gandhi undertook what proved to be his last fast to halt the bloodshed. "All the quarrels of the Hindus and the Mohammedans," he said, "have arisen from each wanting to force the other to his view."

From the beginning, the East got the short end of the bargain in Pakistan. Though it has only one-sixth of the country's total land area, the East contains well over half the population (about 136 million), and in early years contributed as much as 70% of the foreign-exchange earnings. But West Pakistan regularly devours three-quarters of all foreign aid and 60% of export earnings. With the Punjabi-Pathan power elite in control for two decades, East Pakistan has been left a deprived agricultural backwater. Before the civil war, Bengalis held only 15% of government jobs and accounted for only 5% of the 275,000-man army. Twenty multimillionaire families, nearly all from the West, still control a shockingly disproportionate amount of the country's wealth (by an official study, two-thirds of the nation's industry and four-fifths of its banking and insurance assets). Per capita income is miserably low throughout Pakistan, but in the West ($48) it is more than half again that in the East ($30).

To cap this long line of grievances came the devastating cyclone that roared in off the Bay of Bengal last November, claiming some 500,000 lives. The callousness of West toward East was never more shockingly apparent. Yahya waited 13 days before visiting the disaster scene which some observers described as "a second Hiroshima." The Pakistani navy never bothered to search for victims. Aid distribution was lethargic where it existed at all; tons of grain remained stockpiled in warehouses while Pakistani army helicopters sat on their pads in the West.

SUPREME SACRIFICE

Three weeks later, Pakistan held its first national elections since becoming a nation 23 years before; the object was to choose a constitutional assembly that would draft a new charter for the nation, and then would continue to sit as a national assembly. The East Pakistanis thronged the polls and gave an overwhelming endorsement to Sheik Mujibur ("Mujib") Rahman, 51, the fiery head of the party known as the Awami League and a longtime spokesman for Eastern autonomy (he spent nearly ten years in jail for urging that Bengalis be given greater control of their destiny). Mujib's Awami (People's) League captured 167 out of the 169 seats allotted the East in the 313-member national assembly, giving it a clear majority. The victory meant that Mujib, as the leader of the majority party, would be Prime Minister of all Pakistan.

It was something that Yahya had simply not anticipated. He and his fellow generals expected that Mujib would capture no more than 60% of the East Pakistani seats, and that smaller parties in the East would form a coalition with West Pakistini parties, leaving the real power in Islamabad. Mujib feared some sort of doublecross: "If the polls are frustrated," he declared in a statement that proved horribly prophetic, "the people of East Pakistan will owe it to the million who have died in the cyclone to make the supreme sacrifice of another million lives, if need be, so that we can live as a free people."

With the constitutional assembly scheduled to convene in March, Yahya began a covert troop buildup, flying soldiers dressed in civilian clothes to the East at night. Then he postponed the assembly, explaining that it could not meet until he could determine precisely how much power and autonomy Mujib wanted for the East. Mujib had not espoused full independence, but a loosened semblance of national unity under which each wing would control its own taxation, trade and foreign aid. To Yahya and the generals, that was unacceptable. On March 25, Yahya broke off the meetings he had been holding and flew back to Islamabad. Five hours later, soldiers using howitzers, tanks and rockets launched troop attacks in half a dozen sections of Dacca. The war was on. Swiftly, Yahya outlawed the Awami League and ordered the armed forces "to do their duty." Scores of Awami politicians were seized, including Mujib, who now awaits trial in remote Sahiwal, 125 miles southwest of Islamabad, on charges of treason; the trial, expected to begin in August, could lead to the death penalty.

OUT OF TOUCH

In the months since open conflict erupted, nothing has softened Yahya's stand. In fact, in the face of talk about protracted guerrilla fighting, mounting dangers of war with India, and an already enormous cost in human suffering, the general has only stiffened. Should India step up its aid to the guerrillas, he warned last week, "I shall declare a general war—and let the world take note of it." Should the countries that have been funneling $450 million a year in economic aid into Pakistan put on too much pressure, he also warned, he will do without it.

He has already lost some. After touring East Pakistan last month, a special World Bank mission recommended to its eleven-nation consortium that further aid be withheld pending a "political accommodation." World Bank President Robert McNamara classified the report on the grounds that it might worsen an already difficult diplomatic situation. The report spoke bluntly of widespread fear of the Pakistani army and devastation on a scale reminiscent of World War II. It described Kushtia, which was 90% destroyed, as "the My Lai of the West Pakistani army." A middle-level World Bank official leaked the study, and last week McNamara sent Yahya an apology; in his letter he reportedly said that he found the report "biased and provocative." Yet one Bank official insisted that though it was later revised and modified somewhat, its thrust remained the same. "We just had to put it on a less passionate basis," he said, "But it did not reduce its impact."

U.S. policy has been murky, to say the least. The Nixon Administration continues to oppose a complete cutoff of U.S. aid to Pakistan. The White House has asked Congress for $118 million in economic assistance for Pakistan for fiscal 1971–72, which it says will be held in abeyance. Despite intense pressure from within his official family, as well as from Congress, Nixon argues that a total cutoff might drive Pakistan closer to China, which has been one of its principal suppliers of military aid since 1965, and also destroy whatever leverage the U.S. has in the situation. In the light of Henry Kissinger's trip to China, however, it now seems clear that there may have been another motive for the Administration's soft-pedaling. Pakistan, of course, was Kissingers' secret bridge to China.

Nonetheless, criticism has been mounting, particularly in the Senate, with its abundance of Democratic presidential aspirants, Senator Edward M. Kennedy charged that the World Bank report, together with a State Department survey predicting a famine of appalling proportions, "make a mockery of the Administration's policy." Two weeks ago, the House Foreign Affairs Committee recommended cutting off both military and economic aid to Pakistan. The bill still must clear the House and the Senate, but its chances of passage are considered good.

Since 1952, when massive aid began, Pakistan has received $4.3 billion from the U.S. in economic assistance. In addition, the U.S. equipped and maintained the Pakistani armed forces up until 1965. Then, because of the Pakistani-Indian war, arms sales were dropped. Last October the Administration resumed military aid on a "one-time basis." After the East Pakistan conflict erupted, it was announced that arms shipments would be suspended; but when three ships were discovered to be carrying U.S. military equipment to Pakistan anyway, the State Department explained that it intended only to honor licenses already issued. Over the years, it is estimated that close to $1 billion has been provided for military assistance alone.

The U.S. may well have to do some rethinking of its Pakistan policy. In a recent interview with TIME, former French Culture Minister Andre Malraux warned that before long, "you in the United States will have a big problem in Asia: Bengal. It will be like Viet Nam, except that there are 78 million Bengalese [in Pakistan]. The Bengalese are nationalists, not Maoists. But the present serene attitude of the U.S. will have to change."

CONDONING GENOCIDE

India is particularly incensed over the present U.S. policy, and Prime Minister Indira Gandhi strongly protested to Henry Kissinger about U.S. military shipments when he visited New Delhi this month. The supply of arms by any country to Pakistan, Foreign Minister Swaran Singh charged last week, "amounts to condonation of genocide." Mrs. Gandhi is faced both with mounting pressure for military action, and an awesome cost that could set her own economy back years. India is feeding the refugees for a mere 1.10 rupees (15c) per person per day, but even that amounts to more than $1,000,000 a day. The first six months alone, Indian officials say, will cost $400 million. Contributions pledged by other countries (the U.S. leads with $73 million) equal barely one-third of that—and much of that money has not yet actually been paid.

Still, it would hardly be cheaper to launch a war and get it over with, as some high-level Indians openly suggest. Hours after Indian troops marched into East Pakistan, Pakistani tanks and troops could be expected to roll over India's western borders. Moreover, fighting could spread over the entire subcontinent. For all of India's commitment "to Bangla Desh democracy and those who are fighting for their rights," in the words of Mrs. Gandhi, New Delhi is not at all interested in taking on the burden of East Bengal's economic problems. The only answer, as New Delhi sees it, is a political solution that would enable refugees to return to their homes.

The impetus for that could conceivably come from West Pakistanis. It is still far from certain that they are really determined to go the distance in a prolonged war. Thus far, the war has been officially misrepresented to the people of the West as a mere "operation" against "miscreants." Tight censorship allows no foreign publications containing stories about the conflict to enter the country. Even so, as more and more soldiers return home badly maimed, and as young officers are brought back in coffins (enlisted men are buried in the East), opposition could mount. The pinch is already being felt economically, and there have been massive layoffs in industries unable to obtain raw materials for lack of foreign exchange.

IMMENSE SUFFERING

Meanwhile, the food supply in East Pakistan dwindles, and there is no prospect that enough will be harvested or imported to avert mass starvation. August is normally a big harvest month, but untold acres went unplanted in April, when the fighting was at its height. Already, peasants along the rainswept roads show the gaunt faces, vacant stares, pencil limbs and distended stomachs of malnutrition. Millions of Bengalis have begun roaming the countryside in quest of food. In some hard-hit locales, people have been seen eating roots and dogs. The threat of starvation will drive many more into India. Unless a relief program of heroic proportions is quickly launched, countless millions may die in the next few months. Yahya's regime is not about to sponsor such an effort. His latest federal budget, adopted last week, allocates $6 out of every $10 to the West, not the East; in fact, the level of funds for Bengal is the lowest in five years. The U.S., still fretful about driving Yahya deeper into Peking's embrace, seems unlikely to provide the impetus for such a program.

Man's body is so small,
His strength of suffering so immense.

But in golden Bengal how much strength can man summon before the small body is crushed?

[From the Washington Post, July 23, 1971]

PAKISTAN "PEACE" FORCE LIVES IN DREAD

(By Lee Lescaze)

DACCA.—A member of East Pakistan's Central Peace Committee came to visit a provincial town recently. He brought six armed bodyguards and when night came refused the separate rooms that had been prepared for them.

The seven men lay down on the floor, three on each side of the leader so that an assassin would have to pick his target from the bunched mass of flesh.

In every town and village the Pakistan army has swept through, peace committees have been formed in its wake. Their official powers are vague, but in practice they rule life and death for their neighbors. A word from the peace committee is enough for the army—they arrest, and often shoot the accused.

Unlike the army, which consists of West Pakistanis most unfamiliar with this region and few who are able to speak its language, Bengali, the peace committee members are local men. They are recruited from the relatively small proportion of the population, perhaps less than one-tenth, who are willing or eager to cooperate with the military.

They are also afraid.

In every town visited on a recent trip through two large areas of East Pakistan, there had been attempted assassinations of peace committee members or threats dropped on their doorsteps.

Often, the threatening letters warning against further cooperation with the army are pinned to a shroud such as is used in all Bengali burials.

Peace committee members pass the days in relative safety, gathering intelligence about guerrialla sympathizers and ruling on the disposition of property that has been seized from "enemies"—men who have fled or been killed. The peace committees are also responsible for assuring people that they have nothing to fear from the army.

At night, however, the guerrillas operate and most peace committee members sleep with guards or spend each night in a different house trying to stay a step ahead of assassins.

In one town, two reporters stopped at a peace committeeman's house to ask questions and watch as the committee prepared the necessary papers to send along to army headquarters with a prisoner they had captured.

The committee leader spoke at length of a narrow escape from assassins, but said he had the support of almost all the town's citizens. Only agents from India, he explained, caused him problems.

When the reporters left to continue walking around the town, the peace committeeman sent his teenage son to follow them. One man started to address the foreigners, saw the boy watching and hurriedly turned away.

The youth insisted that his charges visit his high school. He leaned on the backs of their chairs listening as they posed a few harmless questions for the assistant principal to answer. The reporters could escape their shadow only by climbing into their car and driving out of town.

At a second town, with a normal population of only 2,000 people, the reporters were welcomed by peace committee leaders and offered tea.

It was good they had come, the committeemen said, since miscreants had attacked the railroad station during the night and made off with the assistant station manager's clothes and 24 rupees (about $3).

One man put the number of attackers at 20. Another thought it had been 40. They all agreed, however, that they had been well-armed "and by their tone, well-trained." The peace committee armed auxiliary called Razarkars (Bengali for volunteers) had four rifles, but had driven the attackers away within five minutes, the story went.

A crowd of men and boys gathered to listen to the dialogue. One peace committee man complained repeatedly that his eyes hurt from conjunctivitis. The tea was a long time coming.

"No one has been killed here by the army," the peace committee leader said.

"There is no doubt that the army is trying to protect the people. They are also trying to the maximum extent possible to get the cooperation of the public."

He said that some people had been arrested, but most had been quickly released unharmed.

"The main problem," he added, "is All-India Radio which is spreading totally false propaganda."

He conceded, however, that he and other peace committee members had received threatening letters. These were left at their houses at night by miscreants, he explained. The leader saw no inconsistency between his belief that only a few miscreants were causing trouble and his assertion that the railroad station had been attacked by a relatively large group of well-armed men.

After the tea finally arrived and was rapidly consumed, the reporters said goodbye and walked down the muddy street to their car. About 20 men and boys who had been listening, followed.

"We can't talk, he'll reports us to the army," one whispered. "No one agrees with him, but we are afraid."

As the reporters walked, the Bengalis poured out contractions of the peace committee's statements. Many had been killed, they said, and more arrested. "We have been waiting for a chance to speak to you," one added.

Then they saw the man with conjunctivitis hurrying to catch up and they stopped talking.

"All we want is peace," one man said loudly. Presumably, the peace committee would not object to a desire for peace.

[From the Washington Post, July 23, 1971]

SECRET CABLES SEE FAMINE IN EAST PAKISTAN

(By Lewis M. Simons)

U.S. officials in East Pakistan have reported that the "specter of famine" hangs over the province and have expressed dismay with State Department denials of these conditions, according to the tests of secret cables made public yesterday.

Released by Sen. Edward M. Kennedy (D.-Mass.), the cables were from U.S. Embassay officials in the Pakistani capital of Islamabad and from U.S. consular officials in the East Pakistani capital of Dacca to Secretary of State William P. Rogers.

One message, from the U.S. Consul in Dacca on July 6, stated in part: "Specter of famine hangs over East Pakistan and prospects for averting widespread hunger, suffering and perhaps starvation not, repeate not, good."

On July 15, the embassy cabled: "We are concerned . . . that department stating publicly that there is no evidence in field reports which would bear out predictions of coming famine in East Pakistan. Perhaps spokesmen not apprised on most recent field reports . . . which indicate famine real possibility."

The embassy message said the State Department denials were interfering with mission attempts to get the Pakistan government to "face up to dealing with" possible famine which, according to the Dacca consulate's report, "will probably prevail in much of East Pakistan over the coming year."

Kennedy refused to disclose how he obtained the cables. Photocopies of the original texts, labeled "confidential," were distributed to newsmen at the hearing.

An aide to Kennedy said he did not believe the State Department knew the senator had the texts. However, he said, no objections were raised by Department officials at the hearing or afterward.

State Department spokesman Charles Bray said "we have no idea how he (Kennedy) came into possession of the cables." He said they were secret information.

"The Senator makes it very difficult to carry on a constructive dialogue on the real human problems in East Pakistan when he abuses our confidential communications this way," Bray said.

He added that the department had advised Kennedy in June that "there was a good possibility of food shortages" in East Pakistan.

Commenting on the disclosure, made by Kennedy at a hearing of the Senate Judiciary Subcommittee on Refugees, informed Senate sources said there was growing belief in Congress that the Nixon administration is deliberately playing down the tragic circumstances in East Pakistan and continuing to send arms to the central government of President Yahya Kahn.

Yahya has been widely reported as playing a role in getting presidential adviser Henry Kissinger into Communist China on July 9.

According to one source, Sen. J. W. Fulbright (D-Ark.) asked Assistant Secretary of State Joseph Sisco at an executive session of the Senate Foreign Relations Committee on Monday whether Washington's refusal to stop arms shipments was the price the United States must pay for "Pakistan's complicity" in Kissinger's visit.

Sisco, according to this source, replied: "I don't know. I wasn't a part of it."

Kennedy told the chief government witness at yesterday's three-hour hearing, Under Secretary of State John Irwin, that the field reports "substantiated our own belief of impending starvation" in East Pakistan.

Irwin replied: "Certainly we must recognize the possibility of famine."

Two Kennedy aides are planning to travel to India next week to investigate conditions of the more than seven million East Pakistan refugees now there, it was learned. The aides will also attempt to enter East Pakistan.

Irwin and other government witnesses stressed that the main hurdle to overcome in averting a hunger crisis in East Pakistan was internal distribution of food, rather than getting sufficient supplies to the country.

This prompted Kennedy to ask whether the Pakistan army was facing any difficulty in moving military men and equipment through the East and whether the troops were hungry.

Frank Kellog, a special assistant to the Secretary of State, replied that there were "no reports that would indicate this." He attributed the army's mobility to its being a "well-organized institution," while relief for East Pakistan was relatively disorganized.

[From the Wall Street Journal, July 23, 1971]

A NATION DIVIDED: EAST PAKISTAN CONFLICT IS COMPLICATED BY RACE, RELIGION AND POVERTY—NO IMMEDIATE SOLUTION SEEN; RESIDENTS BARELY SUBSIST; POLICE STATE GRIPS BENGALIS

(By Peter R. Kann)

DACCA, EAST PAKISTAN.—The doctor sits behind a desk in his street-front office in an East Pakistani town, occasionally glancing out at the road lined with the charred debris and looted shells of shops and homes.

A vehicle with UNICEF markings on its doors but with armed West Pakistani soldiers inside cruises by. Otherwise, the street is all but deserted.

The doctor sits in his office only because he has been ordered to. His family is hiding in a village somewhere outside of town. He speaks in a whisper because any passerby could be an informer. At night, when the army goes knocking on doors, he lives with the fear that his name may be on one of its lists.

He whispers of recent events in this town: the streets littered with bloated and decomposing bodies; the burning, looting and raping; and the continuing terror. "We are afraid to speak the truth. Those who speak the truth are punished, and the only punishment is death," he says.

The doctor is an army veteran, which makes him a special target for his former colleagues. But his real crime is being a Bengali in a land of Bengalis that also happens to be part of the map of Pakistan. It is now a land of death and of fear.

CAUSES WASHED AWAY BY BLOOD

It is less than four months since the civil fighting in East Pakistan began, but already the causes of the conflict seem almost academic. Its geographical and historical roots, the legalities and moralities—all seem to have been washed away by blood. No one really knows how many people have been killed in East Pakistan since March 25, but Western diplomats say the minimum is 200,000. The maximum exceeds one million.

The events fall into three stages.

The first was a Bengali political movement aimed at ending two decades of economic and political exploitation by the West Pakistanis. It culminated, in March elections, in national political victory for the Bengali Awami League and its platform of greater East Pakistan autonomy. But on March 25 the Pakistan army (an almost entirely West Pakistani institution), fearing that East Pakistan was moving toward independence, cracked down in Dacca, the East Pakistan capital. Bengali students were massacred, politicians were arrested and the Awami League was outlawed.

The second stage was a fairy-tale few weeks in which the Bengalis proclaimed and celebrated their independence. Some thousands of East Pakistan's non-Bengali minority were killed during this period, in which the army, perhaps overly cautious, remained in the capital and in a number of military camps. But the illusion of independence ended in mid-April when the army emerged to crush the revolution. Tens of thousands of Bengalis were slain as town after town was retaken, burned and looted. There was little military opposition. Some six million Bengalis, most of them from the Hindu minority group that became a special army target, began fleeing into India.

NOW THE THIRD STAGE

The third and present stage is army occupation—a terrorized Bengali population being ruled by military force and crude police-state tactics. West Pakistan officials say everything is rapidly returning to normal. But the economy is woefully disrupted, factories are idle, schools are closed, roads are mostly empty and towns are largely deserted. Millions of Bengalis, particularly Hindus and middle-class Moslems, are still hiding in the countryside. About 50,000 refugees are still fleeing to India each day. And army rule is being challenged by Bengali guerrilla forces (the Mukti Bahani, or Liberation Army) that seem to have massive support among the Bengali population. The guerrillas are still lacking in training and organization, but supplies and border sanctuaries are being provided by India.

Ten days of traveling across East Pakistan and talks with scores of diverse people here indicate that the fourth stage eventually will be an independent East Pakistan: Bangla Desh, or Bengal Nation. But clearly much more killing will take place before Bangla Desh comes to pass.

No solution, including independence, holds any bright hopes for East Pakistan's predominantly peasant society, which, in accordance with the Mohammed's Prophet instruction to "go forth and multiply," is propagating itself into starvation. Its 75 million people already are barely subsisting 1,600 to the square mile, and this population will double within 25 years. A half-million Bengalis were killed by a cyclone last fall. A half-million more were born in 87 days. Perhaps only in East Pakistan could a disaster of the cyclone's magnitude be overshadowed by a greater one—this civil war—only six months later.

PRIMITIVE CONCEPTIONS OF GUILT

Poverty, ignorance and frustration have turned this conflict into a Congo as well as an Algeria. Men are killing each other not only in the name of politics but also over race and religion. The Moslem philosophy of an eye for an eye and a tooth for a tooth is made more terrible by primitive conceptions of collective guilt.

The army kills Bengalis. The non-Bengali minority of about two million (commonly called Biharis) backs the army. So Bengalis kill Biharis. The army and the Biharis see this as ample reason to butcher more Bengalis. The Hindu minority of about 10 million becomes a convenient army scapegoat and even some Bengali Moslems can be persuaded to join in their slaughter. Amid this chaos, various villages, gangs and individuals have been attacking each other for economic gain or to settle private scores.

These are the tales of some of the people encountered on a trip through East Pakistan. As with the doctor, the names of Bengalis and the towns in which they live are omitted.

Bengalis, in talking to a reporter, fear for their lives. Most don't talk at all; in some towns not even beggars will approach a stranger. Normally among the world's most voluble people, the Bengalis now talk mostly with their eyes—eyes that look away in fear or that stare down in shame or that try to express meanings in furtive glances.

A lawyer and his sons have been fortunate. When one asks a Bengali how he is these days, he replies, "I am alive." The lawyer and his sons not only are alive but are living in their own home. They are also hiding in their own home, for they leave it only rarely. "It is too easy to be arrested on the street," the lawyer says. "A seven-year-old can point a finger at me and call me a miscreant, and I will be taken away."

Miscreant is the term the Pakistan army applies to all who oppose it. "All Bengalis are miscreants now," the lawyer's younger son says. He is a law student, but students are a special army target, and most are in hiding. The universities are closed. "What use would there be learning law anyway now that there is no law in our country?" the son asks.

It is evening, and the discussion is taking place in the lawyer's home. Before talking, he closes the wooden shutters on the windows. Then he has second thoughts—"someone who passes by may report a conspiracy"—and so the shutters are partly reopened.

They talk of "the troubles," of how, when word of the army's March 25 attack in Dacca reached this town, the Awami League took control. There was orderly rule under the Bangla Desh flag until mid-April, when air-force planes strafed the town. People panicked. The Awami Leaguers and their military force, the Mukti Bahani, began to flee along with thousands of others. But it was several days before the army reached the town, and during that time angry Bengali mobs attacked and slaughtered hundreds of Biharis.

Relative to its actions elsewhere, the army, when it arrived, showed restraint. Most of the town remains undamaged, although much of it was looted by the army and its mobs. About half the population has returned and many shops have reopened, though not under former management. Hindu shopkeepers have disappeared, and Biharis and other army backers have taken over. And, as everywhere, the arrests continue.

Four Christian Bengalis are arrested by the army at a roadblock. Not many buses travel East Pakistan's roads these days, and those that do are frequently stopped, and their passengers are lined up and searched. Few of the soldiers at these checkpoints speak any Bengali (Urdu is the language of West Pakistan), and so a common way of finding "miscreants" is to lift men's sarongs. Moslems are circumcised; Hindus aren't. Some West Pakistani soldiers came to East Pakistan thinking all Bengalis were Hindu. More sophisticated soldiers simply think that all Hindus are "miscreants," but then so are many Bengali Moslems. So it is all very confusing for the soldiers, and the four Christians are arrested.

FOR CHRISTIANS, NO BEATINGS

They are taken to a military cantonment and beaten for several hours by interrogators who don't speak their language. So the matter comes to the attention of an army major, who summons the four Christians and offers apologies: "It is our policy not to beat Christians," he explains.

A shopkeeper, a thin Bengali with wire-rimmed spectacles, glances out from his shop at two strangers walking down the deserted street. They enter the shop and inquire about "the troubles" in this town. The shopkeeper is visibly trembling. "There is nothing I can say," he replies. Then he glances again at the flattened buildings lining the main street and whispers. "Look around you." As the visitors leave, he adds, voice cracking, "I'm ashamed I cannot. . . ."

Further down the street a youth approaches. "The army destroyed our city. Many Bengalis are being arrested. They are being shot every night and thrown into the river. We no longer eat the fish from the river," he whispers.

The youth guides the strangers to the local hospital to talk to a surgeon. The surgeon is a Bengali but is employed by the government, which means he is particularly vulnerable. He is asked about killing in the city. "Killing? What killing? Killing by whom? He is asked about general problems. "Problems? What problems? There are no problems."

BELABORING THE OBVIOUS

The visitors take their leave. Outside the hospital the youth whispers: "You have talked to the doctor, but I think he has concealed the truth. He is afraid." It is explaining the obvious.

A professor and his student are talking about the prospects of students returning to classes in early August, when the university is supposed to reopen. They are pessimistic. Some students are hiding in their homes, others have fled to outlying villages or to India. Some have joined the Mukti Bahani. The campus has been turned into a military camp, and troops are quartered in the dormitories, using books to fuel their cooking fires. "Would you come back?" the professor asks.

The student, a girl, has a room in a house that overlooks an army interrogation center. "All day the students, young boys, are brought in and beaten," she says. "Three soldiers walk on them with boots. All night we hear the screams. I cannot sleep. We cannot stand to see and hear these things."

"Our army had a good reputation," the professor says. "We had a great army. But look what it has done. How can an army be great when it fights in an immoral cause?"

Two army majors are standing at a ferry landing on the east bank of the Ganges River. One is a frogman, the other one served in the camel corps. Both seem to be civilized and charming men. They explain that they are fighting a patriotic war to defend the integrity of their country against Indian agents, miscreants and misguided individuals. "We saw atrocities that made our blood boil. Had you seen them, even you would have wanted to kill," he says of a town where some Biharis were butchered by Bengalis. (The town was later leveled by the army and a far greater number of Bengalis were killed.)

FOOD FOR THE CROCODILES

The majors are asked why so many Bengalis have fled, particularly Hindus. The answer is imaginative. They say that in April, before the army restored order, Hindus told Moslems that the "holy Koran is just an old book. So the Moslems came out of their homes to defend the holy Koran and many Hindus fled." There has been much killing, the camel-corps major grants. "The crocodiles have gotten fat," says the frogman, glancing out at the Ganges.

But all is returning to normal, they say, and the Bengali people aren't afraid of the army. A ferry is landing, and a group of Bengali laborers, recruited by the army to reopen a jute mill, edges past the majors in single file. Each of them bows his head in a subservient salute as he passes the officers.

Not all army officers are as sympathetic as these majors. Western residents of one town tell of an army captain approaching a young Hindu girl and telling her to feel the barrel of his gun. "You feel it is still warm," he said. "From killing Hindus," he added laughing—but not joking.

An old Bihari who served as a bearer in the British Indian army many years ago is now a waiter at a roadside hostel on the outskirts of a town more than half destroyed. He supports the army and thus isn't afraid to talk. He explains that for several April days, after the Awami League people fled but before the army arrived, things were bad for the Biharis. Mobs of Bengalis ran through the streets shouting (and he lapses into his old Indian-army English), "Kill the Bihari buggers, burn the Bihari buggers." Some Biharis were killed, he says, but most weren't. Then the army arrived. "The army kill many Bengali buggers," he says. "And the Hindu buggers, they run away to India. It is very bad days, Sahib."

A Hindu, one of the richest and most respected men in his community before the fighting, was a philanthropist who had built schools, hospitals and irrigation systems for the predominantly Moslem peasants in his area. He considered himself fully Pakistani. Although a Bengali, he hadn't backed the Awami League but rather had supported the more conservative and even anti-Hindu Moslem League.

THE HUNTER BECOMES THE HUNTED

For nearly a month after the civil war began but before the army arrived in his area (and thus during the period Biharis were in danger from Bengalis), the Hindu sheltered two Biharis in his home. When mobs came looking for them, he protected them. But, with the arrival of the army, roles reversed, and Bengalis—particularly Hindu Bengalis—became the hunted.

Hindu villages were burned by the army, and mobs were encouraged to plunder Hindu homes. Under army orders the local Hindu temple was smashed to the ground by men wielding sledgehammers.

The Hindu and his family fled to the village hut of a friend, where they have been hiding for more than two months. His first daylight emergence from this hiding place was for a rendezvous with two reporters. He walked across the rice paddies in the late afternoon, dressed as a peasant and shielding his face with a black umbrella.

He hadn't fled to India like so many other Hindus because he hoped the army would move on and life might somehow return to what it had been before. But the army remains, Hindus are still being searched out and shot, and now it is too risky to try to reach the border from this area.

Only a few close friends know his hiding place. One of them is a Moslem League official, an influential man these days since many Moslem Leaguers are supporting the army. "He knows where I am hiding, but he dare not help me," the Hindu says. He believes that nearly all Moslem Bengalis sympathize with the Hindus. "But what can they do? They, too, are in danger and they are afraid."

All the Hindu's property is on an army list of "alien properties." In other areas it is called "enemy properties," but in either case it is scheduled to be confiscated and put up for auction. The Hindu talks much about losing his property—but the greater danger is losing his life.

"My Moslem friends tell me that Hindu bodies taken from the river are so disfigured from tortures that the faces cannot be identified," the Hindu says before picking up his umbrella and heading back across the fields to his hiding place.

A HEADMASTER RECITES HIS LESSON

The travelers visit a town near the Indian border. One of the last towns to be retaken by the army, it is heavily damaged and is still largely deserted. Here the local peace committee—a unit composed of some Biharis and conservative Bengali Moslem Leaguers who serve as the local eyes and ears of the army—assigns two youths to guide and shadow the visitors. "Come to the school and talk to the headmaster," they say.

The headmaster, a middle-aged Bengali, sits behind his desk. The reporters sit facing him. And standing behind the reporters, also facing the headmaster, are the young peace committee shadows. In a faltering voice the headmaster begins to recite statistics of school enrollment, dates when schoolhouse cornerstones were laid—anything uncontroversial. At the end of each sentence he glances up, past the reporters, to the shadows, like a schoolboy reciting his lessons to a teacher with a stick.

How was the school damaged? the reporters ask. "There was some strafing," he mumbles. Then, looking up at the teen-age shadows, he hurriedly adds, "and maybe it was damaged by miscreants."

As the reporters and their shadows leave, the professor mumbles, "We are trying to hold together," and then he stares down at the ground.

[From the New York Times, July 23, 1971]

TWO BEATLES' BENEFITS FOR PAKISTANIS ARE SOLD OUT

Thousands of patrons—mostly youths in informal attire—waited overnight Wednesday at Madison Square Garden and at more than 100 Ticketron outlets for tickets to two benefit shows featuring two of the four Beatles, George Harrison and Ringo Starr, and the Indian sitar player Ravi Shankar.

The crowds came early and in abundance, demonstrating that the Beatles—or whatever is left of them—can still draw the fans.

In about 10 hours, 36,000 tickets were sold yesterday for performances scheduled to be held at the Garden on Aug. 1 at 2:30 P.M. and 8 P.M., according to Allen Klein, the American manager of the Beatles. Originally, only one evening performance was to have been given, but the faithful were so numerous that a matinee was arranged.

The Garden's box offices had been scheduled to open at 10 A.M. yesterday, but after the throng had swelled to more than 5,000 Garden officials decided to put the tickets on sale Wednesday midnight. By 8:44 A.M. yesterday all available reservations had been purchased.

WILL AID PAKISTANIS

The benefit performances are being presented by Apple Corps, Ltd., and Mr. Klein's company, Abkco Industries, Inc., which manages the affairs of the Beatles. Apple is the name of the Beatle-owned recording, film, retail and electronic ventures.

Proceeds from the shows will go for the relief of the homeless children and the millions of refugees who have fled East Pakistan to India. The relief will be administered through the United Nations Children's Fund. Ticket prices range from $4.50 to $10.

Also donating their services for the benefit concerts are Eric Klapton, lead guitarist; Leon Russell, pianist; Klaus Voorman, bass player; Billy Preston, keyboard; Jim Keltner, drummer; Jim Horn, bass; Badfinger, rhythm guitarist and percussionist, and Claudia Lennear, singer.

[From the New York Times, July 23, 1971]

KENNEDY HINTS UNITED STATES MAY PLAN TO HELP POLICE EAST PAKISTAN

(By Benjamin Welles)

WASHINGTON, July 22.—Senator Edward M. Kennedy, chairman of the judiciary subcommittee on refugees, publicly implied today that the United States was planning to send police teams to East Pakistan.

Mr. Kennedy, who is a Democrat from Massachusetts, put the question to John N. Irwin 2d, Under Secretary of State, who was testifying on the refugee problem in East Pakistan, India and other areas.

Mr. Irwin and officials with him appeared surprised. C. Herbert Rees, director of South Asian operations for the Agency for International Development, conceded that there were plans for the return to East Pakistan of Robert H. Jackson, a police expert who was withdrawn from Dacca following the civil disturbances of March 25.

Mr. Jackson, who has been employed by the agency as a police specialist since 1964, served previously in South Vietnam and in Brazil before his recent assignment to Dacca.

However, Mr. Rees denied that there were plans to send police teams to East Pakistan or to start public-safety programs there.

Congressional sources insisted, nonetheless, that they had evidence that plans were being drawn up to have United States teams help the Pakistani Army suppress Bengali resistance in East Pakistan.

Mr. Kennedy's purpose in posing the question and bringing the matter into the public record, they said, was to "nip the scheme in the bud."

Mr Kennedy also disclosed the contents of cablegrams to the State Department from the United States mission in Pakistan. One sent July 6 by the consulate general in Dacca, said in summary:

"Specter of famine hangs over EP [East Pakistan] and prospects for averting widespread hunger, suffering and perhaps starvation are not good."

Charles W. Bray 3d, State Department spokesman, criticized Senator Kennedy for having made public the State Department cablegrams.

"The Senator should not expect a constructive dialogue on the real human problems of East Pakistan when he abuses our confidential communications," Mr. Bray said.

In other testimony, Francis L. Kellogg, special assistant to the Secretary of State on refugee and migration affairs, said the average flow of refugees into India was believed to have dropped from 50,000 to 21,000 daily.

He added that the United States had authorized $70-million to assist refugees in India. Global relief to date totals $128-million, he said.

Both Mr. Irwin and Mr. Kellogg conceded that the United States was pressing President Agha Mohammad Yahya Khan of Pakistan to show a greater sense of urgency in handling the refugee problem.

[From the Washington Post, July 24, 1971]

U.S. ARMS AID TO PAKISTAN BEWILDERS FEARFUL BENGALIS

(By Lee Lescaze)

DACCA.—The approach to Americans is double-barreled in East Pakistan. First, Bengalis want to describe their fear and the killing they have seen.

Then, they ask: "Why are you sending the army more guns?"

The United States is not at the bottom of the East Pakistanis' list thanks to China's outspoken support of the Pakistani army repression since March 25, but many find it difficult to understand why the United States continues arms shipments to an army they see as already well-equipped and murderous.

"The cradle of democracy and Mao's so-called center of revolution are both against us," an educated Bengali remarked.

Neither is the United States the most disliked foreign power in the eyes of army officers and their sympathizers. They see Britain which has cut off aid until peace returns here, as the chief villain.

But Washington is widely distrusted. "Yes, you are helping us," a pro-army banker said last week, "but it is for your own reasons." He argued, without supporting evidence, that Washington had aided Sheikh Mujibur Rahman's Awami League before the military crackdown and was therefore partly responsible for the present crisis.

Like the banker, many army officers yield to the temptation to describe what has happened here in terms of a conspiracy. "We must not trust anyone too much," a major said. "China has proved a good friend to us," he added, but he declined to extend the same praise to America.

"You tie strings to everything," he said, "and your policy can change abruptly."

"The United States is doing enough to earn the enmity of the Bengalis," one source said, "but not enough to win West Pakistan's friendship.'

Foreign radio stations provide most of the news here where English is quite widely spoken and the local press is tightly controlled.

KENNEDY A HERO

In one town after another young men could recite the names of U.S. senators who have spoken in favor of halting aid to Pakistan. Sen. Edward M. Kennedy is a particular hero

A guerrilla leader speaking in the village from which his small band harasses the army, praised Kennedy, but asked what the American pople would do to help him.

The radio keeps men in small towns amazingly well informed. "We heard last night that two more American ships are bringing ammunition for the army," a young Bengali said. "It makes us very sad if it is true."

Washington has repeatedly stressed that no new military shipments have been authorized since fighting began here March 25. However, U.S. officials acknowledge that about $36 million was scheduled for delivery before that date.

If the present pattern of shiploads carrying well below $2 million worth of military supplies each continues, the radio may carry news of more than 20 additional arms ships leaving American ports in the next months.

The ships would be able to sail even if the full Congress upholds the House Foreign Affairs Committee's July 15 decision to suspend all military and economic aid to Pakistan.

Military aid dominates the attitudes toward the United States of army officers and their opponents—most of East Pakistan's 75 million people.

But military supplies will have less effect than economic aid on the long-term solution here. Pakistan's economy in both west and east is heavily dependent on foreign aid and the government was angered when an internationial aid consortium announced last month that it would not meet to discuss Pakistan's needs until a more normal situation prevailed here.

However, aside from the international consortium, one expert argues that an attempt by any foreign power to bring political pressure by cutting economic aid would be unlikely to have an immediate effect on Pakistan's government policy.

The United States appears to agree. When presidential adviser Henry Kissinger visited Pakistan early this month, one well-informed source says, he said Washington would consider altering its policy if it could be demonstarted that a new U.S. policy would bring a solution in East Pakistan much sooner than the present course.

Kissinger reportedly said he was not interested in hearing that American action might cut a ten-year problem down to a five-year problem. Would it bring a solution in two years or less, he asked.

No one, according to reports of the meeting, ventured to assure him of such a rapid end to the crisis here and Kissinger left Pakistan for his China trip apparently determined to leave policy toward Pakistan unchanged.

Exactly what the policy is, however, puzzles outsiders in Dacca as well as Washington. Almost all economic aid has been suspended—in part for technical reasons—but the State Department has announced it hopes the House Foreign Affairs Committee aid veto will be reversed.

"Our policy is better than it looks," one sources said. He pointed out that all but a handful of U.S. technical assistance advisers

have been withdrawn, rural public works projects have been halted since March for security reasons, there have been loans for commodity imports approved in recent months and shipments of PL 480 foodgrains have been stopped. Warehouses at East Pakistan's Chittagong port are full and with rail and road communications disrupted there is no way to distribute the grain.

PL 480 shipments, financed by excess counterpart funds, will be resumed when the port can handle them. No one is certain which other parts of the U.S. aid program will be resumed or when.

Meanwhile, although all foreign observers in Dacca appear convinced that the army will eventually be forced to withdraw from East Pakistan, America is seen by Bengalis here as staunchly supporting their foe and that is yet one more disappointment they live with in East Pakistan's terrorized, army-occupied towns.

[From the New York Times, July 24, 1971]

MORE ARMS HELP TO PAKISTAN SEEN—SYMINGTON SAYS UNITED STATES PLANS TO ALLOW SHIPMATES, DESPITE AN IMPLIED EMBARGO

(By Benjamin Welles)

WASHINGTON, July 23.—Senator Stuart Symington disclosed today that the Administration still intended to permit approximately $15-million in arms to be shipped to Pakistan despite repeated official statements implying that a total embargo had been imposed on arms since civil war broke out in East Pakistan March 25.

Senior officials privately confirmed that about $15-million worth of arms now in the hands of Pakistani Government officials in this country may be transported to Pakistan as soon as shipping and other administrative arrangements could be arranged.

Mr. Symington, Democrat of Missouri, accused the Administration in a long floor statement of "semantics, ambiguous statements on the public records without clarification and no effort to present the actual facts until pressed to do so."

As of mid-July, he declared, the value of unshipped material for Pakistan in the United States was well over $10-million. Mr. Symington said that he had learned from "press sources," which he did not identify, that State Department officials had confirmed that the present worth of material "in the pipeline" was about $15-million.

Charles W. Bray 3d, the State Department spokesman, announced that Agha Hilaly, the Pakistani Ambassador, had met with Secretary of State William P. Rogers today. The principal subject of the meeting was President Nixon's recent disclosure that he intended to visit China before next May, Mr. Bray said.

In his statement Mr. Symington, who is chairman of the Foreign Relations Subcommittee on Near Eastern and South Asian affairs, charged the Administration with sowing confusion through statements interpreted as meaning "that we had not shipped arms to Pakistan since March 25; also that we had nothing in the pipeline to be shipped to Pakistan."

"That impression was wrong," Mr. Symington declared, "and we have continued these shipments, not because we were powerless to stop them but because we decided not to stop them."

On March 25 President Agha Mohammed Yahya Khan of Pakistan ordered the army to suppress a movement for political autonomy in East Pakistan. Since then widespread loss of life and destruction of property have brought East Pakistan's economy virtually to a standstill and have caused about seven million East Pakistanis to flee to India.

To help stem the growing threat of famine and disease, the United States has allocated approximately $70-million for aid to refugees in India, plus some $35-million to help refugees and others in East Pakistan.

Mr. Symington contrasted repeated statements implying that the United States had ceased all arms deliveries with subsequent evidence that, in fact, arms deliveries were being continued under a variety of bureaucratic subterfuges.

On April 15, he said, a State Department spokesman asserted that "no arms have been provided to the Government of Pakistan since the beginning of this crisis and the question of deliveries will be kept under review in the light of developments."

Mr. Symington cited a letter of April 25 from David M. Abshire, an Assistant Secretary of State, to Senator J. Fulbright, chairman of the Foreign Relations Committee, which reported: "I would say that in the present circumstances we are not giving any arms at all."

PUT HOLD ON DELIVERIES

In early April, Senator Symington said, the Administration put a "hold" on the delivery of foreign military sales items to Pakistan. It suspended the issuance of new licenses to items on the munitions list for either the foreign military sales program or for sales through commercial channels, and held in abeyance actions on a one-time exception that had been delivered to the Government of Pakistan or its agents. Nothing relating to that one-time exception was scheduled for delivery, he said.

"This did not mean, however," he continued, "that other military equipment had not gone to Pakistan. By early April the Government of Pakistan or its agents had obtained legal title to and were in possession of some military items still in the U.S. In a legal sense, however, the 'delivery' of these items to Pakistan had apparently taken place."

Mr. Symington further disclosed that Defense Department contractors and other commercial suppliers had continued to utilize valid licenses issued before early April. He said that some of the items had been shipped "and additional supplies under these licenses will be shipped in the future."

In a separate development, the State Department sharply criticized Senator Edward M. Kennedy, Democrat of Massachusetts, for divulging confidential State Department cables at a hearing of the Judiciary subcommittee on refugees yesterday. The messages discussed the "specter of famine" over East Pakistan.

Mr. Kennedy retorted that "high officials of the Government refused to be candid and apparently deliberately mislead and suppress information." He accused the Administration of trying to "whitewash one of the greatest nightmares of modern times."

[From the Washington Star, July 25, 1971]

POLICY TOWARD PAKISTAN SHOULD BE RECONSIDERED

(By Crosby S. Noyes)

It is now fairly obvious why the Nixon administration has chosen to handle the crisis in Pakistan with velvet gloves. The help that the government in Islamabad provided in getting Henry Kissinger to Peking and back could well have had something to do with the administration's policy of continuing to send aid to that strife-torn country.

There are not many countries, after all, from which an American presidential adviser could have made the trip. In this case, the Pakistanis cooperated fully in the elaborate charade of Kissinger's famous stomachache and, it is believed, provided the planes and crews for the momentous visit.

This is not, of course, the official administration explanation for the continuing aid program. The rationale has been that the United States wants to preserve its leverage on the government of President A. M. Yahya Khan and that cutting off economic assistance will do nothing to help the people of the ravaged eastern part of the country.

This rationale, however, has never been very convincing. And whatever overriding reasons of state may have inspired the soft line up to this point, the policy should now be carefully reconsidered.

Because the unpleasant truth is that this continuing American aid—including military equipment—is helping West Pakistan to carry out the ruthless suppression of its rebellious eastern province. All reports from Western observers in that part of the world speak of continuing terror among the population, the systematic destruction of villages, total disruption of the economy and the killing of more than 200,000 largely unarmed civilians.

A recent report from a special mission of the World Bank has recommended the suspension of all international development programs in Pakistan "for at least the next year or so." According to this report, there is no evidence that "normality is being approached or that matters are even moving in that direction." The 11-nation consortium which supplies economic aid to Pakistan—of which the United States is a major contributor—was urged to suspend its programs until there is a drastic improvement in the situation.

More recently, there have been signs of political disintegration in West Pakistan as well. The authority of Yahya Khan's martial law regime is under challenge, notably from Pakistan's left-leaning former foreign minister, Zulfikar Ali Bhutto, who has considerable political stature in his own right. Bhutto is threatening to produce public disturbances if he is denied power in a civilian government. And, once again, the prospect is that any disturbances would be met by fierce repression from the army.

In this situation, it is not altogether surprising that the Congress in Washington is taking an increasingly dim view of the administration's program of continuing aid to Pakistan. In a recent action, the House Foreign Affairs Committee, which does not often oppose administration proposals, voted to strike $118 million requested for the program.

According to the amendment striking the sum from the foreign aid bill, assistance to Pakistan can be resumed only when the President reports to Congress that the Pakistani government has restored "reasonable" stability and when some 5 million refugees who have fled East Pakistan to India are permitted to return to their homes.

From all the available evidence, this will not be any time soon. The committee's recommendations are expected to be accepted by the House. And, given the prevailing view in the Senate, a similar restriction on future aid is very likely to pass there as well.

To be sure, there is no guarantee that confronting West Pakistan with a cut-off of aid and possible bankruptcy will bring about a dramatic change of policy toward the East. Having embarked on a policy of repression, West Pakistan will find a political reconciliation between the two parts of the country increasingly difficult, if indeed it is not already impossible.

There also is a most urgent need for a massive international relief effort in East Pakistan itself. In its report, the World Bank commission called for immediate and large-scale food shipments to avert the threat of widespread starvation in the ravaged province. That kind of relief must go on. But a consensus is clearly growing in this country that any aid which serves the cause of repression in Pakistan should be stopped forthwith.

[From the Washington Sunday Star, July 25, 1971]

EAST PAKISTANI REFUGEES ADD TO INDIA'S WOES

(By Henry S. Bradsher)

BONGAON, INDIA.—Eleven days ago in Khulna, an industrial town in southwestern East Pakistan, officials told some foreign visitors that the Khulna district was quiet and re-

turning to normal after the Pakistani Army's crackdown.

On the helicopter trip back to Dacca, visitors could see some villages northeast of Khulna had been burned out.

Two days ago, Naren Bala walked through this Indian town four miles from the Pakistani border.

Eleven days ago he had left his village, Shantipur, which lies 20 miles northeast of Khulna in the Khulna district.

Naren Bala is a Bengali Hindu citizen of Pakistan.

He said he fled because local Moslems working with the Pakistani Army looted and burned Shantipur.

Naren, his wife who is expecting a baby very soon, and their sons had walked barefooted more than 100 miles to safety here. He carried his naked 3-year-old daughter on his left hip and with his right hand balanced on his head a large bundle that represented the family's entire possessions.

Naren was part of the endless procession of refugees walking through Bongaon.

Indian Government workers give them cholera inoculations, smallpox vaccinations and food and send them on deeper into India. There already are 400,000 refugees living in Bongaon, a subdivision whose normal population is 450,000.

Since the Pakistan Army began its crackdown in East Pakistan on March 25 some 3 million refugees have passed through the Bongaon subdivision. In all some 7 million refugees have entered India. They continue to come at a rate of about 40,000 a day.

HUGE PROBLEM STILL GROWS

The immensity of the problem is difficult to comprehend, so large are the numbers, and to comprehend is to be appalled. Yet, the problem grows.

Staggering along from day to day under ever-mounting load, the government of India does not know how bad things might get. It is gravely worried that 7 million refugees might be only part of the ultimate total.

With an increase of guerrilla warfare inside East Pakistan—which India itself is fostering—there is a chance of more refugees fleeing from the fighting and Pakistani Army reprisals. With a famine looming as a strong possibility in several parts of East Pakistan this autumn, there is a chance of more refugees coming to India in an effort to avoid starvation.

How high might the total go?

Ten million? Twenty million?

No one knows, but some officials think even 20 million is within the range of horrifying possibilities.

When the refugee flow began as the Pakistani Army smashed all resistance to its rule of East Pakistan, Indian officials thought there might be a million or so refugees. This was within the realms of understanding.

When East Pakistani Moslems set upon Hindus in religious rioting with economic overtones in 1964, two-thirds of a million refugees came into India and stayed. The Indian state of West Bengal, where Bangaon and Calcutta are located, has absorbed 4.2 million East Pakistani refugees since 1947, according to official records, perhaps as many as 7 million by unofficial estimates. But the new flood after March 25 did not end when the Pakistani Army had subdued the province.

Instead it mounted as the army began a deliberate effort to drive the Hindu minority of 9 or 10 million persons out of the Moslem nation.

"WE HAVEN'T BROKEN"

With famine might come more Moslem refugees in large numbers than already fled from fear. An estimated 20 percent of present refugee total is Moslem. What is the breaking point for India? When does it become impossible to feed and shelter and medically care for the ever increasing hordes of refugees?

"We've long since passed the breaking point—but somehow we haven't broken," one Indian official said. The head of India's refugee program, Col. P. N. Luthra of the Rehabilitation Ministry, says, "We are already tremendously worried" that the physical limit of ability to cope with refugees has been reached.

At his office in Calcutta, southwest of Bongaon, Luthra cited the Tripura region of India on the eastern side of East Pakistan as an especially difficult area. Refugees have doubled its normal population of half a million. Food and other relief supplies for them have to be transported around East Pakistan on badly overloaded transportation systems.

"We already are at the point of finding it very difficult to maintain these refugees" in Tripura, Luthra said. He declined to speculate on how much worse the problem will get although it is known that at the level of Prime Minister Indira Gandhi's cabinet there is much speculation, tinged with desperate gloominess.

There was a touch of desperation in the experienced civil servant tones of Luthra, long a top Indian administrator, as he said he hopes the refugees will go back to Pakistan by October or November. "The international community must do something" to achieve this, he said.

"WHY SHOULDN'T THEY?"

But, suppose refugees do not want to go back.

With desperation turning to anger, Luthra replied: "Of course they will go back. Why shouldn't they go back, Hindus included? If conditions return to the way they were before March 25, they will all be happy to go back."

Refugees along the road through Bongaon said they would not go home until "Bangala Desh," the name of independent East Pakistan, is established. Even the most militant Bangala Desh supporters in India cannot see that happening any time soon.

At a camp for 6,500 refugees 10 miles south of Bongaon at Gaighata, families that came into India with the first wave more than three months ago said they heard from newcomers that "so much killing and murder still is going on" that they cannot return.

But, they were told the president of Pakistan, Gen. A. M. Yahya Kahn, has said several times that the situation is returning to normal and all Pakistanis "of any religion, caste or creed" should return home with assurances of good treatment and safety.

"LIE" IS RESPONSE

When this was translated for the refugees who crowded around foreign visitors to the camp, there were angry outcries from many persons. Remarks several made were translated as . . .

Dhananjay Ghosh, a gray 59, said he and his nine family members would stay in India . . .

"Even if that means two or three years. We have no other place to go."

Gaighata camp refugees live under canvas sheets spread over wooden frames. They have been sleeping on packed earthen floors, but now are building bamboo platforms to escape the monsoon rain flooding. Down a narrow country road, refugees unable to crowd into camps live in huts they have built from bamboo and grass. They get the same meager but adequate food rations plus the equivalent of 23 cents a week to purchase other needs which are provided the camp dwellers.

CHAT WITH A SQUATTER

One of three roadside squatters, Pulin Gayen, sad he could remain there a long time. He stood holding a 3½-year-old daughter who the doctor said had the measles. If the Indian government stops rations, Gayen said, "Then I will work to live on my labor." But are there enough jobs here for all refugees? "No, but the government will create jobs," he replied confidently.

The government development officer for Bongaon, Sachin Datta, said the government has begun using unarmed volunteer corps to keep refugees in their camps so they won't go out and compete on the local job market. There have been numerous complaints from Indian laborers that refugees who get free food and shelter have been undercutting them. One day's farm labor used to pay between 22 cents and a full meal and 47 cents without a meal, depending upon the area. Now it is down to between 13 and 26 cents without a meal.

PRICES EYED

There also is concern here that refugees are pushing up local prices, even though their basic needs come from outside local economy. Potatoes have gone up from 4.5 cents a pound to 6 cents. Fish has risen from 30 cents a pound to 60 cents. Local officials worry about these things but are proud that this area has a good health record. The cholera problem that loomed so large a month ago has receded. Luthra said a total of 4,500 refugees died of cholera.

KOREAN TEXTILE IMPORTS

Mr. MILLER. Mr. President, Ambassador-at-large David M. Kennedy met with the President at San Clemente to report on the progress of his discussions on voluntary restraints on textile exports from the Far East. Following his report, the President asked him to return to the Far East to pursue his efforts to reach an acceptable solution to the problem.

I am informed that after 7 weeks of negotiations—principally in South Korea, Taiwan, and Hong Kong, Ambassador Kennedy was able to report only modest progress toward achieving agreements. Taiwan has agreed to certain understandings which would form the basis for a restraint agreement. Hong Kong reportedly has evidenced its willingness to conclude a restraint agreement, provided the other countries involved, principally Japan, also implement effective restraint agreements. The report on South Korea was quite unfavorable.

One can sympathize with the reluctance on the part of any country to limit exports of a commodity which is a major foreign exchange earner—as, indeed, textiles are for South Korea. However, as a member of the Senate Finance Committee and one who has always strongly supported increased military assistance for South Korea, I find the report on South Korea most troubling.

From where I sit on the Finance Committee, I see the strong protectionist pressures that are building up in the United States. Restrictive trade legislation is being planned in several congressional offices for active consideration if the administration's efforts toward voluntary restraints are unsuccessful. And there is little doubt in my mind that restrictions in a trade bill would be more restrictive than restrictions under a voluntary agreement. With unemployment in the United States at a high level and the great anxiety throughout the country over the job problem, and with our trade balance in serious jeopardy, there is an understandable concern in the Congress over a rising tide of foreign imports. The fact that next year is an election year only increases pressures on

many Members of Congress for restrictive legislation.

I should also note that an uncooperative attitude toward working out voluntary restraints will not be helpful to those of us who support the military assistance program for South Korea. The administration has properly committed itself to a program of modernization of the South Korean Armed Forces. This commitment does not, however, commit the Congress; and it is difficult, I know, for Members of Congress to explain to the taxpayers their support for such a military assistance program if the South Korean Government is unwilling to cooperate on the textile problem.

I appreciate that some Senators are impatient; and the reason they are impatient is because the people from their States and districts are impatient. I would hope, however, that they will be patient awhile longer and give Ambassador Kennedy some more time to try to work out an acceptable export limitation agreement with our Asian friends. It should be obvious that the situation cannot long continue on its present course. Voluntary agreements are the best way to handle it, and Ambassador Kennedy, representing the administration, is doing his best to see to it that the situation is handled that way. His failure to obtain the cooperation required will almost inevitably result in a chain of reactions which will meet short-term problems but will not well serve the cause of mutual trade expansion in the long term. I know that Senators are disappointed that meaningful agreements have not yet been achieved, but I caution that their disappointment not be translated into restrictive or retaliatory legislation at this time.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is concluded.

MESSAGE FROM THE HOUSE—ENROLLED BILLS AND JOINT RESOLUTION SIGNED

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled measures:

H.R. 1892. An act for the relief of Stephen C. Yednock;

H.R. 1907. An act for the relief of Arnold D. Smith;

H.R. 2110. An act for the relief of the estate of Julius L. Goeppinger;

H.R. 2246. An act for the relief of Charles C. Smith;

H.R. 3344. An act to authorize the Administrator of Veterans' Affairs to sell at which he determines to be reasonable under prevailing mortgage market conditions direct loans made to veterans under chapter 37, title 38, United States Code;

H.R. 3753. An act for the relief of Sergeant Ernie D. Bethea, United States Marine Corps (retired);

H.R. 6217. An act to amend the peanut marketing quota provisions of the Agricultural Adjustment Act of 1938;

H.R. 7271. An act to authorize appropriations for the Commission on Civil Rights; and

H.J. Res. 714. A joint resolution designating the week of August 1, 1971, as "American Trial Lawyers Week".

The ACTING PRESIDENT pro tempore (Mr. RIBICOFF) subsequently signed the enrolled bills and joint resolution.

EMERGENCY LOAN GUARANTEE ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Chair lays before the Senate the pending business, S. 2308, which the clerk will state.

The second assistant legislative clerk read as follows:

Calendar No. 264, S. 2308, a bill to authorize emergency loan guarantees to major business enterprises.

The Senate resumed the consideration of the bill.

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

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

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. PROXMIRE. Mr. President, the other day, when I was speaking about the Lockheed loan, I had indicated why I felt that the argument made by the proponents that this was necessary to save employment was wrong and could not be supported. As a matter of fact, we would have more jobs for American workers if we did not go ahead with the guarantee, because more jobs are involved in a competitive product, the DC–10, than in the L–1011.

The L–1011, on the basis of all the evidence we have, actually would have about a 40-percent foreign labor content; whereas, the DC–10 has about 10 percent.

Furthermore, we have the testimony on the record by the FAA and the CAB that the lion's share of the production, if the L–1011 is not produced, if the Lockheed plane is not produced, if Lockheed does not go through with this, will go to the Douglas DC–10, a plane which employs a much greater proportion of American labor—a situation, therefore, which would mean more American jobs.

In addition, I discussed the competitive situation; and I pointed out that the outstanding authorities on competition, including the distinguished Senator from Michigan (Mr. HART) and the former Assistant Attorney General in charge of antitrust, Donald Turner, of the previous administration, both strongly oppose the guarantee and say that it is anticompetition, not procompetition.

Another reason given for supporting the Lockheed loan guarantee is the need to recover the $1.4 billion already invested in the L–1011 program. If the L–1011 program is terminated, it is argued that this $1.4 billion would become largely worthless.

One might ask why the Federal Government has an obligation to insure Lockheed creditors and stockholders against loss. But, more importantly, the argument about recovering an investment already made misses a basic economic point. In deciding whether to continue the L–1011, the crucial fact is not the amount of such investment expenditures but whether estimated future revenues exceed estimated future costs. If the program will produce net future revenues, trustees appointed under chapter X of the Bankruptcy Act would have a strong incentive to continue the program.

In other words, even if Lockheed goes into bankruptcy, even if the worst comes to the worst, if we do not provide the guarantee, and Lockheed goes into bankruptcy, they can continue the L–1011 program in the event the trustees find that the revenues from the L–1011 program—Tri-Star—will exceed costs.

On the other hand, if future costs are greater than future revenues the program should be terminated now to prevent the fixed loss of $1.4 billion from becoming even greater. There is no point in throwing good money after bad when dealt a losing hand.

TAX ARGUMENT ABSURD

It has also been argued that the Federal Government should save Lockheed because the loss in tax revenues resulting from a write-off of the $1.4 billion invested would exceed the amount of the loan guarantee. Under this theory, the Government should never let any firm fail in order to maximize tax revenues. Last year there were over 10,000 business failures—not counting Penn Central—with aggregate liabilities of $1.9 billion.

The same case on tax grounds that can be made for saving Lockheed could also be made for saving the 10,000 firms in order to prevent a drop in tax revenues.

Aside from its inherent absurdity, the tax-revenue argument also neglects the fact that most or all of the reduced tax revenue would be offset by increases elsewhere in the economy. For example, if the L–1011 program were scrapped, McDonnell Douglas would expand the DC–10 program. There is no question about that. The evidence is overwhelming. The CAB and the FAA agree that McDonnell Douglas will pick up the lion's share of the work that Lockheed would not perform. Thus, McDonnell Douglas would generate more tax revenues, by starting additional economic activity, and tax revenues would be generated. Still additional economic activity and tax revenues would be generated if the proposed $250 million were loaned to other business firms instead of Lockheed.

CONFIDENCE ARGUMENT LACKING

Finally, the administration urges the Congress to approve the Lockheed guarantee in order to maintain confidence in the economy and prevent a reversal of our somewhat sluggish economic recovery. There is no evidence that consumers or businessmen would regard a Lockheed bankruptcy as catastrophic. Indeed, the Nation's top business leaders expressed general opposition to the Lockheed rescue attempt at a recent meeting of the Business Council as reported by the Wall Street Journal.

So it is ridiculous to argue that the failure of one firm—particularly a firm whose failure would result in a continuation of at least 85 percent or 90 percent of its present business which is primarily a defense contractor, and Mr. Packard has assured us, and no one has denied it, that the contracts would continue, that the work would continue, and that the jobs would continue—could seriously affect the economy. Lockheed and its suppliers have already laid off 24,000 workers since January 31 of this year without collapsing confidence in our economy. Even if the L–1011 program were canceled, the additional job loss would approach 11,000, far less than the unemployment which has already taken place. If the economy can be upset by the failure of one firm, our economic recovery is far more fragile than the administration has indicated.

NO DISINTERESTED SUPPORT

Throughout the hearings the only supporters of the Lockheed guarantee were administration officials or those who stood to benefit financially if the guarantee were approved. The administration was unable to come up with a single disinterested economist or financial expert or legal scholar or businessman, or other expert who thought that a Lockheed guarantee was in the public interest. If a Lockheed guarantee really conferred such great benefits upon the public as alleged by the administration, one would think a few public-spirited spokesmen could be found to testify in favor of the guarantee.

The truth of the matter is that all of the alleged public benefits collapse upon a close examination. On the other hand, the disadvantages of making a guaranteed loan to Lockheed are substantial and outweigh any marginal benefit which might be obtained. Let us examine some of these disadvantages.

DISDVANTAGES OF LOCKHEED GUARANTEE

First, the most obvious disadvantage of making a loan guarantee for Lockheed is the possible loss of the $250 million if Lockheed defaults. We are told the guarantee involves little risk, yet prudent bankers say they are unable to bear the risk notwithstanding their strong financial stake in keeping the company alive.

We have in the RECORD the opinion of a top counsel in the Treasury Department that if Lockheed goes into bankruptcy, the banks would probably jeopardize $300 million of the $400 million they have already loaned Lockheed. At least it would take years to get back the $300 million.

Under these circumstances, one would think that if this were not a risky situation, the banks would be delighted to put up the $400 million, to get the company over the hump, and preserve the $400 million invested. So if the banks are not putting up the money without a guarantee, the L–1011 program must be more hazardous than the picture painted by the administration.

The second disadvantage of the proposed Lockheed guarantee, is that it would destroy the incentive for business efficiency by removing the threat of failure.

This bill tells the business community, "Do not worry about efficiency. Uncle Sam will bail you out if you are in danger of failing, provided you are big enough." Under Secretary of Defense Packard said he would oppose the Lockheed guarantee if he felt it would constitute a precedent for aiding other large firms.

A Lockheed guarantee cannot help but set a dangerous precedent for our economy, especially since the guarantee authority was increased from $250 million to $2 billion. The long-term damage to the efficiency of our economy can be enormous—far in excess of the amounts at stake in the Lockheed situation.

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

Mr. PROXMIRE. I yield.

Mr. TOWER. The Senator from Wisconsin has said that Mr. Packard opposes the generic bill pending before the Senate. On Saturday I read a statement which said:

> Dave Packard and I are in agreement on all aspects of the matter, including our support for enactment of the legislation now pending before the Congress.

Mr. Packard has not refuted that statement made by Secretary Laird.

Mr. PROXMIRE. I am surprised at the Senator from Texas. I wonder if he heard the statement by Secretary Connally yesterday on national TV when he admitted that Secretary Laird opposed the generic bill.

In the original statement which Secretary Packard was supposed to read before the House Banking Committee the 19th of this month, he said:

> It is this last point which leads into the reasons I do not support extending a broad Federal loan guarantee authority to the defense industry or any other industry at this time.

Mr. TOWER. In other words the Senator is suggesting that the Secretary of defense has not been honest with us.

Mr. PROXMIRE. On the contrary, he has been completely honest.

Mr. TOWER. Mr. President, Under Secretary of Defense Packard has not refuted what the Secertary of Defense said on Saturday morning. I again repeat what the Secretary said:

> Dave Packard and I are in agreement on all aspects of the matter, including our support for enactment of the legislation now pending before the Congress.

Mr. PROXMIRE. Mr. President, I think we ought to have additional hearings to clarify this if the Senator from Texas is that puzzled. It seems to me that it is perfectly clear that he does not want the generic bill. He said so over and over again. He was required to come in and read the administration's position. He refused to do it.

Mr. TOWER. He said——

The PRESIDING OFFICER. The Senate will be in order.

Mr. PROXMIRE. The chairman of the House committee did read it. And it became perfectly clear that Packard is not opposed to the Lockheed loan but that he is strongly opposed to the generic bill. I do not know of any other Cabinet or sub-Cabinet official that has ever done what he did on this issue: Publicly refused to read a statement prepared for him supporting his own administration position. Maybe it has been done sometime in the past, but not to my knowledge. And the Secretary of Defense supported Mr. Packard.

There is a difference in the administration. There is not any question about that at all. It was not surprising, of course, that when the President spoke out after the Senator from Texas brought his considerable influence and pressure to bear and pointed out that this attitude by top defense officials was very important in the Senate and the House, Melvin Laird reconsidered and made the statement he made.

Mr. TOWER. Mr. President, will the Senator yield so that I can read the statement of Secretary Laird.

He said:

> Some press reports which suggest that Deputy Secretary of Defense David Packard and I do not support the Administration's position on pending legislation regarding loan guarantees are erroneous and, in my view, unfair. The Department of Defense supports the legislation, and we believe it is in the best interests of our country for it to be promptly enacted into law.

That is the Secretary of Defense speaking. I have to believe that he means what he says and not what the Senator from Wisconsin thinks he means.

Mr. PROXMIRE. Again, let me read what Secretary Laird actually wrote:

> Some press reports which suggest that Deputy Secretary of Defense David Packard and I do not support the Administration's position on pending legislation regarding loan guarantees are erroneous, and, in my view, unfair.

Then he goes on to say:

> The Department of Defense supports the legislation and, we believe it is in the best interests of our country for it to be promptly enacted into law.

There have been several proposals by the administration. The first was a proposal for the Lockheed guarantee. Mr. Packard did support that legislation. But I think it is possible to read ambiguity into this, which is the only way I can reconcile the position taken by our two top Defense officials.

To proceed, the Lockheed loan guarantee—and this is the third objection—would likely perpetuate a management team which has brought the company to the brink of insolvency. When a company manages to lose a total of $480 million on four Government contracts—all at the same time—the competence of the management must be questioned. One of the beneficial effects of our bankruptcy laws is that an orderly system is provided for replacing inept management. New and better management is certainly in the long-term interest of the company and its thousands of employees. However, such a cleansing effect would be frustrated by the proposed loan guarantee.

A loan guarantee would keep the same management in charge which has lost $480 million, with a $250 million guarantee, so that the taxpayer is asked to participate.

It is true that the act gives the Emergency Guarantee Board the authority to

effect management changes. However, such changes are discretionary with the Board and Secretary Connally and Chairman Burns have already testified they are very reluctant to impose management changes.

Four, the proposed guarantee is grossly unfair to small business. Chairman Burns has clearly stated that the guarantee legislation applies only to large firms and not to small firms. It sets a precedent that big firms cannot be allowed to fail but little ones can. If Lockheed can get a Federal guarantee to keep it from going broke, why should the same aid not be extended to all firms, large and small? Last year, over 10,000 firms failed with aggregate liabilities of $1.9 billion or one and one-half times the investment in the L–1011. Nobody rushed a bill to Congress to protect these firms from failure. Why should Lockheed be treated any different? What is really proposed is socialism for big business and enterprise for small business.

Five, the proposed guarantee distorts the allocation of credit. If the Lockheed guarantee becomes a precedent, firms will gain access to credit, not on the basis of economic merit, but on the basis of political clout. The scandals uncovered in the closing years of the RFC were one reason why Congress terminated the program. If we are to allocate credit based on political influence, the strength of our free enterprise economy will be seriously weakened.

That is just what we are doing here. The setup now is that there will be $2 billion to make sure that if a firm has enough political influence and enough pressure, and enough clout to bring to bear, they can get a loan.

I think we ought to recognize the terrific impact of doing this. There is a $2 billion guarantee fund. The President has the Chairman of the Emergency Loan Guarantee Board, who would be the Secretary of the Treasury. In an election year he would be bound to be under great pressure to bail out any big firm in trouble, no matter what the economic merits of the situation might be because it might determine how the State would go in the presidential election.

Six, the proposed guarantee is basically unfair to Lockheed's competitors. McDonnell Douglas and Boeing will find themselves competing not only with Lockheed, but with the Federal Government as well. Loan guarantees invariably permit a firm to obtain credit at a price less than the private market would charge. That is what that would be, of course, a charge less than the private market would make. If Lockheed is to receive the benefit of a Federal subsidy to produce a product in competition with other plane manufacturers, how can we, in fairness, deny the same subsidy to Lockheed's competitors?

Seven, the proposed guarantee puts the Federal Government in an untenable conflict of interest. Because it has a financial stake in the solvency of Lockheed, the Defense Department will have an incentive to award "sweetheart" defense contracts to Lockheed in order to protect the guarantee. The Civil Aeronautics Board will have an incentive to award more favorable routes to those airlines flying the Lockheed L–1011. Even the SEC would have an incentive to be less stringent in reviewing Lockheed's financial statement since the Federal Government would have an interest in not rocking the boat.

Eight, and this is the reason I suspect so many prominent businessmen, very successful businessmen, are opposed not only to the Lockheed loan guarantee but especially the generic bill, is that this would create a precedent which will inevitably increase Federal control over business. If large companies can obtain Federal aid whenever they are in trouble, the Federal Government will soon begin to regulate corporate financial practices and bank lending procedures in order to minimize the potential uses of the guarantee authority. The history of the FDIC affords an excellent example of how an insurance program can be gradually converted into a regulatory program.

The ninth reason for opposing the guarantee is that if generalized, as this bill does, it threatens to weaken our system of collective bargaining, since the Federal Government would have a financial interest in the solvency of a major corporation.

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

Mr. PROXMIRE. I am happy to yield for a question.

Mr. GAMBRELL. The Senator mentioned the FDIC. I wonder, in this context, if the Senator considers that a bad precedent for loan guarantees and if the Senator would urge the repeal of that program?

Mr. PROXMIRE. The Senator knows the answer to that question; of course. The FDIC is an excellent program. It insures depositors for $20,000 and not $250 million. It insures every depositor in the country for the exact same amount without fear or favor. It is a program that has been on the books for many years, and it has proven itself.

Mr. GAMBRELL. Does it insure for as much as $2 billion nationally?

Mr. PROXMIRE. It insures only for the limit of $20,000 for any depositor. It does not insure the bank; it only insures the depositor. The total may well aggregate far more than that. I am sure it does, when we include all the depositors on a nationwide basis.

Mr. GAMBRELL. Is it not in the same situation as Lockheed, in that it is the beneficiary of the loan guarantee?

Mr. PROXMIRE. The depositors are the beneficiaries under FDIC. Some banks—not many but some banks—have gone into receivership. The stockholders would lose money, but only the depositors would benefit from the FDIC.

Mr. GAMBRELL. The depositors in that situation are in the same situation as the 24 banks that propose to lend to Lockheed. Suppose 250 banks were about to lend the $250 million to Lockheed at the rate of $1 million apiece. What would be the Senator's feeling about that?

Mr. PROXMIRE. If there were so many banks, they could each lend $1,000 or even $100 apiece. It seems to me that the principle is entirely different in size bank loan. In the case of FDIC the Federal Government is insuring a deposit. By and large, depositors do not have any of the kinds of opportunities businessmen have when they make a loan to protect themselves. A depositor cannot be held to blame for the failure of a bank. It is different than the situation of a bank that loans to a corporation.

Mr. GAMBRELL. Is it not a fact that the FDIC is not offering individually to depositors who want it, to insure deposits, but universally to all depositors who are participating in the Federal Reserve System? The purpose of it is to give some assurance to the public generally against the failure of banks. Since the institution of FDIC there has been instilled confidence in the public and it has been good for our public and the banking system.

Is that not the purpose of this generic bill, to instill some confidence in the public and the economy that the U.S. Government is not going to walk off and let one of the major industries in this country collapse for lack of some Government credit support? Is it not very much like the FDIC?

Mr. PROXMIRE. I would say to the Senator from Georgia that this is nothing like FDIC, nothing like it. First, FDIC insures deposits; second, it has a limit of $20,000; and third the principle behind FDIC was to insure those who cannot and should not be held responsible for the actions of the bank involved.

In this case what we are doing is insuring the banks and the banks have been principal protectors of the principle of free enterprise, only making loans where there is a sound business situation, where there is efficiency, and sound products that can be sold. In those circumstances we find that there should be an incentive. Here, we are eliminating that kind of discipline. Think of the great loss if banks will not assume the kind of prudent judgment they have in the past. The FDIC is good for the depositor.

If the Senator has had the opportunity to discuss this matter with bankers he would find they would support that situation. They are in this for $400 million and want to be protected for the next $250 million, but they would not want a Government guarantee of all their loans. If that were done there would not be any need for bankers to exercise any judgment.

Mr. GAMBRELL. If, as the Senator described it, this is a boondoggle for big business there would be some credibility to his contention.

Mr. PROXMIRE. It is not for small business or middle size business, but only for big business.

Mr. GAMBRELL. That is the point the Senator would like to gloss over, but the express purpose of the act is to protect the economy against serious injury by the collapse of a large business and it is not for the protection of big business. It is not for the protection of a Lockheed investment, but for the protection of the investment of subcontractors, suppliers and the jobs of employees, and not just of Lockheed, but hundreds of thousands all over the country.

Mr. PROXMIRE. I have a tremendous amount of documentation to establish the fact the economy will be hurt, not helped, by this guarantee. As a matter of fact, more jobs will be provided by the DC–10, than the L–1011 but the DC–10 will be replaced by the L–1011 if this action is followed. This loan cannot be justified to Lockheed on the basis of benefitting our economy.

I have not put that material in the RECORD yet, but I intend to.

The PRESIDING OFFICER. Would the Senator from Georgia use the speaker system so the Chair can benefit from the eloquence of both of the Senators?

Mr. GAMBRELL. The Senator, I think, would agree that there is a substantial body of opinion and plenty of documentation to the effect that there will be damage to the economy from this and that is documentation which already has been established.

Mr. PROXMIRE. The documentation I have, although I am an interested party in this matter, comes from disinterested people. The only documentation the Senator from Georgia has comes from Lockheed—either Lockheed, or the administration that has taken the Lockheed position. The economists are opposed to it. The administration has not been able to find a single independent economist who favors this in and of itself. The only witnesses have been administration officials, the views of the airlines, all of which have a direct financial interest. The only other witnesses who were disinterested witnesses were opposed to it. Their opinion was that this would not help the economy.

Mr. GAMBRELL. I am not sure it is with disinterest that you stake your political judgment and your political future on standing behind a proposal like this. I know one can bring professors down from Harvard and other places, who are going back up there and if their judgment turns out to be wrong, if the economy does suffer damage, why, they are there, they still have their jobs, and they do not have to answer to anyone for it. So I do not consider the fact that the CAB and the FAA or the Treasurer who came down and testified in favor of this plan, have some interest in the proposal; I do think they have an interest in the thing working, which is substantial. I do not think that you can consider them to be interested or biased or prejudiced or having some conflict of interest.

Mr. PROXMIRE. Well, the conflict of interest is just overwhelming. There is no question of the conflict of interest that Lockheed represents. I think we all have to agree on that. There is no question of the conflict of interest represented by the 24 banks, particularly the two big banks, the Bank of America and Bankers Trust who testified. There is no question about the conflict of interest involving the airlines. They all have a clear benefit which they will gain if Congress goes through with this. They are not disinterested. They have an ax to grind; they have a benefit to receive. Once the administration gets on one side of the issue, there is not any question that administration officials either will not testify at all, or if they testify, they are going to testify in support of the administration's position.

So, as I say, all of the testimony that supports the argument that this loan guarantee is importantly helpful to our economy is given with an ax to grind representing the groups that I have just listed, and that does support the notion that the economy may be benefited if we go through with this; or, you may disagree with John Kenneth Galbraith, you may disagree with Donald Turner, you may disagree with the panel of distinguished businessmen led to Mr. Greenspan and others, but they do not have a financial interest; they do not have an ax to grind; they do not have anything to gain from this; and they all indicate that in their judgment the economy would be better off without this loan than with it.

Furthermore, the point I was trying to make when the Senator from Georgia questioned me, is that regardless of how one feels that the board would be another Federal Deposit Insurance Corporation, the only comment I made in connection with this was that this would increase the regulatory action of the Government and the interference of the Government with business enterprise. I feel that is one of the principal reasons why you find the Business Council, made up of the top business people in our country, so overwhelmingly against it.

I have said that the proposed guaranty, particularly if generalized, threatens to weaken our system of collective bargaining since the Federal Government would have a financial stake in the financial solvency of large corporations. Under these circumstances, it is likely that the Lockheed management will appeal to the Federal Government for assistance during their forthcoming wage negotiations with the unions. Because of its financial interest, the Federal Government will be more likely to intervene on the side of management.

Then, the proposed guarantee for Lockheed will perpetuate deceptive bidding procedures in the aerospace industry. The head of one aerospace company says firms frequently bid too low—we all know that—in order to obtain a contract with the expectation that the Government will come to their aid if they cannot deliver at the agreed-upon price. The Lockheed rescue plan will merely confirm this belief and make honest bidding more difficult.

I suspect this is the reason why David Packard felt so strongly about a generic bill that he refused to read before the House the testimony prepared for him by the administration.

It is apparent that the proposed Lockheed guarantee has practically no benefit and serious disadvantages. It is a big business giveaway of the worst sort and should be rejected by the Congress. If Congress insists upon passing some form of a general loan guarantee bill to cover a future emergency, the Lockheed application should be rejected by the Emergency Loan Guarantee Board

Let me say, Mr. President, that I share the views of many who would feel that a generic bill would be worse than a simple Lockheed guarantee. As strongly as I feel against the Lockheed guarantee proposal, I feel much more strongly about extending it and applying it to many other corporations. As I pointed out, this is eight times greater—we can have eight more Lockheed loans for a total of $2 billion.

Now, Mr. President, the distinguished Senator from Texas questioned me on the position taken by the Secretary of Defense and the Under Secretary of Defense. Let me read into the RECORD the actual questions and answers by the Secretary of Defense as they appear in the transcript.

Let me say that there is no question, of course, that the Secretary of Defense is going to do his best to reconcile his position with the President of the United States, but I say to the Senator from Texas that he should take a look at the remarks actually made by Mr. Laird before the pressure was put on him:

On Friday, Laird spoke up at his news conference. The transcript includes these remarks:

Q. "Could you say anything about your position appropos of Deputy Secretary Packard's position on the Lockheed bill?"

Laird: "I support Secretary Packard's position 100 per cent . . . I support his original as well as his amendment (sic) statement."

Q. "Is there a dichotomy within the administration?"

Laird: "There is a difference within the administration. I don't think you can say that there is not. All you have to do is read his statement and there is some difference in his position, but Dave Packard feels very strongly that we've got to toughen up on the procurement policies as far as our government is concerned and his views are his own views, but I want you to know that I support Dave Packard."

Q. " . . . Do you take a different position from the Secretary of the Treasury?"

Laird: "I think Dave Packard has taken a somewhat different position and I stand by Dave Packard's statement and I will support him."

Q. "He said yes in his testimony, he said no in his prepared testimony.

I will say that again:

He said yes in his testimony; he said no in his prepared testimony. Now which do you both support, sir?"

Laird: "I think that we gave preference to selecting Lockheed as one case on a no-precedent basis, but I would stand by the testimony of the Secretary . . ."

Q. "I'd like you to come out and make a flat-out statement."

Laird: "I support Dave Packard."

Mr. President, let me read now what Secretary Packard said in his statement:

It is this last point which leads me to the reasons I do not support—

I repeat:

"I do not support extending a broad Federal Government loan guarantee authority to the defense industry or any other industry at this time.

Then he went into a considerable explanation of why the general bill now before us would have an adverse effect on defense procurement.

Mr. President, we simply cannot get away from the statement by Secretary Laird—an extraordinary statement by the Secretary of Defense when one considers the great ability Mr. Laird has. I know him well. He is from Wisconsin. He is one of the ablest men I have ever met. He was a shrewd, sharp, highly

competent Congressman. I think he is an outstanding Secretary of Defense. I have disagreed with him in the past. I will in the future. But I have always had great admiration for his intelligence, understanding, and integrity. I do not think there is a man more alert and able than Secretary Laird is with respect to a press conference of this kind. He has held many of them. He was not deceived. He knew what he was doing. So when Secretary Laird, with that kind of background, with that kind of shrewd intelligence, says, "I support Secretary Packard's position 100 percent," and goes out of his way to say, "I support his original remarks, as well as his amended statement," I think we know how Secretary Laird feels.

Now, it is true, as the Senator from Texas said, that the Secretary of Defense made another statement, which the Senator from Texas put into the RECORD on Saturday. I think all of us are big boys. We all know, in this context, what that means—that the President has spoken out, and it was necessary for Mr. Laird to do his best to reconcile his position with that of the President. But one cannot possibly read the transcript of that hearing, without recognizing that the position of Mr. Laird—the preferred position, the personal position—is that he opposes the generic bill.

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. TOWER. 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. TALMADGE. Mr. President, extensive committee hearings have been conducted on the pending bill, S. 2038, the Emergency Loan Guarantee Act of 1971. Floor debate promises to be exhaustive. The issues have been drawn. The merits of the bill have been challenged and defended. And, hopefully, we will soon resolve the matter.

I shall not take the time of the Senate to discuss the mechanics of the bill. Such discussion would be an exercise in repetition. I shall, however, address myself to certain issues which I believe must be considered in connection with the legislation.

Mr. President, this bill is not a giveaway. The Federal Government is not giving the Lockheed Co. one penny. The Federal Government is not extending a loan to Lockheed. This bill merely allows the Government to guarantee bank loans to Lockheed and other major business enterprises whose failure would seriously and adversely affect the employment and the economy of our Nation.

Under the bill, the Federal Government's and the taxpayers' interests are protected to the maximum. Merely for the sake of this debate, let us assume that the Lockheed Co. goes bankrupt despite the loan guarantee envisioned by this bill. The Government would have a first lien or first claim against the corporation's assets, now valued at about $400 million, to the exclusion of the banks and other creditors. Therefore, the public's risks are minimal.

Continually, the question has been raised as to the need for this bill, and more specifically, the difference Lockheed's bankruptcy would make. Opponents of the bill contend that the matter simply boils down to one of equal rights: a huge corporate giant should have the same right to go bankrupt as smaller enterprises. This admittedly catchy phrase is both simplistic and inaccurate. A closer study of this statement reveals only the inherent fairness of, and the absolute necessity of this legislation. The fact is that a large corporation which finds itself in financial straits is not nearly as well protected as is a smaller enterprise.

Agencies such as the Small Business Administration and the Small Business Investment Company are available to supply aid to smaller businesses. So let us turn the phrase around. The crucial issue is not whether a large corporation should have an equal right to go bankrupt—but whether it should have an equal opportunity to avoid bankruptcy.

The Committee on Banking, Housing, and Urban Affairs reports that the bankruptcy of Lockheed and the termination of the L–1011 Tri-Star program would impose a cost on the private economy of from $260 to $380 million. It would result in the loss of tens of thousands of jobs in many States, particularly in California and Georgia, and the probable insolvency of many small companies which are Lockheed's suppliers and subcontractors.

Another point of controversy centers on the alleged precedent which a bill of this nature would establish. Governmental assistance to the private sector has existed in this country for many years. Such assistance has been available for predictable economic needs through such agencies as the Commodity Credit Corporation and the Federal Housing Administration, and certainly poses no threat to free enterprise.

Moreover, it has also been available for unanticipated problems. A prime example of this is the Reconstruction Finance Corporation, which for a quarter century undergirded a struggling national economy, disbursing some $40 billion in direct loans and underwriting billions more. Recently, the U.S. Export-Import Bank guaranteed or made credit available for the foreign purchase of some $790 million worth of aircraft from McDonnell Douglas and Boeing, Lockheed's chief competitors. Obviously, therefore, the Lockheed case is not unique.

At this point, Mr. President, it should be of interest to the Senate to examine the primary source of Lockheed's financial problems. Some say it is poor management. But this charge is refuted by the large number of successful programs that Lockheed has finished with outstanding results. Lockheed has delivered more than 33,000 military and commercial aircraft and more than 1,300 missiles and spacecraft since the company's founding in 1932.

Excluding the C–5 program, which I will touch on later, Lockheed's record on more than 12,000 military airplane deliveries since World War II is very close to 100 percent compliance with both schedule and cost targets. Moreover, Lockheed's cost and schedule performance in missile and spacecraft production compares very favorably with that of its aircraft production.

The few programs in which Lockheed has encountered difficulties and cost overruns have one thing in common: total package procurement. This type of contract, which was first used in the C–5 program, has now been abandoned. Total package procurement did not work on either the Lockheed programs or those new technology programs managed by others. It was simply an unrealistic and impractical approach to military procurement imposed by the Federal Government on its contractors. When this concept fell out of favor and came under harsh criticism, the Government refused to carry out part of its binding agreement by not allowing the company to exercise key protective provisions of the contract. Subsequently, when Lockheed tried to take this dispute to the courts, the Government effectively blocked them by employing stall tactics, thereby forcing the company to accept a $200 million fixed loss. Altogether Lockheed has suffered a pretax loss of over $480 million on its three total package procurement contracts and some ship construction work.

It is easy, Mr. President, to wax eloquent concerning imagined threats to the free enterprise system when there are no jobs at stake in one's State.

But I am speaking today in behalf of some 17,000 Georgians directly employed by a company whose record in the aerospace industry is, on balance, a fine one unsurpassed by its competitors. I make no apologies for this. Indeed, I regard it as my duty as the senior Senator from Georgia and, I might add, it is a duty which I welcome.

Needless to say, Mr. President, others in this body have come to the aid of their constituents in the past. On November 9, 1967, the able senior Senator from Wisconsin was instrumental in securing the passage of legislation which granted special tax advantages solely to the then financially beleaguered American Motors.

Like most Members of this body, I supported that legislation in the Finance Committee and on the floor of the Senate, Mr. President, and heard the following remarks of the able senior Senator from Wisconsin:

> The overwhelmingly important point is that this bill will help a fourth competitor in the automobile industry stay alive.

The Senator went on to say that this legislation was "immensely important to the biggest employer in the State of Wisconsin."

But now, Mr. President, we are speaking of the biggest single employer in the State of Georgia. Any reasoning which suggests that the biggest single employer in Wisconsin is worth helping while its counterpart in Georgia is not, can only be justified by some obscure principle of geography—it certainly finds no support in logic. Apparently, Mr. President, it is

easier to maintain competition in the automobile industry than it is in the airframe industry.

According to the able Senator from Wisconsin, no less than four companies are necessary to maintain competition in the automotive industry, particularly if one is located in Wisconsin. But he is unmoved by the fact that the demise of Lockheed would leave McDonnell Douglas virtually unchallenged in the field of defense aircraft contracting. In addition, in the arena of commercial aviation, the demise of Lockheed would leave only Boeing and McDonnell Douglas. With regards to the airbus, the remaining field is narrowed to only McDonnell Douglas, since Boeing has no similar aircraft.

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

Mr. TALMADGE. I am delighted to yield to my friend, the Senator from Wisconsin.

Mr. PROXMIRE. I thank the Senator. Will the Senator tell me how many jobs in Georgia, including the Lockheed Corp. and subcontractors together, are involved in the L–1011 project?

Mr. TALMADGE. Very few are involved in the L–1011 project, at the present time, in my State of Georgia. They are involved in the C–5A.

Mr. PROXMIRE. It is my understanding that none are involved by Lockheed and 55 are involved by subcontractors in Georgia who produce a very small component of the L–1011. Wisconsin has more jobs involved in the L–1011 than Georgia has. We have 64 jobs, and Georgia has 55 jobs.

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

Mr. PROXMIRE. I yield.

Mr. TALMADGE. I wish the Senator would be as anxious to preserve those 64 jobs in 1971 as he was to preserve the American Motors jobs in 1967.

Mr. PROXMIRE. May I speak on that in just a minute? Let me first point out that the loss of jobs involved here involves only the L–1011. The testimony is overwhelming, and it has not been disputed—perhaps the Senator from Georgia can dispute it—that in the event of bankruptcy, the C–5A and the other prime defense contracts which the Lockheed Corp. has would not be endangered. Secretary Packard, the principal man in our Government charged with procurement, assured us of that. He said the Government is protected on that.

In the second place, so far as the difference between the situation with American Motors and the situation with Lockheed is concerned, it is this: No. 1., the American Motors Corporation legislation which I introduced provided for an additional 2-year carryback against a tax loss and deprived American Motors of a 2-year carryforward. American Motors is making money now, and the Government is not going to lose any money from that legislation. The fact is that the overwhelming majority of independent economists supported the action we took with respect to American Motors, because they said—not the Senator from Wisconsin—the economic experts said that we needed this fourth competitor in the automobile industry.

So far as wide-bodied jets are concerned, it is true that there is one producer; and the studies made by the Department of Transportation and NASA, completed only last March, stated that, because of economies of scale, that this is the kind of industry which can effectively support only one producer. That study said that if there are two, both will be in difficulty.

Mr. TALMADGE. The Senator can see from the clock that it is 5 minutes to 2, and at 2 p.m. limited debate will start. If the Senator will permit me to resume my very brief remarks, I will be delighted to engage with him further in this colloquy.

The point remains, however, that the Senator supported an effort to preserve jobs in his own State and will not support an effort to preserve them in Georgia, California, and other parts of the country.

The difference between the American Motors situation and the Lockheed situation is this:

The Senator's 1967 amendment, as he knows, had the effect of delivering immediately to American Motors some $20 million or $25 million out of the Treasury at that particular time; whereas, this legislation is merely an effort for the Government to guarantee a loan, which will not discharge one dollar from the Treasury.

Apparently, competition thrives in warmer climates, but in the colder northern areas it must be kept alive with governmental assistance.

Finally, Mr. President, I submit that the Senate must consider the overall record of excellence compiled by Lockheed, the Government's culpability in Lockheed's difficulties, the remoteness of the risk to the taxpayer, and the dire effect which the failure of Lockheed would have on the economy. I urge my colleagues to reject demagogery and responsibly weigh the merits of this legislation.

Mr. President, I now yield to the distinguished senior Senator from Wisconsin, if he wishes to pursue this colloquy further.

Mr. PROXMIRE. I thank the Senator from Georgia. I think I have pretty much said my piece.

The economic experts who testified on the American Motors legislation we passed said that it was in the national interest. These were not administration people. These were not people connected with American Motors. They argued that we needed a fourth competitor. General Motors, Chrysler and Ford also agreed that it was desirable that American Motors be allowed to continue, that it would be a healthier situation. We do not have that situation at all now.

Mr. TALMADGE. Can the Senator tell us why he wants us to reduce the airframe industry to one competitor, when he, himself, argued for four in the automotive industry?

Mr. PROXMIRE. They are two different industries, two different situations.

Mr. TALMADGE. We have competition, whether in the automotive industry or in the airframe industry.

Mr. PROXMIRE. We have a study by the Department of Transportation and NASA which states that this industry can support only one competitor. That is what they found after an extensive study. So far as I know, it is the only study that has been made of this industry.

It is true that there are foreign competitors; there are competitors with respect to long hauls, and the airbus can get into some long hauls now that it has been redesigned. It can fly coast to coast.

In addition, we have the testimony of the former Assistant Attorney General in charge of antitrust, Donald Turner. Nobody, in my judgment, has contributed more in recent years to competition than he has. He said that the Lockheed guarantee would be a mistake; that it would enfeeble rather than strengthen competition.

Mr. TALMADGE. What the Senator says conflicts with what the President of the United States says, what the Secretary of the Treasury says, what the Secretary of Defense says, what the Deputy Secretary of Defense says, what the House Banking and Currency Committee says, and what the Senate Committee on Banking, Housing and Urban Affairs says.

They all take a view opposite to that of the Senator from Wisconsin. The Senator from Wisconsin thinks his judgment is better than the collective judgment of all the authorities I have cited.

Mr. PROXMIRE. The Senator from Georgia has often been in the minority. That has not prevented him from being right.

Mr. TALMADGE. I have seen the Senator from Wisconsin in the minority, also, I may say.

Mr. PROXMIRE. That is true, and sometimes I am wrong and sometimes right. In this case, so far as competition is concerned, the record is very clear.

As a matter of fact, the present Assistant Secretary of the Department of Justice in charge of antitrust, Mr. McLaren, was invited to appear; but his refusal to appear was eloquent testimony, it seems to me, of his position.

The antitrust authorities do not see a threat in permitting the DC–10 to continue as the only factor in this limited wide-bodied jet field. That has been their conclusion, after study and after consideration. I submit that these are the experts in that area, not the Secretary of the Treasury.

Mr. TALMADGE. Does the Senator think they are greater experts than the President of the United States, the Secretary of the Treasury, the Secretary of Defense, the Deputy Secretary of Defense, and the committee of which the Senator is a member and which voted 2 to 1 to report the bill?

The PRESIDING OFFICER (Mr. ROTH). The hour of 2 o'clock having arrived——

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

The PRESIDING OFFICER. And, pursuant to the previous order, the time be-

tween now and the hour of 3 o'clock will be equally divided and controlled by the distinguished majority and minority leaders or their designees.

Who yields time?

Mr. TOWER. Mr. President, I shall be delighted to yield further to the Senator from Georgia if he would like to pursue this colloquy further.

Mr. TALMADGE. Does the Senator from Wisconsin desire to pursue this colloquy further?

Mr. TOWER. Mr. President, I yield the Senator from Georgia 5 minutes.

The PRESIDING OFFICER. The Senator from Georgia is recognized for 5 minutes.

Mr. TALMADGE. Mr. President, just briefly—as the Senator from Wisconsin and I have finished our brief colloquy—as Members of the Senate know, the Senator from Georgia is a strong supporter of free debate. I have never signed a cloture petition in my life. I have voted for cloture in the U.S. Senate only one time in my life.

However, time is of the essence in this particular matter. Congress is scheduled to recess on August 6. The people charged with the responsibility of operating the Lockheed Corp. have announced that, without some Government assistance prior to August, they will be forced into bankruptcy. If that eventuality occurs, then hundreds of thousands of jobs will be lost throughout the Nation.

I may be a little parochial and, if so, I make no apologies for it, but 17,000 of those jobs are in the State of Georgia where a Lockheed plant operates.

The people of Georgia did not send me to the U.S. Senate to help liquidate their jobs. Unfortunately, there are too many people in this country who are jobless at the present time. The vast majority of these people would like to work. They want to earn wages and salaries. They want to be productive citizens.

Unfortunately, in some quarters, the only answer seems to be to put them on welfare or on relief.

I do not buy that argument.

I believe that people who want to work, who are able to work, and who can be productive citizens, should be given the opportunity to work.

In my judgment, the pending bill as framed by the Committee on Banking, Housing, and Urban Affairs and reported by its able chairman, the distinguished Senator from Alabama (Mr. SPARKMAN), is a very fine bill. It had the 2-to-1 support of its committee members.

An identical bill was ordered reported by a similar committee in the House by a vote of 23-to-11.

That, in my mind, indicates that an overwhelming majority in Congress, both the Senate and the House, want to go forward with what the President of the United States has requested.

Unfortunately, some of my colleagues who speak the loudest and the longest against Senate rule XXII have taken it upon themselves to attempt to prevent the Senate from voting on this particular measure.

The President says the bill is in the national interest. The Secretary of the Treasury says the bill is in the national interest. The Secretary of Defense says the bill is in the national interest. The Deputy Secretary says likewise.

I do not know what authorities in the country could have a higher claim to speak responsibly for the Government than these particular individuals. I prefer to believe them. I do not believe that it is in the national interest to restrict competition in the airframe industry to only one and thus create an absolute monopoly of one. I do not see how anyone who believes in the competitive free enterprise system could conclude that that is in the national interest.

The same Senator, who briefly stated a moment ago that we could support only one manufacturer of airbuses in this country, 4 years ago before the Senate spoke eloquently in support of maintaining competition in the automotive industry. At that time we had four competitors, and we still have four. I supported the Senator's effort. I thought it was in the national interest to continue to have competition in the automotive industry. I support that theory today. I have not changed my mind. If it is responsible action in the automotive industry, it is responsible action in the aircraft industry also.

I hope my colleagues in the Senate will agree with me on that fact.

I thank my friend from Texas for yielding to me.

The PRESIDING OFFICER. Who yields time?

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

Mr. President, during discussion of the pending bill, it has been implied that we rushed this legislation through the committee and that the majority of the witnesses who testified before the committee had something to gain from the Government's guaranteeing a loan to Lockheed Aircraft Corp. Since I, as chairman, am the one who is responsible for the hearings, I would just like to make a few comments for the record.

First of all, every member of the committee was requested to submit lists of witnesses they wished to appear before the committee. We contacted every person whose name was submitted to us and invited those people to appear. In many instances, those contacted did not wish to appear. Now, of course, as chairman of the committee I have subpena powers. I do not take this authority lightly and, frankly, I am opposed to subpenaing witnesses except under very unusual circumstances.

Since this matter was mentioned by our colleague from Wisconsin, I have rechecked the witness list and not only did we invite every person he wished to have as a witness, but, in fact, many of the witnesses who did appear were persons suggested by the Senator from Wisconsin.

Members of the committee will recall that the Senator from Wisconsin asked that Ralph Nader be invited to testify as a witness. There was a feeling on the part of the majority of the committee that Mr. Nader, regardless of the good work he has done in the field of consumer interests, was not especially qualified to testify on this matter. The committee decided to leave it up to me as chairman to decide during the course of the hearings whether Mr. Nader should be invited.

As a matter of courtesy to the Senator from Wisconsin, I immediately informed Mr. Nader he would be a witness and later I wrote to him inviting him to come in.

The Senator from Wisconsin suggested that William McChesney Martin, the previous Chairman of the Federal Reserve Board, be invited——

Mr. PROXMIRE. Mr. President, will the Senator from Alabama yield at that point?

Mr. SPARKMAN. In just a minute. He suggested that Dr. Burns, the present Chairman of the Board, also testify. I did not see the need to bring Mr. Martin in. Nevertheless, we invited him. He came. He started off by stating that he wanted to make it perfectly clear that he supported the legislation wholeheartedly, and he stuck by that statement.

Mr. PROXMIRE. Mr. President, will the Senator from Alabama yield at that point?

Mr. SPARKMAN. I yield briefly.

Mr. PROXMIRE. I should like to say that I did not suggest Mr. Martin. That was the Senator from Ohio (Mr. TAFT) who suggested that.

Mr. SPARKMAN. I stand corrected.

Mr. President, the Senator from Wisconsin has stated:

> The Commitee did not hear from a broadly representative panel of businessmen or economists on the long range implications of making the Federal Government the ultimate guarantor of corporate solvency.

Mr. President, in late May, the newspapers carried articles stating that the Senator from Wisconsin had written to some 100 businessmen and others inviting them in to testify on this legislation. A copy of that invitation was sent to me by one of the recipients. Now, Mr. President, since we gave the Senator from Wisconsin the privilege of submitting the names of those he wished to have in as witnesses, I should like to ask why he did not let us know, out of the 100 or so he invited, the names of witnesses from the business and other communities that accepted his invitation.

Mr. President, I ask unanimous consent to have printed in the RECORD the invitation which was dispatched by the Senator from Wisconsin.

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

U.S. SENATE,
Washington, D.C., May 25, 1971.

DEAR ——— ———: I am writing to you about the proposed legislation to guarantee $250 million in loans to the Lockheed Aircraft Corporation. A copy of this bill is enclosed for your information. Although Lockheed is not mentioned by name, the Administration has made it clear that it intends to use the entire loan guarantee authority for Lockheed.

I believe the proposed guarantee is a grave threat to our system of free enterprise. The bill sets a dangerous precedent by implying that the Federal government will never let a large firm fail. Federal controls over business are bound to increase if the U.S. government becomes the ultimate guarantor of business solvency.

Moreover, the proposed loan guarantee is grossly unfair to Lockheed's competitors since the funds would be used in Lockheed's commercial activities. Those who bid on government contracts against Lockheed would also be adversely affected since the Federal government would have an incentive to favor Lockheed in order to protect its loan guaranteee.

I believe there is an excellent chance of defeating the proposed bill, particularly if the nation's top business leaders speak out against it. If you share my views, I hope you would be willing to testify against the bill before the Senate Banking Committee. Hearings will start on June 7, and are expected to run for two weeks.

Please let me know if you would be willing to testify against the bill. While a personal appearance before the Committee would carry more weight, a letter in opposition to the bill would also be useful. I hope to hear from you soon.

With best wishes, I am,

Sincerely,

WILLIAM PROXMIRE,
U.S. Senator.

Mr. SPARKMAN. I point out that the Senator from Wisconsin wrote in his letter:

Please let me know if you would be willing to testify against the bill.

He did not ask the addressee just to come to testify, but to come and testify against the bill.

I should like to make one further point. The Senator from Wisconsin insisted on several occasions that a representative of the British Government be called as a witness to our hearings. We contacted the British Embassy here and invited them to have a witness appear if they wished to do so. The British Government declined the invitation. At one point in our contact with the British Embassy they indicated that the British Government would like to submit a statement for the record and we accepted that statement and it is contained in the transcript of the hearings at page 790, part 2.

I would like now to turn to the consideration of the bill by the committee in executive session. At no point was the bill "steam rolled" through the committee. Every member had the opportunity to offer as many amendments as he wished, and there was broad and general discussion of each amendment submitted. For the record, the Senator from Wisconsin offered 28 amendments. Each was considered. I call attention to the fact that the bill was finally reported by the committee by a 10-to-5 vote.

Quite an issue was made earlier about the transcript of the hearings not being available for the debate of the bill. I hope each Senator will take note that both volumes of the hearings are on the desks today and were placed here the second day of the debate. I hope, too, Senators will take note of how voluminous these hearings are—how many documents are included in them. It was no small task assembling and preparing these hearings for the Printing Office, so because we gave the Senator from Wisconsin and all other committee members, Senator, the opportunity to go over the transcript before it was submitted to the printer. Nevertheless, we had the printed hearings the second day of debate. They were not available on the first day of debate because we did not have notice that the matter was coming up one day early.

I wish especially to commend Mr. Edward Dicks, the committee editor, for the masterful job he did in preparing these hearings for printing. It was no small job for the Printing Office, and they are to be commended for making these hearings available to us today.

In conclusion, Mr. President, I would just like to note for the record that the hearings as well as the executive sessions were run no differently from any hearings or executive sessions held by the Banking, Housing and Urban Affairs Committee. Statements to the contrary are simply incorrect.

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

Mr. SPARKMAN. I yield.

Mr. PROXMIRE. Mr. President, I take just a moment to say that I think that everything the Senator has said as far as I know is correct. The Senator conducted the hearings with complete fairness. I did not at any time criticize the chairman for not bringing up enough opposition witnesses. I did say that the administration was not able to produce distinguished, objective witnesses.

I think that what the Senator has said in his concluding remarks is true. The Senator conducted very fair hearings and markup session. I have no criticism whatever to make of the Senator.

Mr. SPARKMAN. Mr. President, I thank the Senator.

Mr. PROXMIRE. Mr. President, I yield 10 minutes to the junior Senator from New York (Mr. BUCKLEY).

The PRESIDING OFFICER. Is the Senator from Wisconsin in charge of the time?

Mr. PROXMIRE. Mr. President, the Senator from West Virginia (Mr. BYRD) has just asked me if I would handle the time on the bill. In his behalf, I yield 10 minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized for 10 minutes.

Mr. BUCKLEY. Mr. President, the mere fact of the emergency guarantee loan bill confirms all the fears of those who were seriously concerned about the precedent which might be set by the original proposal to save Lockheed.

Whereas proponents of the original proposal for Government intervention were able to argue that extraordinary measures were justified by circumstances unique to Lockheed, what we are now presented with is a bill of broad application which would institutionalize the practice of governmental guarantees.

Justice Oliver Wendell Holmes once observed that "hard cases make bad law." It is apparent here that they can also make bad legislation. There is no question as to the seriousness of Lockheed's own financial situation. There is no question that the collapse of this enterprise would have consequences far broader than the financial loss suffered by its stockholders, although the full extent of those consequences is open to argument. The scope of the legislation presented to the Senate, however, renders the particulars of the Lockheed case irrelevant because we are asked to approve a program which would have a lasting and adverse impact on the basic concept of the proper relationship between Government and business.

I submit that we are not discussing abstract notions as to what is theoretically desirable. Rather, we are discussing a proposal which goes to the heart of the free enterprise system. Because if Government is to assume responsibility for guaranteeing large corporations against economic misfortune, the effect on business will ultimately work to the detriment of all—employees, stockholders, consumers, and the public at large. If the inefficient or mismanaged firm is insulated from the free market pressures that other business firms must face, the result will be that scarce economic and human resources will be squandered on enterprises whose activities do not meet the standards imposed by the marketplace; standards which have assured us of the efficiency and supremacy of the business establishment which we enjoy at the present time.

The bill under consideration would establish the precedent for aiding any major corporation which, for whatever reason, has suffered economic misfortune on a scale which will not be accommodated in the private financial market. Once this precedent is firmly established, there will be inevitable pressures to extend such assistance to smaller enterprises, even to the tiny enterprise on whose continued existence a small community depends. The result of this process could be the creation of the syndicalism which characterized the economic structure of Italy and Germany in the 1930's and 1940's. This suggests that there may be no surer road to governmental domination of major sectors of our economy than by permitting the Federal Government to come to the aid of business firms in distress.

The argument has been advanced that the classic mechanisms of the marketplace will not always work in the case of the defense industry because of its dependence on a single, often capricious customer. It has also been stated that the rapidly growing capital requirements of the defense and aerospace industries will at times exceed the financing capacities of private institutions. This may be the case; but if so, then the specific, specialized needs of these industries should be made the subject of extended hearings to determine what legislation, if any, might be appropriate. These arguments, however, in no way justify the bill now under consideration, given its open-ended application.

Another argument which has been advanced and one with which I have deep sympathy is that the Federal Government has a special obligation to help Lockheed because the Government's repudiation of a special understanding precipitated the company's current financial difficulties. I refer to the "golden handshake" which defense contractors were forced to rely upon by virtue of the specific procurement procedures developed during the McNamara era. The

"golden handshake" sealed the unwritten understanding that contractors would be protected by the Government from certain unforeseen and ill-defined contingencies. It has been stated that the failure of the Government to live up to this understanding has cost Lockheed approximately $200 million in cash, a sum large enough to have made the difference between corporate survival and bankruptcy.

I happen to be among those who feel that there are times and circumstances when governments should be expected to meet their moral obligations. If Lockheed does indeed have a moral claim against the U.S. Government for a substantial sum in cash, then it seems to me that the proper way to satisfy that claim is through legislation authorizing the appropriate payment. I could support such legislation, but I cannot support a bill which would meet the Government's moral obligation by indirection, and which in the process would pioneer a form of governmental intervention that would erode the market disciplines required by a healthy system of free and competitive enterprise.

Mr. President, I wish to call to the attention of my colleagues an article which was published in Sunday's New York Times entitled "Opening Pandora's Box." The article was written by Alan Greenspan. I ask unanimous consent that the article may be printed in the RECORD.

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

[From the New York Times, July 25, 1971]

OPENING PANDORA'S BOX—NEW RFC COULD REACH STAGGERING DIMENSIONS

(By Alan Greenspan)

The proposal currently being debated before the Congress to initiate a "Reconstruction Finance Corporation" type guaranteeing agency threatens to open a Pandora's Box, which it would be extremely difficult to close.

The implicit expectation of the proponents of this legislation is that it would be a minimum program designed to help out a few special cases. The cost to the taxpayer, it is argued, would be small and the benefits large. Faltering companies in key industries or key areas essential to the national interest, it is maintained, could be supported, thereby fending off potentially cumulative bankruptcies with their associated deleterious effects on jobs and business confidence.

But it is just not credible that such a foot-in-the-door program can be kept on a limited basis. The number of candidates that would emerge for such guarantees could reach staggering dimensions. Who would be the final arbiter of so vague a standard as what serves the "national interest?" Can one realistically imagine the rejection of a petition of a company in a key Congressman's district cited by him as being in the national interest?

More than 20 years ago the Hoover Commission with the history of the Reconstruction Finance Corporation in mind noted that "direct lending by the Government to persons or enterprises opens up dangerous possibilities of waste and favoritism . . . it invited political and private pressures, or even corruption."

To place the Federal Government in a position where it can pick and choose which particular private enterprises should or should not be allowed to slip into bankruptcy must inevitably lead to subsidization of the least efficient concerns in an industry. We often lose sight of the tremendous churning that goes on in a free, competitive economy—of the way in which concerns, vying for profitability, attempt to marshall their resources in the most productive manner.

It is the very threat of bankruptcy that often jolts concerns, large and small, from inefficient practices in their utilization of labor and capital and in their methods of financing and marketing. To have the possibility of falling back on a guarantor of last resort must inevitably remove this very valuable prod. To institute such a mechanism could only impair the viability of our free enterprise system and slow the growth of American living standards.

Moreover, it is important to remember that when the Federal Government guarantees private credit, it does not add to the total financial resources available. It only moves one borrower up in the credit rating queue at the expense of other borrowers who are not fortunate enough to have such a guarantee.

While the quantity of long-term savings flowing into the capital markets does vary from year to year, it is not an unlimited source of funds. Government loan guarantees, direct and indirect, necessarily single out certain areas of the economy for special treatment. At present, it is primarily housing, via Government-guaranteed mortgages. Presumably, in the future we shall be seeing other areas where the financing requirements are met by "set-asides" in the market through the guarantee mechanism. Government loan guarantees tend to reduce the size of the pool of long-term savings available for non-guaranteed private borrowing.

This is because the availability of Government guarantees increases the effective credit demand at any given interest rate, and inasmuch as the aggregate supply of savings is limited, it acts to raise interest rates to non-guaranteed borrowers.

Thus, Government guarantees to some companies could have the effect of depriving funds at reasonable cost to other private borrowers. Or worse, in order to prevent this unhappy consequence the Federal Reserve could be pressured to accommodate the increasing demand for funds through an expansion of the money supply. This in turn would act to feed the very inflationary forces that have been instrumental in bringing a number of companies to the verge of bankruptcy and would thereby accelerate the number of petitioners for Government loan guarantees.

Such a vicious circle would be difficult to break once we begin moving toward ever more extensive uses of Government guarantees.

The inevitable secondary consequence of the development of a broad loan guaranteeing authority would be a move, sooner or later, by the Federal Government to increase its regulatory control over the private-enterprise system. Someone is bound to argue (with some validity) that if the Government is a guarantor of last resort for a certain class of business enterprise, it should also oversee the operations of such corporations.

A standby guarantor could reasonably be expected to require the regulation of, for example, pricing and marketing practices, debt-equity ratios and dividend payouts. In fact, it might want to regulate anything that, if mishandled, could lead to the necessity of a loan guarantee—that is—almost every important business decision.

We cannot look upon Government loans or guarantees as a temporary expedient pending a return to prosperity. In fact, the types of problems that have now led to the call for Government guarantees are structural and threaten to be long-standing.

Although our level of activity by any historic standard is high, profit margins have only just emerged, and then by the narrowest of margins, from their lowest levels since the nineteen-thirties. The debt burden of our business structure has risen sharply. As a result, interest charges, loan amortizations and other legally fixed obligations have now reached the point where a substantial number of large, as well as smaller, business enterprises are barely able to meet their commitments at the present depressed levels of cash flow.

Unfortunately, the current outlook suggests that the problems of subnormal corporate profitability and attendant financial difficulties is apt to persist to some extent throughout this decade. So long as this condition prevails, increasing demands will be heard to substitute Government guarantees for private financial worthiness.

The solution to our corporate financial malaise, however, is not the symptom fighting Government-guarantee mechanism, inasmuch as this must surely lead to new problems that are likely to be far worse than our current economic disease. The only viable long-term solution is to remove the inflation bias from our economic system. This has acted as a damper on productivity increases and exacerbated an already difficult collective bargaining process.

It is difficult to envisage, even under the best of circumstances, a return to the higher profit margins and cash flow of five or 10 years ago. Nonetheless, sufficient gains can be achieved to substantially ease the financial burden currently confronting American business.

To solve today's financial difficulties by introducing a new wedge of Government into our economic system could only trade far greater difficulties for our free enterprise system in the future for beguiling short-term solutions to today's problems.

Mr. BUCKLEY. Mr. President, the hazards which I referred to in my remarks and in the article are substantiated by some of the amendments which have been offered since the bill was reported. One amendment, No. 319, would extend the guarantees not merely to large corporations in distress, where extinction would affect merely a certain segment of the country, but it would extend the principle of protection to all manner of small business enterprises.

Another amendment, No. 323, exhibits the kind of impulse which follows in this kind of situation. It would stipulate that any business would have to meet certain requirements.

Still another amendment, No. 326, would expand the scope of the bill by writing into it the application to farmers and small businesses. Furthermore, it would raise the amount of the guarantee from $2 billion to $4 billion.

Mr. President, I submit that this bill should not be thought of in terms of Lockheed but in terms of pioneering a whole new area of governmental interference in business; it would establish a principle which would be subversive to our system of free competitive enterprise.

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

Mr. BUCKLEY. I yield.

Mr. WEICKER. Mr. President, I commend the Senator from New York for putting his finger right smack on the heart of the problem, and putting it concisely so that all can understand.

I very definitely would like to associate myself with the comments of the junior Senator from New York. I would hope that my colleagues would give strict attention, if not on the floor, in the REC-

ORD tomorrow to what has been said. I can assure Senators that if these words are not heeded they may prove very prophetic; and if they assume the role of prophecy, as set forth by the Senator from New York, the country will be poorer for it.

Mr. BUCKLEY. I thank the Senator for his kind remarks. I think we both agree that the point involved is transcendent; that we cannot allow our concern for survival of one particular enterprise to erase our understanding of the marketplace society.

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

The PRESIDING OFFICER. Who yields time?

Mr. GAMBRELL. Mr. President, will the Senator from Texas yield to me for 3 minutes?

Mr. TOWER. I yield 3 minutes to the Senator from Georgia.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. GAMBRELL. Mr. President, with reference to the comments of the Senator from New York, I would like to say that he has articulated a fine principle and I hope his experience in the Senate in future years does not lead him to the dilemma in which the senior Senator from Wisconsin finds himself of having several years ago announced and stood on a fine principle and then having run aground here today in connection with this legislation. I expect that from the standpoint of legislators it is sometimes advisable to deal with things as they come up rather than to announce historic principles and later to find they do not apply to things a Senator would like to have for his own State or for his own constituents.

The specific matter now pending is the cloture vote to be taken in about 35 minutes. I would like to say in reference to that that I have not been in the Senate long enough to have established any tradition of signing or not signing a motion for cloture, or having voted on a motion for cloture, or not having voted on a motion for cloture.

Mr. BYRD of West Virginia. Mr. President, will the Senator use his microphone? We cannot hear him.

Mr. GAMBRELL. I would like to say at this point, when the hearings on this bill opened almost 2 months ago, I and several members of the committee expressed at that time the need and urgency for consideration of this matter, or the need to lay it aside and not consider it at all.

It is certainly obvious that the problem facing the Lockheed Aircraft Corp., and the matter that has given rise to the matter dealt with and the time invested in this, would be an utter waste, if some vote up or down is not taken on the matter.

I know many Senators have some principle in favor of extended debate—and I feel rather strongly that extended debate should be permitted—but when we have a matter which has been before the Senate for 2 months, a matter that has been widely discussed in the newspapers and by the public, attention has been given to the matter and obviously any effort to defer the vote is a vote against Lockheed. If that is what any Senator would like to do, he may go ahead and do it, but we should not waste 2 months of the Senate's time. The Senate should let this matter come on for a vote and let us get it behind us, since we knew when we went into the matter that we had to have a vote before the August recess or not have it at all.

Mr. TOWER. Mr. President, I yield 5 minutes to the senior Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, it is very interesting to me that Senator BUCKLEY, my colleague from New York, whom I hold in high esteem, should come to the opposite conclusion that I have in respect to this bill and that he, rather than I, should have had printed in the RECORD the article which was published in yesterday's New York Times written by Alan Greenspan. I was going to ask the Senator from Texas (Mr. TOWER) for time to discuss that article because it was in response to an earlier article in the New York Times by me.

Mr. President, to complete the record I ask unanimous consent that my article entitled "Needed: A New RFC" published in the New York Times on July 11, 1971, be printed in the RECORD. I repeat that Mr. Greenspan's article is in answer to my article.

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

NEEDED: A NEW RFC—CORPORATE CRISES REQUIRE EMERGENCY POWERS

(By Senator JACOB K. JAVITS)

A vital element of government assurance as to the future economic well-being of the United States depends upon the prompt Congressional enactment of legislation to deal with selected corporate liquidity crises by establishing an R.F.C. (Reconstruction Finance Corporation) type of authority to cover loan guarantees for such corporations. This legislation would permit the Federal Government to guarantee loans essential for the continuance of operations vital to the national interest or to such interest within a given region.

In approximateely a year's time, one of the nation's largest corporations (Penn Central) has gone bankrupt and the nation's largest defense contractor (Lockheed) is on the ropes. The question is not one of bankruptcy or court reorganization nor of saving stockholders or creditors or management—but of continuing operations vital to the national interest.

It will be recalled that the crisis in Penn Central in those terms occurred when after bankruptcy no one would lend the bankruptcy trustees the money to continue operations without a Federal guarantee. At that point there was imminent danger of stoppage involving failure to meet payroll for tens of thousands of workers and marooning tens of thousands of commuters and other travelers.

The Lockheed situation follows closely on the heels of the Penn Central bankruptcy and of rumors regarding the liquidity position of other major United States corporations. These rumors persist.

Clearly, the frantic crisis-ridden legislative maneuvering which has come in the wake of the Penn Central and Lockheed contingencies demonstrates that the American economy still lacks an emergency economic "war power." Such legislation is needed to ensure that steps could be taken to prevent the economically unthinkable from happening during a time of crisis.

Congress should now enact for this purpose legislation comparable to the Emergency Loan Guaranty Act which I first introduced on July 27, 1970. It is likely now that the over-all guarantee authority may be reduced from $5-billion to $2-billion (the Federal Reserve Board Chairman, Arthur Burns, suggests this figure) and some other details may be changed, but the essential thrust of the legislation is what counts.

This essential thrust is that the loan be guaranteed meets the national (or regional) interest criteria, that it cannot be otherwise obtained on reasonable terms and conditions, that there is reasonable assurance of repayment, and that failure to provide a Federal guarantee would in effect shut down the essential services for the maintenance of which the loan is sought.

Also, the Treasury Secretary as loan guarantee authority could impose suitable conditions on the borrower and that would include the kinds of conditions a bank would impose on a borrower in trouble. My bill also calls for submission to the Congress—which would have the power to veto—of any individual loan in excess of $20-million to one borrower in any one year.

It is inaccurate and simplistic to blame the liquidity crisis of such of our nation's corporations as are affected on poor management. A peculiar mix of economic recession and a sluggish recovery, combined with a high level of inflation, are contributing factors to the liquidity problems facing many American corporations—factors which are completely beyond any individual's control—as well as in given cases poor management.

Over the past two years, basically sound corporations with good management have been caught in a squeeze in which repressively tight money and high operating costs—labor, raw materials, taxes and other overhead—have combined with sluggish sales and decreased profits. An inevitable result of this situation has been a deterioration in the borrowing power of businesses, many of whom rely on firm lines of credit to maintain cash flow and refinance debt.

Poor management should not be used as an excuse for refusing to enact an economic war power upon which the health of the economy depends. But I would require the imposition of stringent conditions on any loan guarantee where the danger of failure of an important firm could be traced also to questionable management decisions.

What worries me is that the approach to this widespread liquidity crisis has been on a case-by-case basis and only after disaster is knocking at the door. This ad hoc corporation-by-corporation approach can contribute to losing sight of the forest because of the peculiar defects of certain trees. And I am sure that the American people and the Congress would support generic legislation designed to protect the rich forest which is our national economy even though they question the right of specific trees to survive.

I am suggesting no change in our bankruptcy laws, which have served us well. If a business is poorly run or has become uncompetitive, it should not be kept limping along. But if, looking at the indicators of business liquidity, we can see troubled times ahead for some of our basic productive enterprises, we cannot afford to neglect this threat to the nation.

Some opponents of such generic, broad-based, emergency loan guarantee legislation are arguing, perhaps with political motivation, their assistance to "fat cat" corporations does not serve the broader interest of a competitive American economy. I would argue that in a time of economic difficulty when the rate of unemployment is approaching a 10-year high, the interests of the American workman would be ill-served if a Penn Cen-

tral employing some 100,000 persons or a Lockheed employing some 70,000 persons in operations essential to the national interest were allowed to cease operations.

I should also make clear that the legislation I have introduced, and which is now before the Senate Banking Committee, makes no distinction between guaranteeing loans to major and to smaller corporations. I think it would be a mistake for Congress to establish the principle that medium-sized firms would be ineligible for extraordinary government assistance, simply because of their size. (Smaller firms are already covered through the Small Business Administration for guarantees or loans up to $350,000 each.)

I can think of cases where the stoppage of a smaller firm could have severe consequences for a regional economy, in a thinly industrialized area, for example, where the firm is the major employer.

Some opponents of Government assistance to corporations through an emergency loan guarantee authority express an almost theological concern over the precedent-setting nature of such Government involvement in the private enterprise system. This concern does not belong in the nineteen-seventies, which are increasingly characterized by private sector involvement in quasi-governmental corporations, by overseas United States private investment guarantees, and private sector close cooperation with the Government and the Congress to work out voluntary import quota limitations on such basic products as petroleum, steel and textiles.

Also overlooked in this argument is the fact that a loan-guaranteeing corporation—the Reconstruction Finance Corporation—was operating throughout most of the nineteen-thirties and nineteen-forties, and that emergency-type loans have been made by the Federal Government in the nineteen-sixties. Indeed, the R.F.C. placed over $38-billion in loans and over-all made rather than lost money.

An argument can now be made that our economy has developed to the point that the interrelationship between the private and public sectors has become so close that a government without an emergency guarantee power is an anachronism which serves the needs of the nineteen-seventies very poorly indeed.

Finally, opponents of broader-based emergency loan guarantee legislation fear that the authority could be abused, citing the political favoritism that marred the last years of the operations of R.F.C. I feel that it is very important that there should be a requirement in any bill approved by the Congress for a detailed justification for the guarantee and that requests for a guarantee be made through a high-level board (the Federal Reserve's bill suggests the chairman of the Federal Reserve Board and the Secretaries of Treasury and Commerce).

My bill also would require the guaranteed loan to be used for the precise purposes which are essential to the nation or a region. Clothed with appropriate safeguards, such an authority can serve as an essential tool for preventing national or regional hardship which can come about when an important stoppage threatens our fast-paced economy.

The time for legislative action is at hand. The approach should be one of permanent benefit to the whole economy. Last year, it was Penn Central—this year Lockheed, and I don't know what is in the cards for 1972 and beyond. But with two major fatalities in the past year and other close calls, the lesson is clear: Permanent emergency safeguards must be provided lest we have the type of fatality on our hands that would affect the economic well-being of our whole nation.

Mr. JAVITS. A very interesting point is raised by Mr. Greenspan and I will touch on that first because it bears directly on the bill. Then, I wish to say a word about the fundamental issue of principle which Senator BUCKLEY properly puts before the Senate because there is an issue of principle.

First, let me discuss the Greenspan article. He erects a straw man that we intend to legislate an RFC-1933 style bill, and then he proceeds to try to knock it down on the grounds that it would try to help everybody that would not be worthy of help; that it would reduce the effects of competition and help the big firms not the small firms and reduce the money supply for those who want to have loans as a matter of competition in the marketplace.

The point is that we are not doing any such thing. We are not intending to create a 1933-style RFC; we are not going to create any far-reaching program. If there is any doubt about that, the $2 billion provided here would hardly take us very far in that kind of program.

The point is what the United States is trying to do by this bill in its generic aspect is to insure against economic collapse by virtue of the cessation of operations deemed essential to the national interest. I submit that is not only the responsibility but the duty of Government and the highest principle of any free society. Against this overriding principle every other principle pales into insignificance.

Mr. President, if we have no right to save this company, the stoppage of which would represent a disaster to the national interest, then we have no right to do the following things:

We have no right to pass a bill to inhibit a railroad strike, and I and many other liberals have lent ourselves to that time and time again.

We have no right to inhibit strikes in defense industries, or a utility strike.

If we cannot put the Government into the business of saving what must be saved, we must dismantle the FHA completely, and let people go unhoused.

The principle that Government shall not get into this business gets beyond one of the greatest principles of all, which is to protect these other principles, which are the most important.

Under that philosophy we should not give subvention of interest to the Rural Electrification Administration and for rural telephones, which exist only by way of Government guarantees.

We should not guarantee loans for college dormitories, or give subvention to colleges and universities, nor should we give subsidies to agriculture or to the Merchant Marine. Under the principle enunciated by Senator BUCKLEY the Federal Government would have to keep its hands out of the business altogether.

Mr. President, it seems to me we decided that question, at the very least 30 years ago or more.

On the principle that the very first principle of government is that society shall continue to operate, I deeply believe we have to use our brains and great ingenuity to see that the evils which might result from this sort of legislation do not result; that the excesses and corruption which might exist do not exist. We can shatter any precedent that is made. We can pass a bill today and repeal it tomorrow. We are not bound to the extent that we cannot overrule it or repeal it. If we do not like the way it works, we can cancel it. But we know we need this kind of machinery on the books because the alternative is too dangerous.

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

Mr. JAVITS. May I have another 2 or 3 minutes?

Mr. TOWER. Mr. President, I yield 2 additional minutes to the Senator from New York.

Mr. JAVITS. That is fine.

Mr. President, the key to Government today is that Government cannot stay out of business any more than business can stay out of Government. The question is how they accommodate themselves one to the other.

It has been my point—and I think it is critically important—that the opponents of this legislation have overlooked the fundamental fact that this is not a bail-out bill. On the contrary, the Government officials, if they are worthy of their salt, may insist that in the case of some companies, that as they go into bankruptcy or into chapter XI reorganization, they will have to oversee the requirement that the stock, for example, is not watered, that there is not inefficient management, or that certain creditors take their chances when they do not have the right to rank as high as the guaranteed creditor. That is what we ought to be able to expect, and I would expect it, just as we would expect it of a tough bank officer. The United States can also be a tough lending officer.

The big argument of Mr. Greenspan is that the Government will get into business in terms of running it. What does it do with reference to RFC, the Robinson-Patman Act, the FPC, and a dozen other agencies?

Our duty is to create the conditions to allow those businesses vested with the national interest to go on. And as the lending officer we can impose any requirements that an officer of the First National City Bank or any other large bank could impose. We have a right to do it. I think we would do it under those conditions.

For those reasons, I hope the Senate will vote cloture so that we may proceed to consider and act on the bill.

Mr. PROXMIRE. Mr. President, I yield 9 minutes to the Senator from Connecticut (Mr. WEICKER).

Mr. WEICKER. Mr. President, I would like to make a few comments prior to this rather hasty cloture vote.

First, as to the statements of various proponents of the bill that there have been extensive hearings on the bill, this, of course, is not so. I have read these hearings very carefully, and they are almost exclusively devoted to a Lockheed bill. It is all right to say there were other bills that were called up under the same hearings, but the fact is that the questions and responses related to a Lockheed bill, not a generic bill.

Really, the ultimatum that we are confronted here this afternoon emanates from the British Government. I am not trying to arouse any feeling of nationalism here, but it is a fact. It is a fact that

is in the committee hearings. I read from page 791 of the hearings:

ASSURANCE THAT THE TRISTAR PROGRAMME WILL BE COMPLETED

The assistance of the U.S. Government takes the form of the guarantees for which the U.S. Administration is seeking Congressional authority, the amount of $250 million being that which the U.S. Administration expect will be sufficient to assure the continuity of the TriStar project. The British Government understands that before providing such guarantees to Lockheed the U.S. Administration will have taken steps to satisfy themselves that the other requirements for the completion of the project (notably the confirmation of current airline orders) are met.

If the guarantees mentioned above cannot be given by 8 August 1971, the agreement between Lockheed and Rolls Royce for supply of the RB 211, and the British Government's offer of support will not become effective. The parties principally concerned with the RB 211/TriStar project agreed that since the announced date for the beginning of the summer Congressional Recess is 6 August it would be reasonable to expect a decision on the U.S. Administration's proposal to Congress by 8 August.

So it is very clear as to who is setting the date along with Lockheed, and along with the circumstances, in this particular body.

I cannot help but comment—and I am sorry my colleague the senior Senator from New York has left the floor—that the comments he has made have been made in the past by various proponents of the bill. He cites the instances of Government assistance. I point out that, invariably, this has been in the public service field, and, invariably, it has been before, and not after the fact. That is one of the weaknesses of the legislation which we are asked to consider today.

Really, I find it amazing that we hear statements that we can do one thing today and another thing tomorrow. As I recall, at the beginning of my remarks I said I did not want the U.S. Senate to do business like Lockheed, and yet that is exactly what is being proposed here.

There has been a great deal of debate among Members of the Senate in this Chamber on various issues relating to the delegation of authority to the executive branch of the Government. Clearly, this is another instance of that delegation. While we are bemoaning the fact that in the area of foreign relations we should not do that, we are willing to go ahead on the domestic scene and fall into the same trap.

Let us make no mistake about it. This bill is written to cover one business. This particular panel can bring up any loan whatsoever, to anybody, without any congressional review at all, prior to October 1. It is not inconceivable that the SST could be resurrected and moneys used for that purpose prior to October 1, 1971. I see nothing in the nature of the bill which requires that anyone should be exempt once the bill is passed. There are some requirements of other corporations that come to the Government for a loan. So one cannot say this is a generic bill—it is a Lockheed bill.

My colleagues have to cut it one way or the other: It is either a Lockheed bill or a generic bill. It is not a generic bill tailored to the bailout of Lockheed, or at least it should not be.

Now I have an important question to ask my colleagues which I have let go by until today. They have made the statement during the past 4 days that this is not $250 million worth of taxpayers' money, but, rather $250 million in a loan guarantee. I have made the statement that this is $250 million that has to be set aside in case the worst happens; therefore it is taxpayers' money; to which they replied, "But there are other assets of the company, so in any event it could cover $250 million."

Now, here is the question that I ask the proponents of the bill: If the Government has assets of Lockheed as security for the $250 million loan, will not the Government do everything in its power to secure those assets or increase their value, in order to protect the $250 million; and therefore, does not the Government have an interest in seeing that Lockheed gets business at the expense of Lockheed's competitors in other fields?

If the proponents of this bill—and they have made this point clear—say this is not taxpayers' money, it is a loan guarantee secured by the assets of Lockheed—and here is where the argument of the junior Senator from New York and those of us who agree with him comes to the fore—the U.S. Government would have a proprietary interest in Lockheed, and would have to go ahead, or could go ahead, and would be motivated or moved—should be moved, as a principal creditor—to protect or increase the assets of Lockheed, and therefore the U.S. Government would have a favored position vis-a-vis Lockheed as opposed to other contractors.

This is the reason why I ask my colleagues to take a long, hard look today before they move in that direction. The consequences are not just bailing out a corporation. Inherent in this bill is some of the greatest political power we have seen in any legislation presented to the U.S. Senate. The power, up until October 1, would be totally outside the legislative branch of the Government. After that date, it would still sit, in a primary way, with the executive branch of the Government.

Let the market be free, certainly as far as commercial products are concerned. This body understands its obligations to the Nation as a whole in the area of public service; but once the private sector is entered upon, as is being proposed here, there is no turning back; and the very failing of which we have accused ourselves over the past several years—that fault, in other words, of delegating power outside the legislative branch of the Government—will have been enhanced.

I should be very glad to have any of the proponents of this legislation respond to what is a genuine question as to whether or not, on the basis of this action, the U.S. Government would thus acquire such an interest in Lockheed that it is to the benefit of the U.S. Government to see that the assets in no way diminish and are, if possible, increased.

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

The PRESIDING OFFICER. The Senator's time has expired.

Mr. PERCY. Mr. President, will the Senator from Wisconsin yield me 2 minutes?

Mr. PROXMIRE. I yield 2 minutes to the Senator from Illinois.

Mr. PERCY. Mr. President, I intend to vote for cloture today because I wish to see this matter brought to a head at the earliest possible time, believing time is of the essence. But I would not want any inference to be drawn from that vote that I have made up my mind to support the bill.

I can understand the arguments made by the proponents of the measure. I should like to study them as closely as I can, and would like to hear from the Senator from Texas of the ripple effect—that is, the net number of employees who would be released, if there should be a bankruptcy of Lockheed. I should like to study the whole issue a little bit more.

I think there may be some relationship between what we did in the case of Penn Central and this case. But I have serious concerns about this precedent, because I do deeply believe in the discipline of the marketplace, with which we are certainly interfering.

If this is an economically sound loan, I cannot see why the banks cannot go a little bit farther to help Lockheed stay in business a little longer, and get their own investments back.

There is an important difference between this and the Penn Central situation. I said just before that vote that I felt as though I were on a slippery road, the end of which I could not see. But in that situation, at least, we were confronted with a case in which if Penn Central could not operate——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. PERCY. May I have 30 seconds?

Mr. PROXMIRE. Yes.

Mr. PERCY. American transportation in a large part of the country would have been interfered with.

That is not the case in this instance. We had then a case in which the company certainly was in receivership, and this was the only alternative we had.

In this case, I think we need 2 or 3 hard days of debate to help clarify the matter, but I hope the Senate will bite the bullet and come to a decision on this issue at the earliest possible time.

Mr. PROXMIRE. I yield myself 6 minutes.

Mr. President, the motion to kill off debate on the Lockheed bailout bill after only 3 days is another example of the red carpet treatment being given the Lockheed company by the Congress.

More debate is needed on the Lockheed bill. The bill before the Senate goes way beyond the administration's original proposal to assist Lockheed with a $250 million loan guarantee.

The Senate bill authorizes $2 billion in guarantee authority—or eight times the administration request. It will permit eight or 10 giant corporate bailouts over the next 2½ years.

What the bill really says is that the Federal Government will not permit big

business firms to fail. Such a program can destroy our free enterprise system. At the very least, it will have a profound and far-reaching effect on our economy. And yet we are being asked to vote on such an unprecedented proposal after only 3 days of debate. The Secretary of Defense and the Under Secretary of Defense are opposed to the pending bill and the Secretary admits there is a difference within the administration.

Anyone who takes the time to read the hearings, which incidentally, were not even distributed during the first day of debate, will find that at least 95 percent of the testimony was taken up with the Lockheed case. And yet we are being asked to vote on a sweeping, hastily contrived, vaguely drafted bill which surrenders $2 billion in guarantee authority to the Treasury and the Federal Reserve System. And the reason we are being asked to vote with such unprecedented haste is that Lockheed needs the money by August 8.

Mr. President, the backers of the Emergency Loan Guarantee bill cannot have it both ways. If they want to pass a general guarantee bill after only a very limited hearing record, they should be willing to debate the bill before the Senate and the American people. If this is really a general bill, we should not let the situation of only one company determine our schedule. The proposed loan guarantee for Lockheed is only one-eighth of the total guarantee authority.

On the other hand, if this is really a Lockheed only bill, the proponents of the Lockheed bailout should stop hiding behind the facade of a general bill. They should admit to the Senate and the American people that they are really concerned about saving Lockheed first and only incidentally about passing a general bill. Let the backers of the general bill, S. 2308, move to susbtitute the original administration bill, S. 1891, which applies only to Lockheed.

If we were debating just the Lockheed bill, I believe we could come to a much quicker decision. But since the Lockheed proponents chose to expand the Lockheed bill into a generic bill, they have no one to blame but themselves for expanding the amount of debate required by the Senate.

Because some of us in the Senate have sought to discuss the general bill in some detail, we are accused of mounting a filibuster. This charge is absolutely false. I categorically deny it. A filibuster, in the classic sense of the term is an attempt by a minority of Senators to kill legislation by endless debate. That is not my intention. As far as I am concerned, I will make no attempt to prevent the Senate from voting on S. 2308 as soon as the issue has been adequately debated.

We need more debate on the bill in order to counteract the effect of the Lockheed lobby. Members of Congress have been subject to overwhelming pressure from the powerful Lockheed lobby including the company itself, the Treasury, the banks, the airlines, the subcontractors, and certain labor unions. The only chance of educating the Senate and the American public about the Lockheed giveaway is through extensive debate. Why are the proponents of a Lockheed bailout so anxious to kill off this debate? Are they fearful that an informed and outraged public opinion will cause the Senate to reject their cause? Are they so lacking in confidence in their measure that they are afraid to subject it to the spotlight of national publicity?

We are told we need to act by a certain date or otherwise Lockheed will run out of cash, or that the airlines will cancel their orders, or that the British Government will pull out of the deal. Mr. President, who are these outside organizations? What right do they have to tell the Senate how to conduct its business? What right does the chairman of the board of Lockheed have to attack this Senator for wanting to discuss the bill? What right does he have to demand Senate action by a certain date?

He is the one who needs the guarantee—not us. If the chairman of the board of Lockheed behaved that way to his commercial bankers, he would undoubtedly be tossed out on his ear. Is the dignity of the U.S. Senate any less?

There is no arbitrary or fixed deadline for giving aid to Lockheed. If the Senate wants to take a few days or weeks to debate the proposed legislation, that is our business. If Lockheed is in danger of running out of cash, let them apply to the banks for a temporary loan.

As we proceed to consider this legislation keep one thing in mind. If the Lockheed Co. is so shaky that it will fall apart if aid is not rendered by a certain day, then we certainly should not guarantee the loan. If the banks, the airlines, and the British Government are so lacking in confidence in the future of Lockheed that they are unwilling to wait a few days or weeks for Congress to complete an orderly debate on the legislation, then the U.S. Government certainly has no business guaranteeing the loan. If the company is that bad, we should not risk the taxpayers' money on it.

Mr. President, the dignity of the U.S. Senate is on trial. Are we going to permit a large and powerful corporation to dictate our procedures? Are we going to jump like spineless errand boys whenever the rich and powerful snap their fingers? Are we going to let the chairman of the board of Lockheed tell us how long we have to debate a bill?

Mr. President, it will be a sad day for the dignity of the U.S. Senate if this cloture motion is approved. It will be a serious departure from the traditions of the U.S. Senate.

Also, Mr. President, for some strange reason, whenever human rights are involved, the Senate can afford to debate at length before cloture is proposed. But whenever the welfare of a fat-cat corporation is at stake, the Senate is asked to proceed with uncommon haste. Indeed, some Members of the Senate who have traditionally and consistently voted against cloture on civil rights bills are in the forefront demanding cloture on a bill to help big business after only 3 days of debate.

The history of civil rights legislation shows considerable debate before cloture is even attempted. For example, before the first vote on cloture took place, the 1960 civil rights act was debated 20 days; the 1962 civil rights bill involving literacy tests was debated 11 days; the 1964 civil rights act was debated 55 days; the 1965 voting rights act was debated 24 days; the 1968 open housing bill was debated 19 days.

These five civil rights bills were debated an average of 26 days before the initial cloture vote occurred. However, legislation to assist big business can only be debated 3 days before cloture is attempted. There seems to be one standard for human rights and another standard for big business rights.

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

Mr. PROXMIRE. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. TOWERS. I yield 2 minutes to the Senator from Tennessee.

Mr. BROCK. Mr. President, I recall back in my childhood that when one would try to get the better of an argument, oftentimes he would invoke demons, hobgoblins, and ghouls, in an effort to frighten the opposition. I am beginning to marvel at the ability of our modern vernacular to suggest the presence of new hobgoblins on the American scene—giant corporate bailouts.

Some people say, "Well, you cannot do anything because you are under pressure from enormous corporate octopuses who have a handle on the entire United States."

What a question to ask of this body, as to whether or not there is that kind of pressure. I have felt no pressure. I have had no visits, no phone calls. I sat through extensive hearings, and I came to a conclusion. My conclusion was not that some giant corporation needed help. My conclusion was that 30,000 employees were jeopardized, not by their own actions, not by the actions of their management, but by the actions of the U.S. Government whose "procurement contracts" policy cost that corporation some $200 or $300 million. It was a situation over which Lockheed's employees had no control and which jeopardized the entire structure of the corporation—both those parts which were working on the defense contracts and those which were not.

I wonder whether people really are so concerned about corporate giants that they are concerned about what kind of giant would develop if we do not recognize the Federal Government's responsibility when we create that kind of situation.

The market for this plane in the next 10 years probably will amount to 1,000 planes. Multiplying that by $20 million a plane makes a total of $20 billion. The action of this body could eliminate the ability of one of the only two competitors in this country to supply that market.

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

Mr. TOWER. I yield 1 additional minute to the Senator.

Mr. BROCK. Are we going to say that we are going to create probably the largest corporate monopoly in the world by our action today, by refusing to rec-

ognize past mistakes? That is what could happen if that contract is assigned to one company.

What about the little people and the big people? How big are the pipefitters, the steamfitters, and the others who work for the Lockheed Corp.? They are not corporate giants. They are human beings with families, and they have to pay for their automobiles and their homes. These are the people I am concerned about, and I think we should be discussing them and not throwing out the shibboleths of giant corporate octupuses and the rest.

I thank the Senator for yielding.

The PRESIDING OFFICER. Who yields time?

Mr. TOWER. I yield myself such time as is necessary.

Mr. President, it has been claimed that there would be little employment loss if Lockheed were to fail. As a matter of fact, it has been suggested that it would be good for the economy and good for the job situation in this country if Lockheed were to go under.

Some 30,000 employees of Lockheed and its suppliers were involved in the L–1011 project alone in January, of which some 14,000 have been laid off. If the company fails, these 30,000 workers will be unemployed.

It is reasonable to assume that a multiplier of 2 will reflect the impact of this direct employment loss on the economy, resulting in a total job loss of 60,000 if Lockheed should fail.

It is argued that only 6,000 or 7,000 people are actually working on the project now, and that the total job losses will be only 10,000 or 11,000. This simply is not so.

The current number employed on the project is around 16,000, because about 14,000 have been laid off. Those who have been laid off still have their jobs at stake in this project, and are properly considered part of the employment loss from a Lockheed failure.

The opposition argument assumed that the Lockheed direct-labor hour figures for 1 week should be divided by 40 hours to determine the employment involved. In fact, the number of direct hours per week spent working on the L–1011 by an employee is 35½ hours. This makes the direct labor involved at Lockheed some 7,500 people, and the indirect labor hours amount to around 2,500 more jobs. The total is then 10,000 jobs right now at Lockheed—with around 7,000 laid off—and 6,000 jobs at suppliers—with around 7,000 laid off. This means 30,000 jobs directly involved in the economy, and another 30,000 jobs indirectly at stake.

Mr. President, we have been debating this measure for 5 days now. We started Wednesday; we debated Wednesday, Thursday, Friday, and in an unusual Saturday session, and now today.

We have had much less debate on much important legislation in Congress that has involved the expenditure not just of paltry amounts but of billions of dollars, in far-reaching and complicated Federal programs in which money has come directly out of the taxpayer's pocket. We have debated far less in such measures, in many instances, than we are debating on this matter.

This is not a difficult matter to understand. There have been hearings; there is testimony. A voluminous record has been made on the floor of the Senate during the past 5 days, and I think everybody is pretty well informed on this issue now.

Of course, it is urgent because these jobs are at stake. The President of the United States has recognized the urgency and has urged Congress to enact this legislation with all deliberate speed and, in any event, before the August recess.

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

SENATOR RANDOLPH BELIEVES S. 2308 NEEDS FURTHER DEBATE

Mr. RANDOLPH. Mr. President, I shall vote against the pending cloture motion to limit debate on S. 2308, the proposed Emergency Loan Guarantee Act.

Although I have consistently opposed so-called filibusters on any issue and have advocated liberalization of rule XXII, I also firmly believe that Senators should have a reasonable amount of time for debate and discussion of pending legislation.

The record will reflect that of the 32 cloture votes since my entry into the Senate, I have voted against cloture only one time. Clearly, each Senator must make his own decision on what constitutes a "reasonable amount of time" and what constitutes a filibuster. It is my belief that we have not had sufficient time to consider the pending measure which involves a basic national policy decision. I do not believe that the Senate has entered into that phase of discussion which would be termed a filibuster. Those Senators who wish to speak on this issue should be provided additional opportunity.

I emphasize, Mr. President, that my vote on the cloture motion today does not reflect a position for or against the pending measure. It is strictly a vote on the question of whether Senators have had a "reasonable amount of time" to consider the issue.

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

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. TOWER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Texas will state it.

Mr. TOWER. What is the parliamentary situation?

CLOTURE MOTION

The PRESIDING OFFICER (Mr. ROTH). The hour of 3 o'clock having arrived, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

Before the clerk commences reading, the Chair would ask for order in the Senate.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon the bill (S. 2308) to authorize emergency loan guarantees to major business enterprises.

John Tower, Hugh Scott, Robert Dole, Wallace Bennett, Alan Cranston, Jacob Javits.

Richard Schweiker, Charles Percy, John Tunney, Marlow W. Cook, Charles Mathias.

Bill Brock, Gordon Allott, William Saxbe David Gambrell, Howard Baker.

CALL OF THE ROLL

The PRESIDING OFFICER (Mr. ROTH). Under rule XXII, the Chair directs that the clerk call the roll to ascertain the presence of a quorum.

The second assistant legislative clerk called the roll, and the following Senators answered to their names:

[No. 162 Leg.]

Aiken	Ervin	Montoya
Allen	Fannin	Nelson
Allott	Fong	Packwood
Anderson	Fulbright	Pastore
Baker	Gambrell	Pearson
Bayh	Goldwater	Percy
Beall	Gravel	Prouty
Bellmon	Griffin	Proxmire
Bennett	Gurney	Randolph
Bentsen	Hansen	Ribicoff
Bible	Harris	Roth
Boggs	Hart	Saxbe
Brock	Hartke	Schweiker
Brooke	Hatfield	Scott
Buckley	Hollings	Smith
Burdick	Hughes	Sparkman
Byrd, Va.	Jackson	Spong
Byrd, W. Va.	Javits	Stennis
Cannon	Jordan, N.C.	Stevens
Case	Jordan, Idaho	Stevenson
Chiles	Kennedy	Symington
Church	Magnuson	Taft
Cook	Mansfield	Talmadge
Cooper	Mathias	Thurmond
Cotton	McClellan	Tower
Cranston	McGee	Tunney
Curtis	McIntyre	Weicker
Dominick	Metcalf	Williams
Eagleton	Miller	Young
Ellender	Mondale	

Mr. BYRD of West Virginia. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. McGOVERN), the Senator from Utah (Mr. Moss), the Senator from Maine (Mr. MUSKIE), and the Senator from Rhode Island (Mr. PELL) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

Mr. GRIFFIN. I announce that the Senator from Kansas (Mr. DOLE) is necessarily absent.

The Senator from Nebraska (Mr. HRUSKA) is absent because of death in his family.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The PRESIDING OFFICER (Mr. ROTH). A quorum is present.

VOTE

The PRESIDING OFFICER. Pursuant to rule XXII, a rollcall has been had, and a quorum is present.

The question before the Senate now is, Is it the sense of the Senate that debate on the pending bill, S. 2308, to authorize emergency loan guarantees to major business enterprises, shall be brought to a close?

The yeas and nays are mandatory under the rule, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), and the Senator from Rhode Island (Mr. PELL) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

On this vote, the Senator from South Dakota (Mr. MCGOVERN) is paired with the Senators from Kansas (Mr. DOLE) and Nebraska (Mr. HRUSKA).

If present and voting, the Senator from South Dakota would vote "nay" and the Senators from Kansas and Nebraska would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Kansas (Mr. DOLE) is necessarily absent.

The Senator from Nebraska (Mr. HRUSKA) is absent because of death in his family.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Kansas (Mr. DOLE) and the Senator from Nebraska (Mr. HRUSKA) are paired with the Senator from South Dakota (Mr. MCGOVERN). If present and voting, the Senator from Kansas and the Senator for Nebraska would each vote "yea" and the Senator for South Dakota would vote "nay."

The yeas and nays resulted—yeas 42, nays 47, as follows:

[No. 163 Leg.]

YEAS—42

Allott	Fannin	Montoya
Anderson	Fong	Packwood
Baker	Gambrell	Percy
Beall	Goldwater	Ribicoff
Bellmon	Griffin	Saxbe
Bennett	Gurney	Schweiker
Bentsen	Hansen	Scott
Brock	Hollings	Smith
Cook	Jackson	Sparkman
Cooper	Javits	Talmadge
Cotton	Magnuson	Thurmond
Cranston	Mathias	Tower
Curtis	McGee	Tunney
Dominick	Miller	Young

NAYS—47

Aiken	Ervin	Nelson
Allen	Fulbright	Pastore
Bayh	Gravel	Pearson
Bible	Harris	Prouty
Boggs	Hart	Proxmire
Brooke	Hartke	Randolph
Buckley	Hatfield	Roth
Burdick	Hughes	Spong
Byrd, Va.	Jordan, N.C.	Stennis
Byrd, W. Va.	Jordan, Idaho	Stevens
Cannon	Kennedy	Stevenson
Case	Mansfield	Symington
Chiles	McClellan	Taft
Church	McIntyre	Weicker
Eagleton	Metcalf	Williams
Ellender	Mondale	

NOT VOTING—11

Dole	Inouye	Mundt
Eastland	Long	Muskie
Hruska	McGovern	Pell
Humphrey	Moss	

The PRESIDING OFFICER (Mr. ROTH). On this vote the yeas are 42 and the nays are 47. Two-thirds of the Senators present and voting not having voted in the affirmative, the motion is rejected.

THE LOCKHEED LOAN GUARANTEE

Mr. PEARSON. Mr. President, in order to promote economic development generally, and to provide opportunity for corporations and individuals in particular, the Government has created a massive program of loans and loan guarantees. As of June 30, 1971, the Federal Government had $54 billion in direct loans outstanding. Government guaranteed and insured loans totalled $137 billion. Thus Federal loans and guarantees outstanding today exceed $190 billion.

Housing loans and guarantees by the Federal Housing Administration and the Veterans' Administration account for 62 percent of all U.S. credit programs. The remaining U.S. credit flows to many groups, from college students to ghetto businessmen, from farm electric cooperatives to foreign nations.

Federally guaranteed loans and direct Federal loans have increased in dollar volume by more than 100 percent in the past decade alone.

The farm credit system has saved the family farmer. Without Federal farm credit, I am convinced the United States today would have a national system of collective farms, owned by huge conglomerates and operated in a manner comparable to the Soviet collectives.

FEDERAL LOANS AND GUARANTEES TO MAJOR ENTERPRISES

Because credit assistance to home buyers, small businessmen and farmers is so prevalent, it is often forgotten that the Federal Government consistently extends credit or loan guarantees to major industrial enterprises. The Reconstruction Finance Corporation, for example, extended more than $2 billion in credit, in direct loans, and 362 of these loans were in an amount in excess of $1 million. During the depression, the RFC salvaged many railway corporations whose survival was important to economic recovery. Steel companies received loans from the RFC as well.

Not only did the RFC salvage much of America's primary industry, but it made money in the process. The RFC, from date of incorporation to June 30, 1957, had an adjusted net income of $333.7 million, derived from interest and dividends earned on loans and securities of more than $1.44 billion.

In more recent times, the so-called V-loan program of the U.S. Government has extended more than 30 loans to major defense suppliers, in amounts exceeding $20 million per loan, between 1951 and January 30, 1968.

These V-loans include a loan to Douglas Aircraft Co. for $75 million, made on January 5, 1967. I note parenthetically that Douglas is the sole competitor of Lockheed in developing the so-called commercial air bus for the airlines. The Lockheed Corp., this Nation's largest defense supplier, has never received a V-loan in an amount exceeding $20 million.

Most recently, the United States has extended $100 million in guarantees to the Penn Central Corp. in an effort to maintain service along the Atlantic Seaboard, our Nation's most populous corridor. Loan guarantees to private enterprise are an established method of promoting the public interest, and assisting entities of importance to the national economy.

THE LOCKHEED LOAN GUARANTEE

Mr. President, the Senate has before it legislation which would authorize the United States to guarantee loans to the Lockheed Corp. in an aggregate amount not to exceed $250 million.

I support this legislation, and urge its adoption by the Congress.

Much more is involved than the survival of Lockheed. During hearings on the pending bill, administration witnesses testified that they are not concerned about the job security of Lockheed's management team. Nor is the administration concerned about potential losses which Lockheed stockholders might suffer if the company fails. This Government is not in business to salvage imprudent stock market investments.

The Congress and the administration do, however, have a responsibility to promote the economic well-being of the Nation. If passed, the loan guarantee legislation before Congress will help the economy, protect jobs, and maintain intact an important defense and aerospace production team. The loan guarantee, moreover, will involve minimal risks for the Government.

THE TRI-STAR PROGRAM

Lockheed and McDonnell Douglas are currently engaged in competition to develop and market an intermediate range, wide-bodied air bus, to complement Boeing's development of the long-range 747. Lockheed is developing the L–1011 Tri-Star, and McDonnell Douglas is developing the DC–10. Both ventures are international, in a sense, because the Tri-Star will utilize an engine manufactured in England, and the DC–10 will utilize components of the wing manufactured in Canada.

Due to the advanced state of the Tri-Star program, an estimated $350 million inventory investment is held by suppliers and subcontractors. This inventory would approach worthlessness if the Tri-Star program is scrapped for lack of financing. Many subcontractors throughout the Nation would face serious financial losses, job losses, and perhaps bankruptcy.

Lockheed has "firm orders" for more the 100 Tri-Star units, and the airlines have advanced $240 million to the firm. TWA, Eastern, and Delta would be hard hit if Lockheed, under the management of a trustee in bankruptcy, is not able to continue development and production.

The direct suppliers to and subcontractors of Lockheed with respect to the Tri-Star program have current commitments for 181 aircraft sets of materials for Tri-Star manufacture. These commitments involve $738.5 million. The

number of these suppliers and subcontractors exceeds 150, including 24 suppliers whose involvement exceeds $4 million.

The current Lockheed Tri-Star program contemplates the production of 220 aircraft with total anticipated sales of 170 aircraft scheduled out by the end of 1977. Market studies have shown a free world airline need by 1980 of 775 wide body jet aircraft in the medium range category—and Lockheed expects to capture between 35 and 40 percent of this market.

Because of reasonably good sales prospects for Lockheed's Tri-Star program, a consortium of 24 banks has loaned the company $400 million to date. The banks will not extend further credit without Federal guarantees. With Federal guarantees, the banks will extend an additional $250 million to the company.

If the Tri-Star program is successful, the banks will be repaid the $400 million they have loaned already, along with the $250 million in loans to be backed up by Federal guarantees. If the Tri-Star program is not successful and Lockheed is forced into receivership, the United States will have first lien on Lockheed's assets—sufficient to cover the United States' risk in the venture.

There are between 30,000 and 60,000 U.S. jobs which depend upon continuation of the Tri-Star program. If the United States does not guarantee these loans in an amount not to exceed $250 million, Lockheed will enter bankruptcy proceedings and these jobs will be in jeopardy. Without loan guarantees, there is no assurance the trustee in bankruptcy will continue the Tri-Star program. With the loan guarantees, it appears that Lockheed and its subcontractors will have a fair chance of proceeding successfully to a profitable conclusion.

WHY IS LOCKHEED INSOLVENT?

Mr. President, Lockheed is in precarious financial conditon because of difficulties encountered on four defense contracts: Navy shipbuilding, the SRAM missile, the Cheyenne helicopter and the C–5A. As a penalty for poor management, really, the Department of Defense imposed upon Lockheed a loss of $200 million on the C–5A program alone. Lockheed has an obligation to repay to the United States $100 million in advance payments made on the C–5A, with repayment to begin in 1974.

It seems clear that Lockheed cannot repay the $100 million to the Treasury if the company is dissolved in bankruptcy proceedings.

Under Secretary of Defense David Packard testified that Lockheed would not require Federal loan guarantees today if, earlier this year, DOD had settled on the C–5A in a manner more favorable to the company.

Within hours after Lockheed settled with the Department of Defense, Rolls-Royce in Britain went bankrupt. Under the applicable bankruptcy laws, Rolls-Royce's trustee was authorized to renegotiate for higher delivery prices on the RB–211 engine for the Tri-Star program.

Lockheed cannot be blamed, in my opinion, for the adverse effects of the wholly unexpected Rolls-Royce bankruptcy.

SUMMARY

Mr. President, if the United States does not guarantee the Lockheed loan:

The United States will lose $100 million in C–5A repayments;

The airlines will lose about $240 million in advances on Tri-Star;

Lockheed suppliers will lose an estimated $350 million;

The banks will lose about $300 of $400 million in credit already extended on the Tri-Star program;

About 60,000 U.S. jobs will be jeopardized in the depressed aerospace industry.

If the United States guarantees the loan, and Tri-Star is a successful program, no one will lose and the United States will be compensated by Lockheed for administrative expenses.

If the United States guarantees the loan, but Tri-Star fails and Lockheed goes under, the United States will be required to accept the assets of the corporation as priority lien holder. There could be small losses to the Treasury, in the event that Lockheed assets could not cover the $250 million in guarantees.

Mr. President, the precedent for Federal guarantees to important segments of the economy, whether it be the railroads or medical students or homeowners or farmers, is well established. It would be foolhardy indeed, for the Congress to ignore callously the commitment, approaching $1.4 billion, which citizens have made in Tri-Star. It would be foolhardy to ignore the potential job losses in aerospace.

Because the risk to the Government is minimal, I support the Lockheed loan guarantee. Such a guarantee is in the national interest.

Mr. TOWER obtained the floor.

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

Mr. TOWER. I yield to the Senator from Pennsylvania for a question.

PROGRAM

Mr. SCOTT. Mr. President, I should like to ask the distinguished majority leader if he will advise us as to the schedule from now on.

Mr. MANSFIELD. Yes, indeed. I am delighted that the distinguished minority leader has raised that question because, as the Senator is aware, we are now operating on a two-track system of procedure, with the pending business and S. 382, the election reform bill, both eligible for consideration.

It is anticipated that perhaps tomorrow we will take up the sugar bill, which takes some debate, to be followed by the public works and HEW appropriation bills.

There will be a session on Saturday, and it is almost certain there will be at least one rollcall vote on Saturday.

That is the situation as I see it now. If anything further develops, I will, of course, consult with my distinguished counterpart.

Mr. SCOTT. Mr. President, if I may pursue that for one moment, will the distinguished majority leader, in view of the recent vote, and the fact that we will be continuing on this bill each day, tell us if he has any plans for a session on Sunday, with time out for church?

Mr. MANSFIELD. Well, I had not thought about it, but I will give it some consideration if the Senator is serious.

Mr. SCOTT. I thank the majority leader.

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

Mr. MANSFIELD. I yield.

Mr. PASTORE. When does the Senator expect us to continue with S. 382?

Mr. MANSFIELD. At an appropriate time, and I will discuss it with the distinguished Senator before proceeding.

Mr. PASTORE. But nothing will occur on that today?

Mr. MANSFIELD. Not today.

ORDER FOR ADJOURNMENT UNTIL 10 A.M.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10 o'clock tomorrow morning.

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

EMERGENCY LOAN GUARANTEE ACT

The Senate continued with the consideration of the bill (S. 2308) to authorize emergency loan guarantees to major business enterprises.

CLOTURE MOTION

Mr. TOWER. Mr. President, pursuant to rule XXII of the Standing Rules of the Senate, I send to the desk a cloture motion with the requisite number of signatures.

The PRESIDING OFFICER. The cloture motion having been submitted, the clerk is directed to read it to the Senate.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon the bill (S. 2308) to authorize emergency loan guarantees to major business enterprises:

John Tower, Alan Cranston, Robert Griffin, Hugh Scott, Glenn Beall, John Tunney.

Jacob Javits, Henry Bellmon, Charles Mathias, Marlow W. Cook, Bill Brock, David Gambrell.

Henry Jackson, Charles Percy, Howard Baker, Wallace Bennett, Richard Schweiker, Clifford Hansen.

Mr. TOWER. Mr. President, I think Senators had better be advised that it is conceivable that there could be a vote this afternoon on an amendment. I cannot say that as a certainty, but I must mention that possibility just in case.

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. HANSEN. 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. HANSEN. Mr. President, I ask unanimous consent that I may be included in the list of signers of the cloture motion.

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

COMMENDATION OF MAYOR WALTER WASHINGTON FOR CITY'S DECLINING CRIME RATE

Mr. THURMOND. Mr. President, I rise today to pay tribute to Mayor Walter Washington of Washington, D.C., for achievements which have contributed to a decrease in the city's crime rate. Recent reports show that the crime rate in Washington went down by 18.7 percent for fiscal year 1971. This marks the first significant decrease in crime in the District over the past several years.

Mr. President, improved city conditions do not just happen—they are the results of hard administrative work, and Mayor Washington has demonstrated his willingness and ability to strive toward a better city. He has recognized the need for a larger police force in combating the serious crime problem. The force now numbers 5,100, nearly twice the size it was a short time ago.

Efficient police forces do not just happen—they result when there is capable leadership. Mayor Washington and Chief Jerry Wilson have provided such leadership, and we saw the fruits when the May Day riots were handled with the right amount of restraint and force resulting in a minimum loss of property and a quick restoration of law and order.

I note that the Mayor and some members of the city council have praised Chief Wilson and the police force for the encouraging dip in crime. While I concur in this praise, I wish to single out Mayor Washington, as the city's chief executive, for the role he has played.

The Mayor has contributed through his influence and initiative to several factors which have helped the police deal with crime. They include the city's narcotics treatment program, better lighting of downtown streets, improved mobilization of policemen, a modernized police communications network, and a number of other programs designed to improve relations between the people and law enforcement agencies.

The recent purchase of three helicopters for the District police shows a keen determination to employ the most effective means possible to the war on crime.

Mr. President, I commend Mayor Washington for his leadership in a very difficult situation. It is my hope that his able administration will result in even further reductions in the District of Columbia crime rate.

APPLICATION OF SCHOOL LAWS IN NORTHERN AND SOUTHERN CITIES

Mr. THURMOND. Mr. President, an outstanding series of articles has been prepared by three staff members of the State newspaper of Columbia, S.C. It concerned their in-depth investigation of the respective application of the law to school districts in the North as opposed to those in the South.

These three reporters, Mr. Kent Krell, Mr. Lee Bandy, and Miss Levona Page, visited school districts in Dayton, Ohio; Rochester, N.Y.; Trenton, N.J.; Buffalo, N.Y.; and Columbus, Ohio. Their mission was to answer such questions as: How much have these typical northern cities desegregated their schools? To what extent does the Federal Government enforce desegregation in the North? How do school officials, teachers, parents, and students feel?

Their findings were published in a six-part series in the State July 14 through July 19, 1971, in addition to an interview with Mr. Stanley Pottinger, director of the Civil Rights Division of the Department of Health, Education, and Welfare. I recommend this material to the attention of my colleagues.

Mr. President, the school population of Columbia, S.C., totals 38,000 students. Of this number, 19,400 are black; 18,600, or 49 percent, are white. Current statistics on the schools in Columbia, compiled in this newspaper series, indicate that 53 percent of the black students are now enrolled in schools that are predominantly black—that is, with enrollments more than 80 percent black.

Their statistics also show that in Rochester, N.Y., 40 percent of the students are black, and 44.2 percent of them are in predominantly black schools. In Dayton, Ohio, 41 percent of the students are black, and 77.8 percent of them are in schools that are more than 80 percent black. In Trenton, N.J., 70 percent of the students are black and almost all of them are enrolled in predominantly black schools. In Buffalo, N.Y., the black students comprise 41 percent, and 50.7 percent of them are in predominantly black schools. In Columbus, Ohio, only 26.9 percent of the total student population are black, but 53 percent of them go to schools that are more than 80 percent black.

There are conditions that exist today. They exist in the North well after districts in the South have been forced to achieve a racial balance suitable to the courts and Federal administrators.

Why have the courts not moved against the northern-style segregation? The answer, they tell us, is that segregation in the North is de facto, and segregation in the South is de jure. De facto segregation is that separation of the races that occurs as the result of private decisions, such as housing patterns in a neighborhood. De jure segregation, on the other hand, is that separation of the races that results from official action, such as State law or school board action.

Mr. Pottinger said in the interview that the courts have not given HEW a mandate to deal with de facto segregation—only with de jure segregation. This, he says, is why segregation in the North is still tolerated.

What escapes me, Mr. President, is how HEW, the courts, or anyone else can say that de jure segregation still exists in the South. Practically all of the 4,380 school districts in the South have been found in compliance with HEW guidelines in the past year—yet new regulations, such as busing laws, are going into effect this year in the South in order to achieve an even greater racial balance.

Apparently, it does not matter that segregation in the South results from housing patterns, or from private decisions of black and white parents. It must be that any segregation occurring below the Mason-Dixon line is automatically de jure. Such a situation is preposterous, Mr. President, and it is time some judicial balance was brought to bear on the problem. The time is long overdue for the South to be treated like the rest of the Nation.

I ask unanimous consent that the articles by Mr. Krell, Mr. Bandy, and Miss Page, along with the in-depth interview with Mr. Pottinger, all of which appeared in The State, Columbia, S.C., July 14–19, 1971, be printed in the RECORD.

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

[From the State (Columbia, S.C.), July 14, 1971]

SCHOOL INTEGRATION: A DOUBLE STANDARD? DE JURE, DE FACTO—TWO SETS OF RULES

(By Kent Krell)

(NOTE: *How much have cities above the Mason-Dixon line desegregated their schools? To find the answers, The State sent a three-reporter team to ask wide-ranging questions: To what extent does the federal government enforce desegregation? How do school officials, teachers, parents and students feel? This first package of a six-part series was written by special assignments writer Kent Krell and Washington bureau chief Lee Bandy.*)

Roosevelt High School, a solid brick structure built in 1903, lends an air of sturdy, scholarly isolation to the seedy inner city of Dayton, Ohio.

The big building sits back off West 3rd Street at the end of block after relentless block of shoeshine parlors, bars and shabby storefronts, many of them festooned with cryptic and often crude stickers, reflective of black militancy.

One apparently lifeless store proclaims itself the headquarters of "The National Committee to Combat Fascism."

Roosevelt High symbolizes a legal and sociological paradox which has become a source of puzzlement, frustraton, resentment and outright annoyance to many Americans above and below The Mason-Dixon line.

Schools like Roosevelt High in Dayton, East High in Buffalo, N.Y., and George Mather Forbes Elementary in Rochester, N.Y., are the black embodiment of so-called de facto segregation. Their student bodies are almost totally Negro.

Contrarily, South Park High in Buffalo and Northland High in Columbus, Ohio, are the white embodiment of de facto segregation.

Since May 17, 1954, when the U.S. Supreme Court ruled segregation in the public schools a violation of the Constitution, federal authorities have pursued a zealous assault on so-called de jure segregation in the South. The target was clearly state laws which forbade mixing of the races in the public schools.

The historic ruling on de jure segregation directly involved schools in South Carolina, Kansas, Virginia, Delaware and the District of Columbia. Seventeen other southern or border states with segregation laws were involved indirectly. Their defense was largely built around a 1896 Supreme Court ruling which upheld the constitutionality of "sep-

arate but equal" schools for whites and Negroes.

Now civil rights activists and the U.S. Department of Health, Education and Welfare (HEW) are scrutinizing de facto segregation in the North. This is a situation where housing patterns in a neighborhood have brought about virtual isolation of the races in the area's schools.

Last month, HEW released the results of a nationwide survey which showed that public school integration in the South has increased dramatically in the past two years.

At the same time, the survey showed that school integration in many Northern metropolitan areas has declined significantly.

According to HEW, the percentage of black students in the U.S. attending majority white schools increased from 23 per cent in the fall of 1968 to 33 per cent in the fall of 1970. HEW attributed the increase almost wholly to the increase of integration in the South.

Is the law as applied differently to de jure and de facto school segregation in the North and South fair and justified?

One of the first to raise the question in a public forum and pique the national conscience was liberal U.S. Sen. Abraham Ribicoff, D-Conn., a former HEW secretary under the Kennedy administration.

Last year in a strange political mating, Ribicoff joined with Southern conservatives in the Senate to suggest that the federal government was applying a double standard in its enforcement of desegregation edicts.

A recent survey by The State of five Northern school districts reflected a variety of responses with respect to the validity and morality of school segregation in those areas.

Civil rights spokesmen and some educators in Trenton, N.J., Dayton and Columbus, Ohio, and Rochester and Buffalo, N.Y., said de jure and de facto segregation were equally injurious and should be attacked as co-evils.

On the other hand, some school officials and others, including some Negroes, defended de facto segregation by advocating the legitimacy of neighborhood schools. Such attitudes were often accompanied by sympathetic expression for the South.

As Mrs. Naomi Finlay, a white mother in Dayton, Ohio, put it: "I do feel for the South. They have been discriminated against when it's come to schools.

"It looks to me the carpetbaggers are back in the guise of HEW."

Many of those who attack apparent de facto segregation actually claim it is merely a subtle form of de jure segregation and hence a palpable violation of the courts.

They point to rulings by local school boards which tend to perpetuate segregation patterns. Specifically, they cite gerrymandered school boundaries along racial lines and restrictive transfer regulations, including the absence of free busing.

De facto segregation exists largely because of the widespread existence of the neighborhood school concept and the autonomy of many local school boards. In recent editorials addressed to the situation, the Dayton, Ohio, News wrote:

"Past boards and administrations have indulged themselves in enough overtly segregation actions to make the system as vulnerable as the Jim Crow schools in the South . . . It would be unfair to exempt the white kids of suburbia . . .

"Countywide school integration would be larger but less socially disruptive than citywide desegregation . . . Face it: We are all lumps in the same cottage cheese. We can't get out of that so we might as well get on with it."

Dr. Charles A. Glatt, director of the Midwest Institute for Equal Educational Opportunities at Ohio State University in Columbus, believes the Supreme Court's recent ruling in the Charlotte, N.C., school case can be applied to de facto segregation in the North. The court said school officials must use all available tools, including gerrymandered districts and perhaps even free transportation to achieve racial balancing.

The high tribunal said federal judges should exercise their powers "to fashion a remedy that will assure a unitary school system."

Speaking through Chief Justice Warren E. Burger, the Supreme Court said neighborhood school zoning is unconstitutional if it does not accomplish desegregation.

"All things being equal, with no history of discrimination, it might well be desirable to assign pupils to schools nearest their homes.

"But all things are not equal in the system that has been deliberately constructed and maintained to enforce racial segregation."

Some Southern school officials and lawyers have objected to their present de jure status, claiming:

—Since HEW has previously declared some districts in compliance with its requirements, they should have achieved at least the status of de facto desegregation, passing from under the de jure umbrella despite the 1971 Charlotte school ruling.

That the de jure concept has an ex post facto or retroactive flavor since enforced segregation had been held legal by the federal courts prior to the 1954 school ruling.

Dr. Glatt contends the legality of de facto segregation in the North will in all probability have to wait on a case dealing specifically with a Northern district and the historical problems peculiar to it.

Dr. Glatt, 43, whose soft, sing-song accent still bears its Louisiana origins, thinks the North may be as much as a decade or longer behind the South in achieving complete desegregation of its schools.

He says the federally-funded Desegregation Institute he heads at OSU is evidence that the government is willing now "to ease" into and face up to the problems of segregation above the Mason-Dixon line.

Philip Rebold, a white civil rights attorney in Dayton, believes that a May 28 ruling by the U.S. 6th Circuit Court of Appeals in Cleveland, Ohio, may hold the answer to school desegregation issues in the North. The appellate court affirmed a district judge's ruling that the Pontiac, Mich., Board of Education was guilty of de jure segregation when it "intentionally utilized the power at their disposal to locate new schools and arrange boundaries in such a way as to perpetuate the pattern of segregation . . ."

One Northern official who is puzzled and irritated by the federal government's approach to school integration is Trenton, N.J., Mayor Arthur J. Holland.

Citing racial tension over school desegregation, Mayor Holland observed:

"I can't understand why HEW (U.S. Department of Health, Education and Welfare) doesn't intervene. Our de facto segregation is a result of more subtle forms of de jure segregation."

Richard Fisher, an executive member of the Buffalo, N.Y., Teachers Association, said HEW would not have to look hard to find examples of de jure segregation in Buffalo. He cited zoning rulings by the local board which have turned schools into one-race institutions.

"I'm probably pragmatic," says Joseph L. Davis, assistant superintendent of Columbus, Ohio, city schools, "but I do think there is a difference between de jure and de facto segregation. One involves the willful act of a duly constituted governmental authority while the other does not."

However, Davis acknowledges the results of de facto and de jure segregation—racial isolation of students—can be the same.

"I favor integrated education by laws and convictions," says Davis, adding that the logistical problems of massive busing from one neighborhood to another can cause "tremendous" fiscal and emotional problems.

Many of those hoping to perpetuate the neighborhood school concept—and, inherently, the characteristics of de facto segregation—cite a 6th Circuit Court of Appeals ruling in a Cincinnati school case.

In essence, the appellate court found that a school board cannot be held responsible for existing housing and economic patterns. In such circumstances, the court said the board is not required to re-arrange school boundary lines, adding:

"We were of the belief that the Constitution prohibited enforced segregation but DID NOT require enforced integration."

Citing the safety factor and travel hazards involved in widespread busing, the court said topographical characteristics, such as rivers and lakes, and man-made barriers, such as railroads, may be taken into account in establishing boundary lines.

The Cincinnati case was appealed to the U.S. Supreme Court, but on May 3, 1971, the court refused to review it.

[From the State (Columbia, S.C.), July 14, 1971]

SEES SOME HYPOCRISY—HEW: WE LACK AUTHORITY

(By Lee Bandy)

WASHINGTON.—Health, Education and Welfare Department officials generally agree with President Nixon that a certain amount of hypocrisy exists in the North in regard to school desegregation. But they also claim they have very little, if any, real authority to deal with it.

Most of the racial isolation outside the South, they say, is caused by de facto segregation resulting from private decisions, housing patterns and other so-called voluntary action.

And thus far, they contend, neither the Supreme Court nor Congress has given HEW a mandate to deal with this form of segregation.

The Senate has consistently rejected efforts in Sen. Abraham Ribicoff, D-Conn., a former HEW secretary under the Kennedy Administration, to treat de facto and de jure segregation alike.

And the high tribunal has shied away from the de facto issue, choosing instead to deal with racial discrimination matters caused by official actions.

However, HEW says it isn't using Congress or the federal courts as a shield to hide behind, or to cover up what some Southerners believe is "inaction" in the North.

Legal action, however, is proceeding in several non-Southern cities. "There is more movement in the North than people generally suspect," said J. Stanley Pottinger, HEW's civil rights director.

He said action is proceeding in several different forms—through state administrative orders (some Northern areas have state-imposed racial balance plans), federal court suits and HEW compliance reviews.

Federal school desegregation suits are pending in four cities: Pasadena, Calif., Waterbury, Conn., Chicago, and Indianapolis, Ind. And HEW compliance reviews or orders have either been completed or are under way in about 60 non-Southern communities.

Some of those include Buffalo, N.Y., Boston, Wichita, Kans., Ferndale, Mich., Omaha, Neb., Dayton, Ohio, and Racine, Wis., which have pockets of racial isolation.

Where discrimination is found as a result of official action—like gerrymandered school distiicts or teacher assignments—HEW says it has applied the law in the same manner as it has in the South. But this is because the situation, which previously had been considered de facto, was really found to be de jure.

"The only difference in making the case," Pottinger said, "is that it's easier to find discrimination in the South because it was the law of the land."

The discrimination in the North has been more subtle in that it was never made a part of the public record.

Trenton, N.J., Mayor Arthur J. Holland admitted, "Our de facto segregation is a result of more subtle forms of de jure segregation."

And Pottinger said, this is what makes HEW's job more difficult outside the South, despite the fact that the department has assigned 80 investigators to scour the rest of the country for vestiges of discrimination compared with 52 in Dixie.

"Over a period of time, it's even more difficult to make a case in the North. It's more arduous. It takes many more hours to find a violation," the civil rights director contended.

A black civil rights investigator, who previously was assigned to the South, said, "I find many of the same problems in the North but they call it de facto . . . and consequently it takes twice as long to decide a case."

He claimed that present law "does not reach massive segregation as it is in the North . . . racial isolation is our biggest problem up North, and proving it's a result of official action is not the easiest thing to do."

HEW has targeted 500 school districts where heavy racial isolation exists and efforts are being stepped up in these areas to determine the cause.

Pottinger said that short of a Supreme Court decision on de facto or a mandate from Congress, HEW will only be able to go so far in trying to bring about a better racial balance in some non-Southern cities.

But, he added: "If we had the authority, we would be sorely lacking, in all honesty, if we did not move against the North with the same vigor we have moved in the South."

The hangup came in the distinction between de jure and de facto segregation, Pottinger claimed, while arguing the two are not clearly understood.

"The legal distinctions have led us to discrepancies in results," he said, noting the South is now far ahead of the North in the amount of school desegregation.

"But legally speaking, there's nothing we can do about it," Pottinger complained. He vigorously denied his office has an anti-South bias just because most of its fire has been directed against Dixie. "That simply is not true," the civil rights director declared.

WHEN DOES DE JURE CEASE, DE FACTO START?

When does de jure segregation cease being de jure and become de facto in school districts?

A Department of Health, Education and Welfare spokesman says, "If we accept a district's plan, as far as we're concerned that's the end of their de jure status."

J. Stanley Pottinger, HEW's civil rights director, added that HEW would come back only if the Supreme Court or some other federal body imposed new guidelines.

When Pottinger was first asked the question, he responded in the abstract. He said the end comes when a system has done all it can under the Charlotte-Mecklenburg ruling and has not followed with official action to maintain some racially separate schools.

"But as a practical matter," he continued, "how does anyone know that has happened?"

In the Charlotte busing case, Chief Justice Warren E. Burger wrote that once a system is in full compliance "it does not follow that the communities served by such systems will remain demographically stable, for in a growing, mobile society, few will do so."

Consequently, he continued in the unanimous 9–0 decision, "neither school authorities nor district courts are constitutionally required to make year-by-year adjustments of the racial composition of student bodies once the affirmative duty to desegregate has been accomplished and racial discrimination through official action is eliminated from the system.

"This does not mean that federal courts are without power to deal with future problems; but in the absence of a showing that either the school authorities or some other agency of the state has deliberately attempted to fix or alter demographic patterns to affect the racial composition of the schools, further intervention by a district court should not be necessary."

The apparent inference is if a district's compliance plan is finally approved and no subsequent action is taken to fix or change racial patterns, the system does not have to submit another civil rights proposal even if resegregation results.

[From the Columbia (S.C.) State, July 15, 1971]

ROCHESTER HAS "A DUAL SYSTEM"

(By Levona Page)

(NOTE.—How much have cities above the Mason-Dixon line desegregated their schools? To find the answers, The State sent a three-reporter team to ask wide-ranging questions: To what extent does the federal government enforce desegregation? How do school officials, teachers, parents and students feel? This second of a six-part series is by governmental affairs staff writer Levona Page.)

ROCHESTER, N.Y.—"We have a dual system," says David R. Branch, Rochester school board president.

"The schools in Rochester are segregated because of the government's refusal to do anything about housing and the past refusals of the school board to do anything more about the schools," he explained.

Like most of its northern neighbors, Rochester has seen its schools become more and more black as Southern Negroes migrated to the city and native whites fled to the suburbs.

Branch, a liberal Democrat elected last November, sought to reverse this trend when he led the board in a 3-to-2 adoption this spring of a busing plan designed to achieve a racial balance in most of the district's school this fall.

Shortly after the board's action, Branch's house in an integrated Rochester neighborhood was the target for protesting white parents who cloaked themselves in white sheets and staged a round-the-clock picket for nearly two weeks. White students and parents also picketed the school district headquarters.

The protesters were members of the United Schools Association, a conservative group, then headed by Dr. Louis A. Cerulli, a Rochester surgeon and general practitioner who served on the school board for 10 years and preceded Branch as chairman. Last month, the Democrats nominated Cerulli for a post on city council.

Cerulli contends that the protesters were mavericks from his group and he had advised them against donning the white sheets. But defending their Ku Klux Klan-style garb, he commented, "The sheets can connote certain things to certain people, but don't forget that people also wear white gowns when they graduate from college."

The black community, which was pushing desegregation efforts a year ago, has now withdrawn support and is contending that "a black child doesn't have to sit next to a white child to get a good education."

"I don't know what brought about the change," said Mrs. Virginia M. Washington, a native of Camden, S.C., and now a teacher in the Rochester schools.

Mrs. Washington, who taught at Columbia's Booker T. Washington High for seven years before moving north in 1960, said, "I guess the attitude among blacks has changed because of this business about white teachers not relating to blacks and the whole concept of 'black is beautiful.' The blacks now feel that white schools don't educate black children and it has just been a matter of brainwashing in the past."

The prospect of desegregation is provoking as many anxieties among white teachers in Rochester as it did last year when massive mixing under federal pressure took place in Columbia.

"The general feeling is one of being apprehensive about the fall," said Lynne Marquardt, a young white native New Yorker with four years teaching experience at 91-per-cent-white Charlotte High in Rochester. That school will be converted to a junior high and will be 41 per cent black next fall.

Miss Marquardt continued, "many of the teachers, including myself, have never been in a really integrated situation and we are wondering if we have been adequately prepared to face it."

Rochester's busing plan represents the district's first major desegregation effort, although the school board has been passing resolutions favoring racially balanced schools since August, 1963.

In the fall of 1964, the same year the Civil Rights Act was passed, Rochester schools began operating on a type of "freedom of choice" desegregation plan, just as did the Columbia schools. In Rochester, about 600 blacks chose to enroll in predominantly white schools that year, compared to 22 in Columbia.

In the spring of 1970, when Columbia was preparing to begin its massive mixing plan under federal supervision, the Republican-dominated Rochester school board voted 3-to-2 along party lines against a zoning and busing plan that would have achieved a racial balance in all schools.

Rochester's black community, which was then supporting desegregation, joined with liberal whites to put pressure on the board and that resulted in adoption of a zoning plan to racially balance seven of the city's 54 schools last year. The open enrollment (or freedom of choice) program continued, allowing 1,340 minority race students, including Spanish-surnamed pupils, to transfer to predominantly white schools on the outskirts of the city, while 185 whites transferred to black schools in the core of the inner city.

Another 637 black students were bused to white suburban schools outside the district in a special program under which the receiving schools get special federal aid.

During the last school year, Rochester had a total student population of about 45,500 of which about 15,100 were Negroes. The projected ratio for next year is about 60 per cent white to 40 per cent non-white and the district is attempting to achieve that balance in most of the schools.

Despite last year's transfers, 44.2 per cent of the city's Negro students remained in schools that were 80 to 100 per cent black, according to a June report compiled by the U.S. Department of Health, Education and Welfare. That figure was 8.8 per cent below the 53 per cent of Negro students in Columbia who remained in schools 80 per cent or more black this past year.

Although Rochester's desegregation plan was described in a laudatory 1969 HEW report on how five U.S. school systems desegregated, its schools have actually been gradually becoming more black.

HEW has never made any effort to require more desegregation in Rochester. The percentage of blacks enrolled in schools 80 to 100 per cent black has increased 10 per cent since 1968, while the total number of black students has increased only 4 per cent in that period.

Some blacks accuse the city of hypocrisy.

"I've never seen such hypocrisy in all my life as I've seen here in the last two years on the subject of desegregation," said Henry M. Williams, a Texas native and one of Rochester's two Negro school principals.

"It's just unbelievable," Williams continued. "At least in the South we admitted we had a problem, but in this region there is wholesale refusal to admit there is a problem. When this occurs, you don't begin to resolve the problem."

During a stint with the Air Force, at the age of 16, Williams was sent to Shaw Air Force Base, S.C., and while there, decided to finish his high school education. He graduated from Lincoln High in Sumter in 1949 when "Strom Thurmond was governor." Later he returned to Texas and entered the education profession. He was a school principal when desegregation took place and says he was "relegated to a position of questionable validity." Infuriated at his treatment, he left the school system and taught at two black colleges before accepting a job as the first black high school principal in Rochester two years ago.

"After 16 years in education in Texas and coming to this region, I expected to find a more progressive school situation and a more progressive racial climate," Williams continued. "Instead, I found intensive polarization, great apprehension, fear and a gulf of misunderstanding. In short, the state of human relations is operating at a very low level."

He added, "Being a native Southerner, it irritates me that the South has been vilified for so long and I think it's time the spotlight was held up to some of the other areas."

As for Rochester's desegregation plan that will go into effect this fall, Williams said he is "cautiously optimistic" and said he hopes human relations workshops being conducted this summer will help prepare teachers for the change.

School board member Mrs. Dorothy Phillips, a Republican who voted against part of the desegregation plan, says the black support for it has diminished "because it is still the black kids who will do all the traveling at the early ages."

The only Negro on the Rochester board, Mrs. Wyoma Best, a native of Norfolk, Va., says black opposition to the plan "is not a valid position because we have involved both communities. We are not just talking about pushing bodies around."

She added, "I don't feel a child, black or white, gets a quality education in a segregated facility. He needs to be where he can learn about all cultures."

School desegregation, at the moment, is one of Rochester's hottest political issues. The Republican-dominated city council has no power to veto the Democratic-dominated school board's desegregation plan, but the council did seize on a way to use its clout when the school budget came up for approval. The council trimmed the budget by $875,000—the exact amount set aside for the city's cost of busing the pupils under the new desegregation plan. The school system is trimming costs in other areas to make up for the cut.

In another move, the county's Republican legislative delegation passed legislation increasing the school board size from five to seven members and making the offices nonpolitical, effective by the November election. Democrats say that was an effort by the GOP to regain control of the board and reverse the desegregation plan.

Gordon J. DeHond, one of the two Republicans now on the board, said he would not vote for reversal even if the GOP does gain control in November.

"If a new board comes in and reverses the plan, that would be de jure segregation." DeHond said, meaning that the segregation would be the result of an official action, which clearly has been ruled by the federal courts to be unlawful. De facto segregation, which exists in many northern cities as the result of housing patterns, has to this point not been ruled on by U.S. Supreme Court.

Last spring when the board voted against a desegregation plan, blacks brought suit, charging the board with being guilty of de jure segregation. It is still pending, but is expected to be dropped after implementation of the plan this fall.

DeHond, a former school teacher and the only native of Rochester on the school board, says some board members are "up tight" about being accused of de jure segregation. He contends that is just used as an excuse for not making revisions in the plan to allow for simpler zoning patterns and more choice for the students in the schools they want to attend.

A conservative who usually wins the votes of those opposed to desegregation, DeHond said he is against racial balancing and the destruction of the neighborhood school concept. "There has always been a type of segregation—either ethnic, racial, economic or religious. It's only natural for people to want to belong to their own group and to be cohesive in that sense. I don't think it is the function of the schools to try to make society homogeneous. I don't think that's possible or desirable."

Dr. Cerulli, a native of Rochester who worked his way through the University of Alabama where he was a classmate of football coach Paul "Bear" Bryant, speaks for his neighbors in the Charlotte section on the outer fringes of the city school district. A heavily Italian community, the area stretches up toward Lake Ontario and is the farthest point away from the inner-city black ghetto schools. Parents there resent the idea of their children being bused to the inner city.

"The worry is not so much a fear about the quality of education as it is that you don't know what's happening to your kid while he's in school," Cerulli said.

"I would never send a child of mine to some of those neighborhoods, especially a little girl six, seven or eight years old."

Cerulli said as a physician he was called to several schools during the past year to treat students wounded in racial disturbances. Local officials said about half a dozen students had been hospitalized after such incidents and one young white man, a non-student, had his arm hacked with a meat cleaver when he entered into a racial squabble between whites and blacks at the Charlotte school.

"When I went to the high school," Cerulli said, "we had blacks in our classes then, but the number was minimal and we didn't have any trouble.

"Now there are a lot of blacks who have migrated from the South and they are a different type. They have things all pent up within them and they come to a place like Rochester and let these things go and we have trouble."

He said when he was on the Rochester school board and president of the Big Six organization, which includes boards from New York's largest cities, he had conferences with Gov. Nelson Rockefeller to see what could be done to stop the migration of Southern Negroes.

"We tracked this down and found that they come mostly from Orlando, Fla., and some small town in South Carolina," Cerulli said. "Rockefeller wanted to have a study to find out why they were leaving there and coming here and what we could do to help the governors of those states keep those people there. One reason they came here is for higher welfare payments, but not much has been done about it."

In the cases where whites have voluntarily transferred to the inner city black schools, most have enrolled in a single school—Clara Barton School No. 2. In 1966, the enrollment there was 97.9 per cent black, but by 1969–70 the percentage was down to 80.9. A major reason that school became attractive to some whites is that, with the help of federal funds, it began offering such special programs as Far Eastern Studies, French for intermediate grades and enrichment programs in reading, mathematics and science.

A 1970 report by the school district office stated that while integrated classes were established at the school, a portion of the school's enrollment remained in segregated classes for instructional purposes.

Under Rochester's plan for desegregation, steps to achieve a racial balance at the elementary level will be stretched out until 1974, to allow for the construction of several new schools. Schools No. 2, 3, and 4, the most segregated of the inner city elementary schools, will not be balanced until 1972 or 1973.

Tied in with the desegregation of the schools is a reorganization of the system's grade structure, which now has kindergarten through grade 6 grouped as elementary schools and grades 7–12 grouped as high schools with no junior highs in between. The plan this fall is to convert five schools to junior highs for grades 7–8 and five senior highs to grades 9–12. The elementary level organization, which will go into effect gradually until 1974, will eventually divide the present 43 elementary schools into primary (grades 1–3) and intermediate (grades 4–6).

The two men most responsible for the implementation of the plans are Santo Patti and Richard Siebert, both of whom are principals who were called in for the special assignment of desegregating and reorganizing the schools.

They agree that segregation has existed in the Rochester schools because of housing patterns, but no court or federal agency has ever declared it to be wrong.

Siebert commented, "In my opinion, segregation by whatever name you call it is unjust, whether you call it de facto or de jure. But when you are jousting with shadows, it is hard to come to grips with it."

Patti added, "When legislation forces you to look at segregation, you can't get around it. If the court came out now against de facto segregation, the North would have to start looking at itself more closely."

ROCHESTER, N.Y., AT-A-GLANCE

City School Population: 45,500 students (15,100 Negroes)

Projected 1971–72 enrollment: 60 per cent white; 40 per cent nonwhite

Percentage of blacks in predominantly* black schools: 44.2 per cent.

COLUMBIA, S.C., AT-A-GLANCE

City Public School Population: 19,400 (51 per cent) black; 18,600 (49 per cent) white

Percentage of blacks in predominantly black schools: 53 per cent

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[From the State, Columbia (S.C.), July 16, 1971]

BITTER SCHISM MENACES FUNDING

(By Kent Krell)

DAYTON, Ohio.—Daytonians are bitterly divided over school desegregation, a schism which threatens the fiscal underpinning of public education in this southwestern Ohio city.

One white elected school official says bluntly there would be "a riot" in Dayton if there is widespread busing to accelerate racial mixing in the schools. A black sociologist agrees in part: "It would be traumatic to say the least and violent at most." But, he adds, Dayton schools are now "a disgrace" because of existing segregation patterns.

One side of the controversy, represented by a bare majority of the Dayton Board of Education, essentially favors voluntary ef-

*Between 80 and 100 per cent black.

forts to end racial isolation in the city schools.

The other side, represented by a one-vote minority of the school board, favors retention of the neighborhood school concept and a modified form of freedom of choice in the assignment of pupils.

Tied to the specter of desegregation is the refusal of the Dayton voters to approve four successive proposals in the past 15 months to increase local taxes. Renewal of existing levies will be voted on in November. A negative vote then would precipitate a financial crisis.

Wayne M. Carle, superintendent of the Dayton City Schools and philosophically in tune with a majority of the school board, says schools might have to close in late October for lack of funds and not reopen until the new fiscal year which begins in January. Local taxes underwrite 81 per cent of the schools in Dayton. On the average, state funds in Ohio contribute to less than one-third of the cost of public education on the secondary and elementary school levels.

Carle, a strong advocate of full de-segregation of the schools, says fiscal and racial conservatism are major factors in the defeat of two tax referendums in the past 15 months.

"A lot of people are afraid that buses are waiting to swoop up the kids and take them out of their neighborhoods," said Carle.

(NOTE.—*How much have cities above the Mason-Dixon line desegregated their schools? To find the answers, The State sent a three-reporter team to ask wide-ranging questions: To what extent does the federal government enforce desegregation? How do school officials, teachers, parents and students feel? This third part of a six-part series is by special assignments writer Kent Krell.*)

The controversy over desegregation, simmering since Carle took over as superintendent three years ago, peaked in April when the board split along its familiar liberal-conservative lines and voted 4–3, to work voluntarily for full desegregation of the district's 55,000 students.

During the past school year, black pupils made up 40.7 per cent of the total school population, but under existing policies were isolated to the point where only 13 per cent of them, or 2,900 students, were in predominately white schools.

Actually, 17,900 of the total number of black pupils, or 77.8 per cent, are in schools which have a Negro population of between 80 and 100 per cent. Thirty-four of the district's 69 schools fall in this category.

Blacks were far less isolated in South Carolina's largest school districts during 1970–71. For instance, only 53 per cent of all Negro students in Columbia were in schools where the black population was between 80 and 100 percent. In Greenville, the percentage was .6 while in Charleston it was 59.9 per cent.

In 1968, prior to implementation of a freedom of enrollment policy, Negroes made up 38.3 per cent of the total school population in Dayton with only 10.9 per cent or 2,488 pupils in majority white schools.

Officials of the U.S. Department of Health, Education and Welfare (HEW) started negotiating with the district in 1968 about faculty desegregation. The school board agreed 4–3 to a voluntary plan under which faculties and administrative staffs of all schools will be desegregated this fall in line with the district-wide ratio of 70 per cent white and 30 per cent black.

One report circulated that HEW had focused on desegregation in Dayton schools because it is the birthplace of J. Stanley Pottinger, HEW's civil rights director. Dr. Carle puts little stock in the report since HEW's interest in Dayton began three years ago and Pottinger did not assume his present job until 1970. Pottinger now lists San Francisco, Calif., as his home.

The faculty desegregation plan and plans for integration of pupils along existing ratios have come under attack from Serving Our Schools (SOS) committee, represented by the minority of the school board members.

SOS draws most of its support from whites, both life-long residents and those who moved here by the thousands from Appalachian communities in Kentucky, West Virginia and western Pennsylvania in the 1950's and 1960's. SOS does have some black members, however.

The three-member conservative contingent on the school board is hopeful of becoming a majority after the November general elections when three of the four seats, now held by liberals, are on the line.

Mr. Miley O. Williamson, black executive director of the Dayton chapter of the National Association for the Advancement of Colored People, says the civil rights group is prepared to file a desegregation suit against the board if the conservatives gain a majority in the election.

"We can't hide behind housing anymore," said Mrs. Williamson, "We can't wait that long.

Some moderates on the desegregation issue have argued that true open housing, required by local and state law, will eventually bring about desegregated housing patterns.

Catalyst for the voluntary move toward removal of a dual school system has been Carle, a taciturn Wyoming-born Mormon who feels so strongly about the immorality of segregation that he has publicly criticized his church for its refusal to ordain Negroes as ministers.

He predicts that "we're headed for a catastrophe" if a dual society exists for another decade.

Carle says Dayton schools must move resolutely, and hopefully voluntarily, toward complete elimination of racial isolation in the schools.

"A token move would be self-defeating and more destructive in the long run," he said.

"We tend to overlook, among our phobias about race in this country, that, fundamentally, black kids tend to do better in integrated situations and white kids do no worse," says Dr. Carle.

On racial disorders in schools, the superintendent contends that "given a racist society, tension is inevitable on first encounter (between whites and blacks)."

However only two high schools—one heavily white and the other 58 per cent white—experienced disruptions during the past school year.

Tyree S. Bloomfield, a black sociologist who heads a civil disorders-oriented team within the Dayton police departments, says, "It's a disgrace that there is more segregation here today than when I was in high school in 1956."

At that time, Roosevelt High School, which he attended, was 65 per cent white and 35 per cent black. Now Roosevelt High, located within an inner city Negro neighborhood, is totally black.

J. Thomas Webb, Roosevelt High's black principal, and a native of Gadsden, Ala., says, "in some ways I feel more segregated here than in the South where I grew up . . .

"It's sort of hidden here like a plate slammed down in front of you at a restaurant, but it's there," says Webb.

The Board voted 4-3,, to work towards complete desegregation of the Dayton schools after both Carle and James Mancini, a compliance review officer with HEW's civil rights branch, advised it that local, voluntary action was preferable to federal or court intervention.

Mancini told the school board recently that a three-year study of school desegregation in Dayton showed evidence of segregation.

A pesky adversary of Dr. Carle is Mrs. Josephine Groff, an Indiana-born former teacher and one of the three conservative members of the school board.

Mrs. Groff accuses the superintendent of "selling out" Dayton schools for $70,000—the amount the district got from the federal government to help in ironing out desegregation problems.

"I believe in natural integration, not forced integration," says Mrs. Groff.

Mrs. Groff, as spokesman for SOS, backs the neighborhood school concept and open enrollment (freedom of choice as it was more often labeled in the South) for all students based on availability of space.

The freedom of enrollment policy, approved by the school board in 1969, provides that within certain limitations any student in the school system is eligible to attend any of its schools. The limitations include requirements that space be available in the requested school, that special courses be attainable only in the suggested school and that the pupil's presence in the school would improve racial balance in the institution. If the transfer request is approved, the student must provide his own transportation to the new school.

During the past two school years, 405 students, most of them black, transferred under the freedom of enrollment policy. During the first semester of last year when 168 transfers were approved, the major reason cited for disapproving transfers was a lack of classroom space. Failure to improve racial balance ran a close second.

Dr. Charles A. Glatt, an Ohio State University professor who is director of the Midwest Institute for Equal Educational Opportunities, believes that a recent U.S. Supreme Court ruling, involving Charlotte, N.C., schools, could well be applied to segregation in Dayton schools. The ruling, handed down in April, undercuts the neighborhood school concept and says free transportation must be provided, if necessary, to bring about racial balance in a school district.

Dr. Glatt, who has worked on a desegregation study of Dayton schools, noted that the Supreme Court in the Charlotte case held as unacceptable the assumption that a school is desegregated when it has as many as 10 per cent of a minority race in its student body.

In 1970–71, only eight of Dayton's 68 elementary schools had populations where the minority race was in excess of 10 per cent. Only four of the district's 11 high schools and student bodies where the minority race was more than 10 per cent.

What would happen if the Charlotte school ruling is invoked against Dayton schools and, as a consequence, there is widespread busing of pupils?

"There would be a riot," says Mrs. Groff.

Broomfield, whose Conflict Management Team has reportedly had great success in keeping the lid on racial disorders in the schools, believes the results of widespread busing would be traumatic to say the least and violent at most."

Mrs. Wanda Wiedman, a civic leader from East Dayton and a self-styled middle-of-the roader on the school issue, says, "busing is never going to be the answer here. Forced integration just won't work."

However, Mrs. Wiedman has high praise for Dr. Carle and favors desegregation moves at the high school level.

Mr. Carle and the majority of the board do not have the solid backing of the Negro community.

Page Gray, a black student at Central State University, says, "we're not as concerned with integration as we are with quality education."

"We don't feel we have to sit next to a white kid in order to learn," says Gray.

Gray works with the Center of Study of Student Citizenship Rights and Responsibilities, a legal ombudsman which tries to make certain the rights of students are properly observed.

Mrs. Naomi Finlay, a white mother, says she objects to moves to make schools "social issue" institutions. She says she took her second grader out of public school because of new approaches in teaching and curriculum.

"I believe organized, disciplined subject matter should be taught," she explained. "But, instead, they're more interested in creative exploration and such."

Frank Garnett, a 55-year-old white emigree from Kentucky and an organizer of the American Independent Party in Dayton is even blunter:

"We're wasting money on living art and motivation in the schools . . . Why should we spend money so kids can sit on the floor and look like a bunch of pigs and bang around on pieces of music that isn't music?

"Reading, writing and arithmetic should be taught," says Garnett. "The rest will come easy."

Garnett, a Masonry worker and the father of five children, says he has no objection to a "colored person" moving into his neighborhood—an attitude expressed by many members of the SOS.

"I believe in open housing," says Mrs. Finlay, whose husband is an SOS candidate for city commissioner. "I think it should be implemented. That means you move when you have the money."

Mrs. Groff, dismayed at the "racist" tag placed on the SOS by some Daytonians, notes that a black family recently bought a $57,000 home in her neighborhood and adds:

"I haven't any objection if they come in on their own."

DAYTON, OHIO, AT A GLANCE

City School Population: 33,600 (59 percent) white; 23,000 (41 percent) black.

Percentages of blacks in predominantly * Black schools: 77.8 per cent.

COLUMBIA, S.C., AT A GLANCE

City Public School Population: 19,400 (51 per cent) black; 18,600 (49 per cent) white.

Percentage of blacks in predominantly black schools: 53 per cent.

[From the Columbia (S.C.) State, July 17, 1971]

TRENTON SYSTEM PLAGUED BY FEAR

(By Lee Bandy)

NOTE.—How much have cities above the Mason-Dixon line desegregated their schools? To find the answers, The State sent a three-reporter team to ask wide-ranging questions: To what extent does the federal government enforce desegregation? How do school officials, teachers, parents and students feel? This fourth of a six-part series is by Washington Bureau chief Lee Bandy.

TRENTON, N.J.—The Trenton public school system is plagued by fear—fear of racial violence, fear of black dominance in some quarters, fear of social change, and fear of the unknown next September.

And while this highly explosive, tense situation is generally acknowledged by superintendents, school board members, teachers, parents and students alike, no one seems to have an immediate solution. Some even wonder whether there is one.

Regionalization, including busing on a massive scale across district lines, has been suggested. But no one apparently wants that except those charged with running the system and members of the so-called black establishment who historically have advocated racial balance.

Acting under pressure from the State Department of Education last October, the Trenton school board instituted a token busing plan involving only 155 elementary students out of a public school enrollment of some 17,000.

The proposal touched off a spate of bitter clashes between white and black gangs, massive white boycotting and the closing of all schools for two days.

The 55 white children who were to be bused to the predominantly black Parker Elementary School never showed up. In fact, 15 of them left the system, presumably to attend parochial or private schools in the area. Trenton has a heavy Catholic population.

Parents of black students being transported to the largely white Franklin and Washington Elementary Schools in Chambersburg—a tightly knit Italian-American community in the heart of Trenton—asked for protection of their children. White parents were preventing minority students from entering the schools by blocking the entrances.

State Education Commissioner Carl L. Marburger subsequently rescinded the forced busing plan and appealed to the New Jersey courts and legislature for regional solutions to achieve racial balance across district lines.

He acknowledged the "counter productivity" of mandatory busing "to correct racial imbalance in school districts with a majority of minority group children."

A voluntary busing plan followed but failed. Only 27 students participated.

Racial imbalance—lacking an exact definition in the state—is considered a violation of the law and of public policy of New Jersey.

The unofficial guideline says a school is out of balance if the black student population in a school goes above 25 per cent.

However, Marburger says this concept "must be questioned" for cities like Trenton where public school enrollment is 70 per cent black. The faculty is 70 per cent white.

The Rev. Kent L. Kiser, a school board member, says no matter how you slice it, Trenton will end up with a racial imbalance in any of the schools due to the largely black enrollment unless there is extensive busing.

Trenton, a northeastern industrial city located on the banks of the Delaware River, is surrounded by suburban townships that restrict its physical growth.

And like many cities of its size, it has suffered a population loss since 1950, dropping from about 128,900 to an estimated 104,000 now. The census verifies another trend—a white exodus to suburbia and black migration to the city.

Consequently, the once predominantly white school system has become largely black, and the fear among professionals is that unless something happens to prevent the population shift, Trenton, the state capital, will become a city with an all-black school system within the next 13 years.

It's pretty close to that now with six majority white schools out of 21. And one of these—Junior Two Elementary—is almost half and half.

Many white students—and several children from middle-income black families—have left the public schools system to attend private and parochial facilities in the area.

Latest statistics show that only about 32 per cent of white children attend public schools, compared with about 90 per cent of black students and other minorities.

This concerns the school board which feels obligated to do something next year but is inclined to do nothing in order to preserve an integrated system.

School Superintendent Dr. Ercell Watson, a precise and smooth-talking olive skinned black, has established a citizens committee to study various approaches to desegregation and to come up with recommendations for the school board.

He acknowledges the task is going to be difficult, if not impossible, because of the many shades of thinking and the racial composition of the schools.

"You always have a problem when the minority becomes the majority," he conceded.

Asked if regionalization is the answer, Watson emphatically responded: "There's no question."

He contended that busing per se is of no concern to the parents. "It's what happens at the other end," he added, noting that parents fear for their children's safety once they reach the school.

Regardless of what action, if any, is taken by the board before September, the superintendent eventually expects the white student population "to dwindle down to almost nothing," leaving only the hard-core who "will have their backs against the wall and nowhere else to go."

And while there are those who would like to see the whole thing die, Watson acknowledges, "we feel we have an obligation to work out a (racial balance) plan." But he added, "we're not going to try to knock down any walls like we did last year."

Pressure to achieve a racial balance has come entirely from the State Department of Education. The Health, Education and Welfare Department, which has concentrated its fire in the South, has consistently winked at the Trenton problem.

School Board President John F. Tesauro, a stocky labor consultant, wearing goggle-eye glasses with tinted lens and heavy sideburns, said he'd love to see HEW come in with a meat axe and force busing into white suburbia.

Board Vice Chairman James E. Mitchell, a Negro, agreed, saying "the blacks would clap their hands" if the federal government intervened. "I think HEW should come in and take over," he suggested.

Mitchell complained, "we have too many nice liberals up North talking out of both sides of their mouth. Some of these same people who rode to Mississippi to desegregate that state would move out if a black moved next door . . . Trenton is worse than any school district in the country in regard to racial balance."

Naido Funari, past vice president of People Against Busing and a member of the superintendent's citizens committee to come up with a solution, says Chambersburg residents "will never buy busing" if it involves their children.

He says the Italian-American community is proud of its neighborhood schools and wants to keep them. Funari insists in one breath that race is not involved but then in the next he admits color is a factor.

"As soon as there is racial busing," he predicts, "whites will leave because of fear." In fact, he predicts a drop in white student enrollment in September because parents "don't want their kids subjected to demonstration and harassment again."

Funari, who is opposed to busing, transports his daughter to Villa Victoria High, a Catholic school in the suburbs, out of fear of racial violence at Trenton Central High.

William D. Walker, an assistant to Superintendent Watson and former principal of Trenton High, admits there are serious problems at the only public high school in the city. He claims he saw more trouble there recently in two days than he observed in his whole tenure as principal.

Asked if it were racial, he replied, "Yes, I can't lie about that."

Walker, a WASP (White Anglo-Saxon Protestant) Republican, has held various positions in the Trenton school system for 32 years. And during that time has seen many changes take place within his city.

He lives in the same inner city neighborhood which has become predominantly black. But this doesn't alarm him. He says the conduct is good and "no one has thrown a rock through my window." However, Walker concedes if the area becomes a slum, he'll move.

The assistant superintendent says most whites who've fled to the suburbs have done so because of fear of crime, drugs and

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* Between 80 and 100 per cent black.

violence. And consequently, he adds, community support and participation in the schools have declined considerably—especially since the riots following Martin Luther King's assassination in 1967.

Walker is very pessimistic about the future, claiming "there is no answer to the problem." He said he would welcome HEW pressure, but questioned whether it would be successful. While Trenton would probably buy regionalized busing, Walker expressed confidence the suburban townships wouldn't.

And he's apparently right. Superintendents in all three neighboring townships—Ewing, Lawrence and Hamilton—predict trouble "like you've never seen it before" if busing across district lines is forced upon them.

Ewing has adopted a racial balance plan for Setember, but black students population will not be more than 25 per cent in any school. All facilities will be largely white.

Ewing Superintendent David Brittain, who was principal of the Clinton, Tenn., high school in 1957 when the National Guard was called to quell riots resulting from integration, admitted this plan is about all the community is ready to accept. He predicted serious trouble if cross-town busing is imposed.

Residents in neighboring Hamilton township rejected a $7.5 million bond issue for school construction, presumably out of fear the new facilities would be located in so-called gray areas to permit more blacks and whites to go to school together.

And the Lawrence School Board produced a recent survey showing black and white parents opposed to busing.

Clyde E. Leib, special assistant to the state education commissioner, said studies have shown if black student population in a school exceeds 25 percent, "neighborhoods start to go down hill and there's a sudden outflow of whites."

Leib lives across the river in wealthy Bucks County, Pa., where he sends his children to predominantly white schools.

And this is true of many other state and city employes who reside either in nearby Pennsylvania or the Trenton suburbs.

Trenton Mayor Arthur J. Holland says white parents feel it's not safe to send their children to public schools here. "They are afraid their kids will be jumped or money demanded of them," he said, while pointing out "we already have 15 guards in Trenton High School and need them increasingly."

And then he added, "I don't care if it takes on an atmosphere of a prison. We've got to guarantee parents they can send their kids to school in safety . . . in the meantime, we should take out of the system those who are chronically disruptive."

Holland traced the city's "turning point" to the race riots in 1967 and last October. "This expedited the exodus of whites who took with them their purchasing power. Consequently, we're in a war for survival."

The former Rutgers University professor thinks regionalization through school busing, residential desegregation and assignment of welfare clients throughout the county would provide an answer.

"This would, at least, move us in the direction of a socio-economic balance and help cool racial tensions. Also, the ire of the people would be distributed. Here it's concentrated. I'm for distributing the problems."

As for Trenton's school problems, Holland said, "I can't understand why HEW doesn't intervene. Our de facto segregation is a result of more subtle forms of de jure segregation."

Albert "Bo" Robinson, director of United Progress, Inc.—a $5 million federally funded anti-poverty program—called Trenton the "up-South."

"We have a bunch of hypocrites here," charged the ghetto leader who claimed neither he nor the black children care that much about busing. "It doesn't mean beans. I don't like busing that much. But I'm for it because it's the law."

Wearing a moderate Afro hairdo and red plaid jacket with bright red pants, black boots and matching accessories, the light-tanned Negro leaned back in his chair, propped his legs upon his desk, and spoke in the ghetto brogue:

"Listen, man, the whole problem in Trenton is racial. I've been here; baby, for 35 years. I know. It's a fear of social change. And it's the deepest fear. Everybody is worried about his child going out with a black. That's what it is."

The anti-poverty director says that before the school situation improves in Trenton the system itself is going to have to change. And that's not going to come about he feels, until a transformation comes "within the home and people themselves."

Robinson added, "we know how to live with the white man. He's going to have to learn to live with us."

The black leader sends his children to private school because "education in Trenton is inferior."

Would he like to see HEW come in and force regionalized busing in the area?

"I'd enjoy the fireworks," smiled Robinson.

Leonard Spoto, a meatcutter and head of the White Citizens Reaction Committee in the Italian community of Chambersburg, warned, "we'd automatically shut down the schools and open private schools. We're prepared to do that now."

Kenneth Carolan, editor of the bi-weekly newspaper called "The Reactor," said regionalization is imposed on the community, "we'll sit back and smile. You'll see total chaos."

Spoto chimed in, "One of these days we're going to have another Revolutionary War if things continue the way they are. And that's from Spoto, the conservative."

Anthony Edwards, a sidewalk shoe-shine boy who attends Junior Elementary No. 3, called the Chambersburg area a "bad section." He said "my cousin went over there to a basketball game once and got beat up."

Pat Korp, a 24-year-old white teacher of neurologically-impaired students at Franklin elementary in the Italian-American community and a resident of Chambersburg, said she was called "nigger-lover" during the busing crisis because she had blacks over for dinner and parties.

"I had steak knives stuck in my back door with notes on them and my car had flat tires in the morning," she recalled.

Miss Nancy Kiley, a 28-year-old white fourth grade teacher in predominantly black Parker elementary and who is opposed to busing, thinks the school board would perform a service to the community by letting any racial balance plan ride for another year. "Otherwise, this city will be blown apart," she feared.

Miss Korp agreed, saying "the parents aren't ready for it."

Miss Christine Singleton, a 22-year-old Negro teacher at Junior High No. 1, said "busing to me suggests that blacks are incapable of maintaining competitive schools . . . Blacks tend to associate good education with the number of whites in a school."

She termed regionalized busing more ridiculous than busing within the city and commented, "the school is not the place to bring about racial balance. The purpose of a school is to educate a child."

And while she acknowledges there are discipline problems in the schools because children have no respect for authority, Miss Singleton strongly feels the students "are looking for someone to teach them something."

But she says if busing is the only solution, then the system is in serious trouble.

Mrs. Catherine Graham, president of the Trenton Urban League, believes busing to achieve a racial balance is beneficial in that it gives blacks and whites an opportunity to reach an understanding of each other.

But she doesn't think there's anything the school board can do for September, a feeling generally shared throughout the community.

Crosby Copeland, incoming principal for Junior High No. 1 and president of the local NAACP chapter, supports busing but thinks it best the school board let matters cool at least for another year.

"It probably would be the best thing," he said. "We (the NAACP) aren't pushing anything."

Copeland blamed the busing violence last October on "just pure racial hatred."

TRENTON, N.J., AT A GLANCE

City Public School Population: 11,900 (70 per cent) black; 5,100 (30 per cent) white.

[From the Columbia (S.C.) State, July 18, 1971]

BUFFALO RESIDENTS FIGHT CROSS-BUSING

(By Levona Page)

(NOTE.—How much have cities above the Mason-Dixon line desegregated their schools? To find the answers, The State sent a three-reporter team to ask wide-ranging questions: To what extent does the federal government enforce desegregation? How do school officials, teachers, parents and students feel? This fifth of a six-part series is by governmental affairs staff writer Levona Page.)

BUFFALO, N.Y.—School officials here make no effort to pretend they have a desegregated school system. The statistics won't let them.

"So long as people live where they do, we will have segregated schools," said Buffalo Superintendent Dr. Joseph Manch, a rabbi's son who says he has been frustrated in his personal efforts to bring about desegregation.

In September 1967—three years after Columbia began its freedom of choice desegregation plan allowing blacks to transfer to white schools—Buffalo began a similar program. By the fall of 1970, about 3,200 black students from center city schools were being bused to predominantly white schools on the outskirts. There has been no requests from whites to transfer to predominantly black schools.

Donald S. Laing, director of Buffalo's Office of School Integration, told the school board in January that integration had gone as far as it could under present policies. Laing's report prompted president, Dr. George E. Blackman, a Negro, to call for a study of "cross-busing" whereby whites would be sent to predominantly black schools. His motion wasn't seconded.

However, Feb. 25, the same day that the federal government announced plans to investigate desegregation in the Buffalo schools, the board reversed itself on the cross-busing study.

More plans to undertake a study on cross-busing set off waves of criticism throughout the city.

"Cross-busing isn't the answer," wrote the editors of Buffalo's largest newspaper, which earlier that same month carried an editorial condemning suburban schools for maintaining systems that were "whiter-white than Ivory soap's famous '99.44 per cent pure.' "

The school board's outspoken conservative, Buffalo attorney Carmelo A. Parlato, contends that cross-busing is itself a form of racial discrimination.

"An integrated system to me is one that doesn't count racial distinctions," Parlato said. "I put quotas for racial balance on the same basis as segregation—it's based on race and therefore it is discriminating."

At the end of the 1970-71 school year, a nationwide federal study revealed that 59.7 per cent of Buffalo's Negro pupils were enrolled in schools that were 80 to 100 per cent black. This compares to six-tenths of one per cent in Greenville, 59.9 per cent in Charleston and 53 per cent in Columbia. Buffalo's

total school population last year was 41.7 per cent black.

While Columbia and other Southern cities were being asked this spring to increase the racial mixing that federal desegregation enforcement officers required of them last fall, the U.S. Department of Health, Education, and Welfare (HEW) was taking its first chary look at segregation in Buffalo, New York's second largest metropolitan area.

The HEW investigators said it would be several months before a report is made on the Buffalo review. The team sought evidence—or lack of it—on "gerrymandering in school district zones to implement segregation, matching of black teachers and students in black schools, any decision-making patterns based on race or national origin, an imbalance of educational background or experience in black and white or unequal educational opportunities in school curriculum or facilities."

Parlato said he would not be surprised if HEW finds the district to be out of compliance according to its definition, the Civil Rights Act. He said he would favor going to court to try to block a cutoff of the district's $13.6 million in federal and state funds for programs for disadvantaged children.

"HEW's idea of what is the proper race quota in the schools is no better than anybody else's. I'm disappointed with the U.S. Supreme Court because I see nothing in their 1954 decision (the first one outlawing segregated schools) which now gives them the right to impose quotas," Parlato told the State.

Richard Fisher, an executive committee member of the Buffalo Teachers Association, said he is hopeful that HEW will bring action against Buffalo "because if we continue to drift the way we are now, the schools will soon be all black."

Fisher was instrumental last year in having the zone around Bennett High, where he teaches, redrawn to provide for a 60–40 racial balance because its black enrollment was creeping up and he feared that more whites would withdraw. He asked that zones throughout the city be redrawn, but the school board turned that down.

Fisher said he believes Superintendent Manch has been sincere in his desegregation efforts, but that he has been hampered by an unwilling school board, city council and the community in general.

"A court order is the best way to achieve desegregation here," Fisher said. "I personally would like to see the Supreme Court institute the same integration policies all over the nation rather than just concentrating on de jure segregation in the South."

In fact, Fisher added, there are some Buffalo citizens who believe HEW would not have to look hard to find examples of de jure segregation (segregation by law) in this northern city. He cited the zoning around Woodlawn Junior High, which was in 1965 built in a black community and which now has an enrollment of 99.8 per cent black.

Manch related, "I made the statement that as far as I was concerned, the Woodlawn school would be integrated. But we could not get the board to vote for any plan that would integrate the new school.

Parlato contends that, even so, the board was guilty of discrimination for merely considering five plans that would create a racial balance in the schools before rejecting them for a zoning plan that left it nearly all black. "I tried to get them to put the racial figures aside, but they did not," Parlato said. He added that the plans calling for a racial balance were unfair to blacks because "children that were two blocks away would have been excluded, while children living more than a mile and a half away would have been attending simply because they were white."

The board's reluctance to force integration was backed up, until two months ago, by a New York state law affecting only a handful of school boards. The law stated that no appointed board, such as Buffalo's, could assign students to schools without the parents' permission.

After passage of the New York state law, South Carolina took the attitude that what's good for the goose is good for the gander and passed an identical law in 1970. But S.C. Atty. Gen. Daniel R. McLeod candidly admitted that the action was a futile gesture and the law in the face of federal pressure was forgotten as school systems in South Carolina undertook massive shuffling of students last year.

The New York law was ultimately overturned by the State Supreme Court after the NAACP brought suit.

With the exception of that suit, there has been little effort on the part of blacks in Buffalo to push desegregation. Clyde Giles, an executive vice president of the black action group, BUILD (Build Unity, Independence, Liberty and Dignity), commented, "We haven't really been that concerned about the pace of desegregation, and it is my judgment that the black community as a whole has not pushed for it. One reason is that when blacks have been bused to white schools, they have been met with hostile attitudes."

Giles continued, "The stage blacks are in now is that it is not important for a black child to be bused out to a white school. If adequate facilities, faculty, supplies and so on are provided at the black school, the quality of education can be just as good there as it is at the white school.

"What we are saying now is that we are putting the burden on the school people and are holding them accountable, because black schools have never gotten the attention from the white officials."

School Supt. Manch said he cannot disagree with blacks who accuse the North of subtle racial prejudice. He commented, "I think an example of that is what happened in Williamsville."

An exclusive suburb on the outskirts of Buffalo, the Williamsville school board was asked by its superintendent to allow about 100 black students from Buffalo schools to attend school with the 11,000 white students of that community. The idea was flatly rejected by the school board.

Manch commented, "That is an affluent community where many people call themselves liberal, but when it came to school desegregation, they blocked it."

He continued, "we have a great many bigots in the North. To be fair, I must say that this feeling has developed a counter feeling which is not healthful. Black people have gone to the other extreme of 'hate whitey.' This kind of arrogance has turned off a great many white people."

He added, "When people say 'Black Is Beautiful,' does that mean white is ugly? I saw a sign in one of the schools the other day that said 'People Are Beautiful.' I liked that and I took a picture of it."

An affable man who writes poetry in his spare time, Manch has been espousing school integration for at least half of the 14 years he has been in office but has not gotten much of an audience from city officals.

Citing things done by the city council to block integration moves, Manch mentioned the passage of a local ordinance which prohibited expansion of school buildings unless the addition was of the same racial composition as the original building.

Manch explained, "We had determined to use portable classrooms in order to make room for more blacks at white schools, and the ordinance prevented that. I recommended to the board that we take it to court. We won in court and have been using portables for 18 months now."

Naming still another effort to block integration, Manch said the school system was building a new middle school which was to have a racially balanced enrollment. "When the school was two-thirds finished and we needed another bond issue to complete it, the council said it would not approve the issue unless the school was designated as a regular junior high. The mayor spoke in our behalf and after a few weeks the issue was approved."

In an effort to create integrated schools where housing is segregated, Manch has proposed "educational parks" which would involve both city and suburban school administrations. He has been talking the idea for nearly five years, with no significant backing from the community.

Meanwhile, the white student population has continued to decline, dropping 12 per cent since 1966, while the Negro enrollment has increased 10.8 per cent and the Spanish-surnamed student population has mushroomed by 62.8 per cent.

Manch fears if this trend continues, there will be no whites in the city to integrate the schools.

BUFFALO, N.Y., AT A GLANCE

City School Population: 70,300 students, (27,100 Negroes).

Total non-white population including Spanish-surnamed students: 41 per cent.

Percentage of blacks in predominantly* black schools: 59.7 per cent.

[From the Columbia (S.C.) State, July 19, 1971]

OK IN COLUMBUS; NOT IN COLUMBIA

(By Kent Krell)

NOTE.—How much have cities above the Mason-Dixon line desegregated their schools? To find the answers, The State sent a three-reporter team to ask wide-ranging questions: To what extent does the federal government enforce desegregation? How do school officials, teachers, parents and students feel? This last of a six-part series is by special assignments writer Kent Krell.)

COLUMBUS, OHIO.—The neighborhood school concept and freedom of choice desegregation policies generally held to be invalid in the South function in somewhat fitful fashion in the capital city of Ohio—with the apparent blessing of the federal government.

"We submit annual reports to HEW (U.S. Department of Health, Education and Welfare) and there have been no queries," says Joseph L. Davis, assistant superintendent for special services for the Columbus schools.

There have been complaints, however, from teachers and parents as a result of numerous disruptions which forced the shutdown of some schools during the past year and the assignment of policemen to school hallways.

"I think we're in for three very rough years," says Davis. "During that time all the problem areas will be felt with greater intensity.

"That's because there is such a constellation of problems which feed upon the others—finances, staff militancy, student unrest and a general breakdown of confidence in the school board.

"When people have lived in isolation and suddenly there is a clash of cultures some problems are to be expected," says the balding, bespectacled administrator.

Of the nearly 110,000 children in the Columbus school district, 26.9 per cent or 29,400 are black. Fifty-three per cent of all Negro students are in schools with populations 80 to 100 per cent black. This is the same percentage which prevailed last year in Columbia, S.C., where the neighborhood school concept is generally conceded to be invalid and where there was some busing to bring about racial balance.

Robert W. Carter, executive director of administration for the Columbus schools, says the fact that six of the city's 13 senior

*Between 80 and 100 per cent black.

high schools had blacks in excess of 26.9 per cent is evidence that the district is meeting the spirit of federal law and the courts on desegregation.

Disagreement is registered, however, by Mrs. Mary Craig, black chairman of the education committee of the local chapter of the National Association for the Advancement of Colored People.

"Columbus runs one of the most racist school systems in the country," she claims.

She scoffs at the legitimacy of the neighborhood school concept and the administration of the open enrollment policy.

"We're in the process of filing a suit to tie up funds to Columbus schools and possibly even at the state level," says Mrs. Craig.

She stresses racial isolation in the elementary schools and contends the school board has gerrymandered boundary lines to maintain a pattern of segregation in the lower grades.

Figures show only 14 of the district's 124 elementary schools with a black population greater than the norm of 27 per cent during the school year.

The guidelines for the open enrolment policy at the Columbus schools are similar to those followed in other Ohio communities: there must be space available; the transfer must bring about a better ethnic distribution of students; and the transferee must supply his own transportation.

Mrs. Craig says her seven children are now in heavily black schools within walking distance of her home.

"At one time I attempted to get them transferred to a majority white school but I was told it couldn't be done," she says. "No reason was given. I didn't press it too much because I didn't have the time to drive back and forth all over town."

Civil rights leaders are generally pleased with the retirement of long-time district superintendent Harold Eibling. However, Davis contends that Dr. Eibling has been made the unfair scapegoat of Columbus' school problems. "Given the circumstances" says Davis, "he performed remarkably well despite being the target of legitimate frustrations and anxieties."

Militancy is not the forte of civil rights groups in Columbus. This is partly due to a diffusion of black neighborhoods and a consequent lack of organization among Negroes.

"This is a conservative community which makes the blacks conservative too," says Mrs. Dorothy Lenart, education director for the Columbus Urban League.

"The people of Ohio are just not issue-oriented," says Anne Bingle, research director for Democratic Gov. John J. Gilligan.

A lack of statewide interest in school desegregation, at least, is reflected in the fact that Gilligan prepared a public statement on the issue during the 1970 gubernatorial campaign, but never issued it. He was never asked about it.

However, since taking office, the governor is pushing for the consolidation of Ohio's 600-plus school districts. This could bring about a more meaningful racial balance and preclude some large suburban school districts from perpetuating themselves as white havens.

There is a widespread feeling among educators here that a massive infusion of state funds into education will solve many of the internal problems which beset the Columbus schools during 1970–1971. The state underwrites only 25 per cent of the cost of running Columbus' public schools. The total cost per pupil is $728 a year.

Because of the refusal of the voters to approve the last two proposed tax levies, the district is launching a retrenchment program which would force the dropping of 335 teachers next year.

A tax referendum in 1969, supported by the NAACP, was defeated. A similar referendum last year, this time without NAACP support, met a similar fate.

Mrs. Barbara Levinson, a graduate of the University of Alabama and chairman of the school board, said a one-year moratorium on the tax issue may serve to stabilize attitudes and emotions.

"I really believe," says Mrs. Levinson, "that open housing is the only way to solve integration. Given five years, these problems will be answered. By that time the people will have freedom of choice in where they want to live."

She believes that elimination of discrimination in house sales and rentals will legitimatize the neighborhood school concept.

Mrs. Craig said NAACP backing was withheld in the 1970 tax referendum because "the money was going to be used for schools in suburban areas. The land sites were already purchased. This would have perpetuated dual schools."

In Davis' opinion the last two tax levies were beaten "because the voters are impatient—very tired and frustrated with lawlessness and threats to the established order.

"They take a simplistic attitude: 'Don't ask us for more when you can't use what you've had already."

Public impatience and frustration, cited by the school administrator, were largely spawned during school disorders, many of them of racial origin.

When chronicled, last year's incidents have an overall tone of black awareness and hardline policies by school authorities.

One school official who asked not to be identified said, "We may have bent over backwards too far to listen to student complaints."

Several black students were expelled for striking white teachers and others were suspended. The expulsions for the remainder of the school year were the first in more than 40 years.

One high school, Linden-McKinley, which was 62.3 per cent black, closed three weeks before the end of the year because of disorders.

Vandalism and the cost of hiring policemen to patrol in the schools ran in excess of $42,000.

Mrs. Pat Worrell, who is white, said her experience as a teacher at Linden-McKinley "made me very wary of blacks.

"There was the time," said Mrs. Worrell, "when a black girl called me a bitch and about that time I decided I'd about had it."

"She said it in such a loud voice I couldn't ignore her. So I took it up with an administrator and all I was asked was: 'Well, Mrs. Worrell, what did you do to provoke the situation?' Nothing was done about it."

In contrast to the disruptions she encountered at Linden-McKinley, Mrs. Worrell said discipline at Roosevelt Junior High School where she taught the previous year was "beautiful." Roosevelt is also predominantly black.

Mrs. Worrell, the mother of four-year-old twins, says the problems stem "not so much from racial balance or imbalance . . . as they do from a bunch of hep people preaching open revolution."

She adds that she is prepared to tutor her children at home rather than send them to the Columbus public schools.

Mrs. Craig and Otho Ray Ball, president of the local NAACP, blame the disruptions on racism.

They criticize school administrators of foot-dragging in resolving the grievances of black students.

They cite discrimination against blacks in class elections at schools where they are in a substantial minority, and refusal to honor requests of Negro students to fly the black national flag or play the black national anthem on a regular basis. The latter in this case was "Lift Every Voice and Sing," a tune which has been played in Negro churches since the early 1900's.

A hard-line approach on discipline was advocated by the conservative Columbus Dispatch. In an analysis-type story at the height of the disorders, the newspaper's education writer, Graydon Hambrick, wrote:

"School administrators deserve the moral support of citizens for having to deal with the usually unreasonably disruptive student. Yet, one's sympathy is haltingly given, for most officials in dealing with violent student dissenters seem to fear the big stick theory enunciated at the turn of the century by Theodore Roosevelt . . .

"The second chance philosophy to which most Columbus administrators seem to subscribe is valid only in theory, and certainly not in disruptive cases."

COLUMBUS, OHIO, AT A GLANCE

City Public School Population:
79,500 students (73.1 percent) white.
29,400 students (26.9 percent) black.
Percentage of blacks in predominantly black* schools: 53 percent.

[From the Columbia (S.C.) State, July 18, 1971]

HEW AND THE SCHOOLS: AN IN-DEPTH LOOK—INTERVIEW WITH J. STANLEY POTTINGER

J. Stanley Pottinger, 31, became director of the Civil Rights Division of the U.S. Department of Health, Education, and Welfare in March, 1970.

In his job, Pottinger is responsible for the enforcement of Constitutional and statutory law and administrative guidelines relating to civil rights in the general areas of health, education and welfare. He coordinated those activities within the Office of Education, Public Health Service, Food and Drug Administration, the Welfare Administration, Social Security Administration and the Vocational Rehabilitation Administration.

Pottinger, a native of Dayton, Ohio, joined HEW in July of 1969, serving as consultant to the Department until he became regional attorney in San Francisco, Calif.

A resident of San Francisco since 1963, Pottinger is a cum laude graduate of Harvard College. He received his law degree from the Harvard Law school in 1965.

Prior to joining HEW, Pottinger was active in California Republican Party activities, holding various posts on the state GOP Central Committee there.

Q: Mr. Pottinger, I would like to open the discussion with some general questions, which may resolve themselves into specifics later on. But for example, in your capacity, what do you interpret the mission of HEW and of your own particular office to be with regard to education and more specifically desegregation of schools—the end result that you're shooting for?

A: I can't recall the precise words at this moment but I think that some careful thought went into the . . . President's March 24 statement of 1970 . . . But I think that there is a profound concern on the part of this office and on the part of the department and I believe on the part of the administration as a whole to do two things. One is to provide equal educational opportunity for all the children of the country as a whole and second to do it in a context where the quality of their education is not only preserved but improved. I also think that there is a profound conviction on the part of the department that these two related objectives are not inconsistent with each other. There are stresses that grow from trying to reconcile them, but they have been reconciled historically. They have and I think that we are on the track of doing that at this time.

Q: You referred a moment ago . . . to the President's March 24 statement of last year. In the light of subsequent Supreme Court decisions, most particularly the Swann case, there necessarily would be consider-

*Between 80 and 100 percent black.

able modification of what the President had hoped his policy would be and what it can be in the light of the Swann decision and others. My question growing out of that is this: Do you now consider your office to be in terms of present policy still an extension, an agency of the Administration or an agency of the Judiciary in bringing about the compliance with what now is the Swann decision?

A: We are very definitely an agency of the Administration. We are part of the executive branch. I am responsible to the Secretary and he himself derives his power as a Cabinet officer from the President . . . It's clear that where the Supreme Court speaks on a constitutional principle and is the arbiter of constitutional issues, the Congress and the executive branches are bound. The President has said that . . . he would have come to somewhat different conclusions about the issues that are raised in the Swann decision and . . . , in fact, he did set forth a very comprehensive and, I think, clear policy in March of last year. To the extent that the Supreme Court has spoken and to the extent that what it has said in any way conflicts with the President's guidelines, then, as a constitutional principle, we in the executive branch are bound. Therefore, we are trying our best to faithfully execute or implement the law as the Supreme Court has set it, while at the same time where the law is unclear or where it is subject to interpretation, that interpreation comes from the executive branch. It is a combination.

Q: In the Swann decision the court nevertheless indicated that they were at the same time trying to enunciate guidelines. Out of that comes this question: What is the position of HEW with respect to allowing other cases—other situations—to develop by way of court tests?

A: I think I follow you . . . Title VI of the Civil Rights Act of 1964 mandated the federal government to deny federal funds to any program where there was discrimination or a denial of the benefits of the program on grounds of race, color or national origin. The Congress required the executive branch of government to set up a mechanism for implementing and seeing that that Title was carried out. Actually, it set up several mechanisms, although a great deal of focus happens to be on HEW because of the schools issue. Almost every executive agency does have a Title VI compliance agency in it.

The question then is that given . . . a law requiring the executive branch to determine or identify whether there is a violation of Title VI and to take appropriate compliance activity, what standards does that executive agency look to in order to determine what constitutes non-compliance? What constitutes a form of discrimination and how does that executive agency go about identifying it? It is clear from the legislative history behind the Civil Rights Act of 1964 and from judicial decisions that interpret that act that . . . you must look to the set of laws that is made under the fourteenth Amendment of the Constitution. In other words, the executive branch which is mandated to enforce the Civil Rights Act is also guided . . . by the same judicial decisions that tell individual school districts and individual litigants what they must do: to eliminate a denial of equal protection of the laws under the Constitution. That means that we, on the one hand, and the Justice Department and private litigants, on the other hand, and school boards all together and anyone who receives federal funds are all bound by the same set of laws . . . That means that we are presently looking to the law that is made by the judiciary to determine how to enforce Title VI of the Civil Rights Act. It means that we look to the Supreme Court to give us guidance on what constitutes 'discrimination' under Title VI of the Civil Rights Act. And when that act compels us to identify and take affirmative action to try to eliminate a condition of non-compliance, unless we had a wholly separate set of guidelines, we would and we do look to the court-made law. That's how the court-made law is incorporated into our operation.

Q: You're making . . . quasi-judicial decisions as to the applicability of the Swann decision to other circumstances . . . in the absence of litigation in these other circumstances?

A: It's not quasi-judicial precisely because even under Title VI it's very clear that a school board has a right either to litigate the issue as it would in court or to take it before a hearing examiner. . . . Sometimes we tend to forget that . . . we try our best to negotiate compliance on what we call a voluntary basis without the necessity of going to court . . . But anytime a school board believes the plaintiff in a law suit was incorrect, the plaintiff has recourse to courts . . . If the Justice Department were to say that . . . the court has actually required a desegregation of schools by virtue of its guidelines in Swann . . . and the school board were to say "No, we don't agree." then the Justice Department would have taken steps to try to achieve compliance short of a hearing. . . . The same is also true under the Civil Rights Act of 1964. . . . The same is precisely true here. . . . We would go to the school board and say, much as a litigant would or the Justice Department would, (that) it would appear to us that the case law that is applied under Title VI applies to you and therefore we try to take steps to resolve it. But if we can't agree, and ordinarily the disagreement are good faith disagreements, you have a right to a hearing or you have a right to have it referred to the Department of Justice for a lawsuit.

Q. Well, the reason I made the point of quasi-judicial is that you are applying HEW interpretation of a ruling affecting one set of circumstances to other sets of circumstances. Although we read into the Swann case, in the court's own language, that it is not necessary in all instances to make these subsequent changes once a plan has been accepted. Now we get down to the specifics of the Columbia situation, in which a compliance was agreed to and in which it was understood to be a different set of circumstances in that the Columbia school board was not in default, as had been the case in Charlotte. The plan had been accepted by HEW, but on the basis of circumstances which existed in Charlotte . . . a requirement of change is being imposed on Columbia; and this is why I say it appears to me that HEW is making some judicial determination on its own motion—which is borne out . . . by a recent editorial in the Washington Post, which said that HEW of its own volition had undertaken to apply Swann throughout much of the country.

A. Last year, the Columbia school officials recognized at that time that there was at least some vestige of the dual system remaining in Columbia. They saw it and with, I thought, very good expertise on the part of the staff and with good legal advice and with good faith tried to resolve those issues voluntarily. They had as you recall . . . already been through a termination procedure stemming from a plan that was attempted or at least negotiated two years before. . . . And let me, for clarification, go into some of the dynamics of negotiation for school boards. I don't think this is a breach of what happens in private. I think that everybody is entitled to know how these things work. . . . What I am about to say now may apply more or less to Columbia. It applies generally speaking. School officials, when they understand that there is a problem, ordinarily do try to resolve it. I think in the vast majority of cases school officials try. It's a very difficult thing to do, as you know. It has a very widespread impact on a community. But they try.

When your school officials tried in Columbia, we discussed what it was that the state of the law at that time and the President's guidelines that filled in unclear parts of the law might require in Columbia. We came to a plan we believed and school officials believed did constitute compliance. Obviously, we believed it or we wouldn't have accepted it. At the time we were doing it . . . we understood that a great many all-black schools— . . . would be left intact. The question therefore arose, have we, the school board, or the school officials disestablished the dual system? We recognized that some all-black schools were created under the dual system; we recognized that they are now the vestiges of the dual system; we recognized the court . . . said that you've got to offer not black schools or white schools, but just schools. We also recognize that many of the schools will remain black even if every child goes to the school to which he is assigned under the plan.

Have we, therefore, truly disestablished the dual system? We looked, in the absence of clear language of the Supreme Court to what guidelines we could find, and the foremost guidelines was the President's statement. As an operating matter, a preference was stated for neighborhood schools to the extent that they could be preserved consistent with Supreme Court dictum. And because the Supreme Court dictum was unclear . . . as to what method a school board must use to try to disestablish a dual school system, we believed that the system was in compliance at that time. I might also add that we understood that there would be litigation on this very issue. All of the school districts in the South of great size, such as Columbia, were faced with the same issue because of the geographical and demographical complexity of the large system. Many of them found that there were neighborhoods that were residentially populated by black families in one area and white families in another in such a way that it would be difficult through the neighborhood process to . . . implement a series of plans that desegregated all of the all-black schools. Now, at that time we also understood that there would be litigation, and we talked about it.

The school officials raised a question: Would we be better off, for instance, to go further than we did and anticipate what it is that the Constitution presently requires but what the court hasn't yet told us it requires? Or are we better off to do our best to read it as it is now and wait and see what the constitutional decision would be in the area? . . . As it turned out the anticipation . . . that there would be litigation did come to pass. There was litigation. It happened to be in Charlotte-Mecklenburg, and the Supreme Court set forth, as you know, a statement on the issue of urban desegregation, and really that's what Swann is directed to most acutely: the issue of large-city segregation. It was at that time that the court said that the methods that are available must be several, not just one. A school system in trying to disestablish the dual system must consider the use of not only the walk-in school . . . but other traditional kinds of methods, and it was for that reason Columbia, as other systems, has had to reexamine what was done before to determine whether additional methods that the court now says are constitutional could be employed. . . .

Q: Can the Swann decision of Charlotte be used now as the appropriate legal vehicle to go after de facto segregation in the Northern states?

A: The answer to that is "no." But I think it is important to explain why the court refuses to do that. The court said that (de

facto segregation) resulted from either private action or official action other than a school board's action. By that I think it meant that where zoning ordinances or federal housing programs or purely private decision-making based on one's economic wherewithal were the causes of what we call de facto segregation—other than school board segregation—then the court would not address itself to that issue. It specifically cut out that issue. Whether it will choose to deal with that in subsequent cases or not is a matter of common speculation by attorneys involved in constitutional law.

Q: In effect this ruling means that you are concerned with segregation only in the South, does it not?

A: No, it doesn't, for this reason: there are a number of school systems in Northern communities that have engaged in official practices that have had the intent or effect of segregating children on a basis of race, color or national origin. Where that happens, that school system is under precisely the same obligation to eliminate that action as is any Southern school system. The distinction that exists is that in most, if not all, of the 17 Southern and Border states, the official action that is taken by school officials or by the state to segregate children was set forth by statute books. It was set forth as a matter of law. It was clear. It may have been wrong, but it was honest. In the other cities, there was no legal statute to segregate children on account of race.

Therefore, in most Southern districts where there was a dual system . . . it was easy for the government or for private litigants to show that after the Brown case, and after Green and after Swann there had been an official establishment of the dual system. The only questions that remained and the only ones that were dealt with in the Swann case, was what do you do about it.

When it comes to official action that segregates children in the North because there is no statute or no official display of the actions that were taken, it is necessary for the moving party, whether a private litigant or the government, to show . . . there was official action to segregate children. . . . That is typically a very difficult thing to do because it's not overt. It means going into 25 years of school board minutes. It means walking school boundary lines. It means looking at housing patterns and demographic information that is gathering dust in files of city officials. It means going through a whole discovery and evidentiary process simply to establish a case that many, if not most, Southern communities established openly on the statute books years ago.

As a consequence, we find that, to the surprise of many Southern communities, this office actually has more manpower and more resources committed to the North than it does outside of the South. In other words, we have more people and more of our budget supporting our compliance effort in the 33 states outside of the South than we do in the 17 Southern and Border states.

Q: Can you not move administratively against these people in compliance with the Nixon doctrine of March 1970 in which he says that the law would be uniformly applied throughout the country? Is it not a matter of policy that . . . where you have segregated schools, irrespective of how that came about, the situation exists of segregation and you could move administratively against them?

A: Unfortunately, from the viewpoint of ease of administration, the answer to your question is "no." . . . Historically well before the school desegregation issue arose before 1954, the Supreme Court and the legislative history indicated that in order for a denial of equal protection to be shown one must show official action. That's why results cannot be the sole determination. Because if you have simply the results you're looking at—namely black schools here and white schools over here in any given community—the community can argue that those results stem not from official action but from private decisions.

Q: You indicate that distinction here is made between communities that have a dual system by virtue of past law and those where it has just come about. Many people in the South feel . . . that since the 1954 decision . . . the special enforcement that occurs in the South now amounts to a punitive or special action on the part of HEW. Would you like to address yourself to that point?

A: Well, I have to disagree with it . . . I think that because the South has generally taken already the extensive steps that it has taken in this area to comply with the Brown decision and subsequent decisions . . . the greater the degree of compliance, the more puzzling the issue of additional compliance will be to most Southern communities—At least, the more puzzling unless it is explained . . . I think you'll find that the Civil Rights Act itself and the court decisions that have dealt with the issue of the dual system generally arisen in the context of a Southern setting . . . Because that classic dual system existed in the South there has been a greater impact of those decisions in the South.

This may not be terribly helpful in explaining it to a Southern community, black or white. But if you had found that . . . any Northern state (some years ago) had decided to have dual system, I think you would find that the enforcement effort and the impact of the Supreme Court decisions would indeed fall just as proportionately on that community as it happens to fall on the Southern community . . . At some point when those states that have dual systems have dealt with the issue and dealt with it effectively with honest results and in good faith, as I believe they are now, there will be an equalization of the conditions that exist North and South in such a manner that you will have—rightly—the need for a uniform application of results, not just effort . . .

Q: As I understand it, you can't move in the North until you prove that its de facto segregation is actually de jure, correct?

A: That's correct.

Q: All right. If a Southern school district complies with the federal courts and with HEW and resegregation results, is that school district going to have to continue to file plan after plan, year after year?

A: If the school district has actually achieved a desegregated status and then becomes neutral on the issue . . . and private decision making occurs so that resegregation occurs: no, I don't believe that that community—whether it's North or South—is in any different condition whatsoever. . . . By the same token, the vast majority of Southern districts are not only in compliance now, but have been in compliance and are essentially in the same position as those districts that are of like size and quality in Northern states. There are some 4,380 school districts in the 17 Southern border states. Out of those 4,000-plus districts, we're now talking with a mere handful. . . .

Q: But if I understand the point you made earlier, they still stand in the status in which they're subject to further control and change before most Northern communities, due to the fact that in years past they had dual systems.

A: But very few of them. Very few. We have probably, out of the 4,400 districts in the South, notified something on the order of 60 to 70, that's all.

Q: Why Columbia?

A: Well for the reasons that I gave earlier: because Columbia—as with other school districts—by everyone's admission does have a number of schools that are still the results of the dual system. That's not to say that it's clear what must be done with them; we don't know that. . . .

Q: You have found in the North that you have concentrations of blacks and-or whites without regard to having had a dual school system and yet in the South when you have the concentration of blacks or whites the presumption is that it is due to the previous dual system.

A: That is almost precisely what the U.S. Supreme Court said in Swann.

Q. Without regard to general housing patterns that prevail where this system never occurred?

A. That is right, but let's underline the word presumption. It is not conclusive. It is rebuttable. What has happened is that the court said . . . that where a system did have a dual structure and where the schools are still black as a result of that dual structure, there is a presumption that we are dealing with the vestiges of the system and that those vestiges have never been disestablished. However, it also said that there may be occasions where all the racially identifiable schools—the black schools or disproportionately black schools—are the result of private decision-making rather than dual system. But if that is the case, said the Supreme Court, the burden rests with the school system to come forward and show that that is the case. . . .

Q. Burger (Chief Justice Warren Burger) wrote that into his opinion, did he not?

A. Yes, he did. This is not an administrative guideline. This is a paraphrase of the Supreme Court's language.

Q. In some cases, then, litigation would be the more favorable than anything else in the school plan.

A. Precisely.

Q. In Columbia . . . we've had a great deal of white flight. Columbia has become a majority black district. In that situation, would you still say people ought to submit a plan and avoid litigation?

A. Well, that's a tough question. You've posed a question that probably should be posed to your school board attorneys and officials. I think that the option still is with them. . . . Let's talk about white flight for a minute. I think that's a matter of real concern and sensitivity in this office even though it may not appear to be. I would like to say this conclusively. . . . No matter what your view of the desegregation process is—whether you happen to be for it or against it, no one likes to see a community turned upside down and disrupted for any reason.

Obviously, to have a desegregated school system there must be people of both races participating in that system. If it's of one race, by definition, it's not an integrated system. Conversely, if white flight occurs in a substantial degree, not only is a stable educational system threatened, in terms of its racial composition, but education is as well. Tax-wise, it is. The system becomes poor. Nobody's interests are served when the wealth of the community leaves. I could go on and list a host of other reasons that white flight, as we call it, is a real concern and why it is important a system do what it can and why the Federal government do what it can to deter it. I think we are trying to deter it.

First of all, we are doing our utmost to be sure that the compliance judgments are made in light of prevailing Supreme Court decisions and are not made whimsically and are not made without careful thought as to what the honest obligation of that district is. But in many cases where an obligation still arises, the issue of white flight will also arise. Even if we could all sit here and agree on any given case—and I would hope that we might agree on Columbia—that some steps have to be taken, then the issue will arise. Now when that happens, the government has an obligation to see what it is that causes

and what can happen to deter it. I think that both the Emergency School Assistance Program and the administration's request for an omnibus bill to deal with the issue of quality education to preserve good education and deliver good education to all the children in the community is the major answer to the question.

Q: A lot of members of Congress are opposing that bill for fear that the bulk of the money will be used to finance busing.

A: That's a myth that we've got to dispel because it is flatly incorrect. If anyone will take the time to read either the Emergency School Assistance Program or that bill in its two versions, one in the House and one in the Senate, it will be readily seen that what those bills are attempting to achieve is a good educational system that is designed to meet the needs that . . . the children have regardless of race. It's very clearly designed to deal with the issue of teacher training of curriculum revision . . . of construction problems . . .

Q: You're speaking of quality education, which is the point we started out on. Now, to what degree does HEW give credence to the findings of HEW and of the civil rights report which indicated that the quality of education of children deteriorates where there is a majority of blacks in schools? And I cite the Coleman Report and the Civil Rights (Commission) Report of 1967. Now do you take any position at all with respect to that?

A: Well, we don't have conclusive data on that issue. As a legal matter, the court has based its decision in the Brown case on a finding that there were intangible as well as tangible benefits that flow from an equalization of educational opportunity regardless of race. They did not specify in that decision nor have I seen any court specify a kind of ratio at which the court believes that the racial composition of a school can become such that those intangible benefits which were the very purpose of Brown are lost. I've never seen it litigated. I've never seen the court recognize it. Now it may or may not be the case. Regardless of what flows from a particular racial composition of a school, the administration and, I hope, Congress believe that resources have got to be devoted to that school to help improve the quality of education there, again regardless of the composition . . . I don't think that the courts or Title VI have ever said the Constitutional obligation to desegregate is hinged upon a particular ratio or should be deterred upon a particular ratio.

Q: No, that's not in any court decision, but it is in the Coleman Report. It is set forth there that the educational performance of Negro students is best served when they are in a situation with a majority of white students. Now a number of court decisions do refer to the right of Negroes to move into majority white situations. But by application of the court decisions themselves and of some HEW decisions, the resulting school situation is loaded with Negro students so that there is to be, based on Coleman, a deterioration of the quality education of both persons which is also accompanied by the white flight. Witness the fact in Clarendon County and Cameron school district of South Carolina where the magnitude of Negro attendance of schools is such that all whites have gotten out. So we've got a public school system which has run the entire gamut, is back to segregated, is completely public and presumably is in compliance. But the point that I'm making is: is it a matter of concern in the goal of quality of education if some of the steps that are being taken not just by HEW but by the courts themselves are in effect defeating the purpose of quality education in which they set out to perform?

A: I think that it is very definitely a matter of concern and it also is clear that not even the Federal government, regarded as it is as having a great deal of power and authority, can control that situation.

Q: Is this a vague, general concern or does it affect HEW's actions in specific cases?

A: No, I think that you'll find that the issue of sensitivity to the needs of the children in desegregated schools becomes as specific and as pointed as it can be from the distance that we have to operate. You'll find that school authorities have frequently pointed out that they have special programs and special concerns in a desegregated setting . . . that they believe are making progress, and we take account and encourage and sanction them to the best we can. . . .

Q: Once you approve a plan for Columbia for this fall, will Columbia then be on the de facto side of segregation?

A: From our viewpoint, if a plan is reached, and agreement is made and we and the Office of General Counsel believe it is in compliance with Supreme Court decisions and that plan is implemented as faithfully as possible by school authorities, the answer is yes.

Q: Then that would be it for Columbia under the present court rule?

A: Yes, if those steps are taken that I've just outlined.

Q: You do not anticipate any further HEW guidelines?

A: No we don't. Not on the issue of school desegregation. There are HEW attempts to improve the educational quality of the schools throughout the country. I don't want to be misread that HEW will turn its back on the school systems; I hope they will continue as cooperative as possible with the school systems. But on the issue of desegregation, I wouldn't expect it.

Q: One other question on that. Do you anticipate any court action or court decision on de facto segregation?

A: I have no . . . way to speculate on that. I just don't have any idea if the court will decide to take that issue up. It has been the subject of strenuous and great debate in Congress. . . . It has also arisen in cases in the North, but to my knowledge the Supreme Court has never ruled on that issue. Beyond that I don't know when either the Congress or the court will decide to take it up, if at all.

Q: There is a possibility of neighborhood schools in Columbia after we've submitted a plan that would still be 90 per cent or more black because there was documented proof that they could not be desegregated within reasonable bounds. Would this be de facto rather than de jure segregation?

A: If that were to be the case, if the evidence indicated that that's the plan the Columbia system proposed, and it was in compliance with the Supreme Court's guidelines, then the answer to that would be "yes" from HEW's viewpoint. I ought to caution you that that does not stop private litigants from suing the system . . . to test that issue . . . we have no control over that (private litigation), but our position would be that no plan will be accepted by this office nor approved nor sanctioned after it's implemented, unless that plan meets current Supreme Court standards. Then it has done what it has to do. There would not be another initiation of inquiry on our part as to what needs to be done to meet a new set of standards.

Q: What criteria do you use in determining when a school system is unitary?

A: Let me start with what we don't use. We don't use recial balance as a criterion. Let me make a couple of comments on racial balance then . . . get to what we do. Racial balance means a lot of different things to different people and it's a term that I would really like to see somehow eliminated from the vocabulary. I really believe that the term itself has gotten to the point where it creates more confusion in myth than it is helpful . . . The Supreme Court set that issue to rest when it said . . . that racial balance is not what the court is requiring. . . . The constitutional command to desegregate schools does not mean that every school in every community must always reflect the racial composition of the school system as a whole. That's pretty clear. Then you ask "what is it." It's clear that we're not using racial balance, either in the classic sense that it is defined here or for that matter in any of the unoperable other senses.

Ideally, I think that if a school system were operating in the following way, it would be a truly unitary system in every regard: If you were able to go into all of the schools in the system, and let's say there were delegations of white and delegations of black citizens with you composed of reasonable men of good faith and good will without racial prejudices and you were to look at everything in all of those schools.

If you were to look at the racial composition of the students, the racial composition of the teachers, the facilities, how they were constructed and where they were located—in good or bad areas in the sense—whether the facilities are falling apart or not. If you were to look at how the teachers handle the students, at how the officials handle the teachers, at the athletic systems as a whole and the extra curricular activities. . . . If you were to look, in other words, at every aspect of how that school is maintained and operated by officials. And having looked at all of the schools in the system, you were able to come away and re-group and you were to say to each other. "Look, there are a lot of differences in the system. That school has a bigger proportion of black kids than that one, that one has a bigger portion of white kids, that school is located obviously there and therefore it is a little bit different from this one here. There are differences in this regard and differences in that regard."

But in spite all of the differences, we could conclude as reasonable people that none of these schools is operated on a racial basis, none of them is operated to perpetuate the dual system, none of them is operated to preclude school children from activities or curriculum because of their race and, all of them are operating without regard to race, you've got a unitary system. That in my view is as ideal as you can ever get. That means that you are going to have differences in the system. You're going to have differences in people composition. You're going to have differences in teacher composition. You'll have differences in location of facilities and the like. But none of this should be racially identifiable in the sense that we discussed. The next question you should ask, is how far could these differences go—how much difference? And at that point there is no way to generalize, other than to say that men of goodwill and reasonable people would probably define some broad boundaries and within those boundaries good faith differences will occur. But as long as you're inside those boundaries I think you've got a unitarian system.

Q. Let me take you to Montgomery County, Ohio, where there are 16 districts. Six of them don't have any black kids in them at all . . . Taking the county as a whole, a very definite dual school system exists although individual districts may have unitarian school systems. What is the authority . . . of the Federal Government . . . to work toward consolidation of districts to bring about a more meaningful integration pattern?

A. Well, in a few cases it can be shown that districts have been carved up within a given geographical area in order to exclude children from schools on account of their race. This happens rarely, but it does happen. In those cases the Justice Department has requested of the federal court an order by which we consolidate or somehow regerrymander the zone lines to eliminate that kind

of a racially noted thing. Those things are very rare . . . ordinarily school districts are drawn to a terminus with the city limits, for example.

Q. Does HEW ever impose on local school boards or suggest to local school boards that meetings be closed if one of their representatives is present?

A: At a local meeting? Yes, we have done that. I'll tell you why we have done it. I don't think that it happens frequently because most often we don't go to public school board meetings. We have asked that a negotiations session be closed simply because the glare of publicity ordinarily prompts people to make speeches. We're all subject to that. I don't mean that it happens on the part of school officials any more than government officials. And ordinarily when we have had the press present at a few occasions . . . and we've had them present at negotiations sessions, nothing is achieved. No results are achieved. I wouldn't say nothing is achieved because some pretty good speeches are made.

Q: Don't you think that if the same reasoning were followed by all public bodies that all meetings would be closed?

A: I don't think all meetings should be closed and I guess I should distinguish the negotiation session from your point which is about an HEW person attending a public school board meeting. . . .

Q: Let's get away from the school board meeting and talk about HEW negotiating sessions. Do you require that these be closed to the press? Or do you feel that it is beneficial for the people generally to not know what is taking place in the session?

A: Oh, I think it's absolutely critical that people understand what takes place.

Q: Then why shouldn't the meetings be open?

A: The only reason is one of scheduling and . . . the pressure on the participants to believe that they will end up in the funny papers and therefore there are inhibitions on the one hand and there is speech-making on the other. I don't think that that is a very happy result. But we have found that that is the case. We could try it the other way. It takes an immense amount of time and energy because I would say it takes up to five times the amount of time to get to the same conclusions. You will also find that more often than not it's the local school officials who don't want to feel the inhibitions of the exposure, not HEW.

Q: Could you speak specifically to the Columbia situation as to who there prefers these meetings to be closed?

A: No, I can't. I don't know that we have ever raised the issue. I don't recall that. It may have come up last year. We haven't negotiated this year. So I'm not directing these comments to Columbia.

Q: How about if they're going to close the the sessions that they have now. . . . What would HEW do about this? . . .

A: Okay, do we believe that school board meetings should be open? I think it would be gratuitous for me to give an opinion on it. Our opinion is that—I mean our feeling is that—that is the business of the school board in that community and the press in the community. We have no guidelines that say that school board meetings should be closed or open or on Sundays or Saturdays or any other time or under any other conditions. And I think that that is a matter that will have to be resolved between you and the press and your school board. As for whether or not we would be upset if the school officials chose to publicize the different plans that are being drawn—and it's news to me that any plans are being drawn. . . . No, we wouldn't be upset. That's equally the business of the school board. And if the community decides that its elected school board members should divulge what is going on it seems to me that that is the community's business.

Q: Would HEW refuse to participate in a negotiating session, in earnest—actually going through the real mechanics of the session—if the press were present?

A: I'd like to say that I'm not sure, at this point, although I take it that you're leading up to such a request and if so we would certainly have to consider it very carefully.

Q: This would seem to be somewhat less weighty than the Pentagon papers.

A: It depends on whose back that weight rests. And I have the scars to prove it. I would say this: that the only inhibition to an earnest working negotiating session—not a board of directors window dressing session—is the one that I mentioned before. And that is whether or not it can take place and personal feelings and opinions are floated and tested with impunity. If they are not, I suspect that your school officials will be very troubled by it. If they are not troubled by it, I would have to examine whether we would be troubled by it. I think that you would find less of the problem on our part than theirs. I would like to say one gratuitous thing in advance or in addition. I think that our position in HEW is, generally speaking, served by more exposure. . . . We live in a goldfish bowl in this business anyway. While we're in a goldfish bowl and everyone is looking at us, I think it is to our advantage to be as forthright and candid about what we are doing as we can be.

Q: If you had a community in the south where there had been a history of de jure segregation, but in which both a majority of the white citizens and patrons and of the black patrons and citizenry agreed on a pattern of school desegregation . . . that did not measure up to what would be considered to be the unitary system, would something of that sort be acceptable to HEW? Or you would have to say "no," the community's wishes cannot be observed here?

A: It's almost impossible to answer as you pose this. Let me take it in two parts. If the black and white community in that hypothetical district were to agree on a plan in every instance . . . I think . . . the plan would in fact fall within the broad boundaries of what the courts have required. We would take very seriously, very seriously a consensus—an honest consensus of the black and white community in Columbia and in other cities, just as we have in other cases . . . We would be delighted to hear that a biracial committee or any sort of a biracial effort has been undertaken in Columbia to say—"Look this is our problem, these are our schools, these are our children and it's our plan drawn by our people." That is of primary concern to us. If we had an indication that that was happening we would be very hard pressed, very hard pressed to say "no" to that plan. I guarantee that.

Q: Even if that group came up with, say, the neighborhood school concept coupled with freedom of choice?

A: All right, if that occurred in a sense that no movement was made or would be made to deal with the black schools in the community I think it would be a problem, yes. . .

Q: Suppose it is the desire of the black and white community in collusion to preserve that which they now have?

A: Well I think that it is possible—I think it is possible for collusion of that kind to occur. That would be unacceptable. I think it is possible. None of us have the right, despite our wishes, to flaunt constitutional standards that are set by the Supreme Court. . . . I don't think we have a right to say to hell with the Supreme Court standards or that we are going to evade the law. . .

Q: Let me ask about this question of freedom of choice. The courts have virtually ruled freedom of choice invalid in most southern districts. Now with that historical background, you have what they call freedom of enrollment in a number of northern states. But it is restricted to the point where children who want to transfer . . . have to get their own transportation—no free busing for them as the Swann decision indicated should be the case. Now is there any way that you can look upon that as a de jure segregation practice by a school board?

A: It becomes a complicated question. I might add that it is one that has been under review for some months in the city of Boston both by state authorities and by Federal authorities and it becomes somewhat complicated. But it is possible that abuses of that kind can be such that they are in the nature of an illegal freedom-of-choice arrangement. And in such a case, we will put an end to it.

Q: What about when a school board has drawn attendance zones so that the school ends up being segregated. Is that considered de jure segregation and would that be taken into consideration in the North?

A: Yes, if the zones were drawn so as to create segregated schools, that is de jure and that is why you can impose a remedy equivalent to that that is opposed in a former de jure dual system. That and similar kinds of subtle forms of gerrymandering and the like led to a number of orders in the Northern districts. . . .

Q: We have been talking all the way through about the white community and white community reactions. What do you think is the answer to the black community that says we want to keep our black integrity, we want to keep our black identity. We do not want to rename our schools, we do not want to carry our children all over the place.

A. I'm glad you brought up the question about what is in the interest of the black community and the black children. I think the answer to the question very specifically is that in almost all of those instances, unless there is a clear racial intent to deny a school something on account of race, that is a local problem. . . .

SUGAR ACT AMENDMENTS—UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD of West Virginia. Mr. President, I have been authorized by the majority leader to make the following unanimous consent request, after its having been cleared with the minority leadership with the distinguished manager of the bill, the Senator from Louisiana (Mr. LONG), the distinguished ranking minority member of the Committee on Finance, the Senator from Utah (Mr. BENNETT), the distinguished Senator from Massachusetts (Mr. KENNEDY), the distinguished Senator from Oklahoma (Mr. HARRIS), and other principal parties.

I ask unanimous consent that at such time as the Senate proceeds to the consideration of Calendar Order No. 296, H.R. 8866—an act to amend and extend the provisions of the Sugar Act of 1948, as amended, and for other purposes—there be a limitation of 1 hour to be equally divided on the bill, with the time to be controlled by the distinguished Senator from Louisiana (Mr. LONG) and the distinguished Senator from Utah (Mr. BENNETT);

That the time on any amendment be limited to 30 minutes, to be equally divided between the mover of such amendment and the manager of the bill (Mr. LONG), with the exceptions that—as to time—on the so-called South African amendment, there be 3 hours; and on the

so-called confiscation amendment, there be 2 hours;

That no amendment not germane be received; and that Senators in control of the time on the bill may yield therefrom to any Senator on any amendment, motion, or appeal, with the exception of a motion to lay on the table.

The PRESIDING OFFICER. Is there objection?

Mr. FULBRIGHT. Mr. President, reserving the right to object, I contemplate offering an amendment. I wonder if the Senator would include in his request an hour's time which I may want to use on an amendment.

Mr. BYRD of West Virginia. Mr. President, with respect to the amendment which would be offered by the Senator from Arkansas (Mr. FULBRIGHT), I ask unanimous consent—with the approval of the majority leader—that time on that amendment be limited to 1 hour, to be equally divided between the Senator from Arkansas (Mr. FULBRIGHT) and the manager of the bill (Mr. LONG).

The PRESIDING OFFICER. Is there objection?

Mr. BENNETT. Mr. President, reserving the right to object, I am a little bit in the dark. Is the amendment which the Senator from Arkansas proposes to offer, on which he wants agreed time, to the pending business or to the proposed sugar bill?

Mr. FULBRIGHT. To the sugar bill. I thought that was what the Senator was asking about.

Mr. BYRD of West Virginia. Yes.

Mr. BENNETT. I wanted to be sure.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and the order is entered.

The unanimous-consent agreement reads as follows:

Ordered, That not later than 2 p.m. on Tuesday, July 27, 1971, the Senate proceed to the consideration of H.R. 8866, an act to amend and extend the provisions of the Sugar Act of 1948 as amended, and for other purposes, and that there be 1 hour of debate on passage of the bill to be equally divided and controlled by the Senator from Louisiana (Mr. Long) and the Senator from Utah (Mr. Bennett). *Provided,* That debate on any amendment, except the amendments listed below, be limited to 30 minutes to be equally divided and controlled between the mover and the manager (Mr. Long): a so-called South Africa amendment—3 hours; a so-called confiscation amendment—2 hours; and an amendment to be offered by the Senator from Arkansas (Mr. Fulbright)—1 hour.

Provided further, That no amendment not germane shall be received, and that time for debate of the bill may be yielded on any pending amendment, motion or appeal, except a motion to table. (July 26, 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 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 FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent, after having discussed the matter with the distinguished majority leader, that when the Senate completes its business today, it stand in recess until 10 a.m. tomorrow.

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

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that at no later than 2 p.m. tomorrow, the Senate temporarily lay aside the pending business and proceed to the consideration of the so-called Sugar Act, Calendar No. 296.

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

ORDER FOR RECOGNITION OF SENATORS ON THURSDAY, JULY 29, 1971

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on Thursday, the following Senators be recognized, each for not to exceed 10 minutes and in the order stated—immediately after recognition of the two leaders under the standing order: Senators DOMINICK, BROCK, BUCKLEY, BYRD of Virginia, CURTIS, GURNEY, and THURMOND.

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

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on Thursday, following the remarks of the Senators just named, each of whom is to speak for not to exceed 10 minutes, the distinguished Senator from Indiana (Mr. HARTKE) be recognized for not to exceed 15 minutes.

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

EMERGENCY LOAN GUARANTEE ACT

The Senate continued with the consideration of the bill (S. 2308) to authorize emergency loan guarantees to major business enterprises.

AMENDMENT NO. 317

Mr. STEVENSON. Mr. President, I call up amendment No. 317 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 10, line 11, strike "after October 1, 1971,".

Mr. STEVENSON. Mr. President, what started as a proposal for the relief of the Lockheed Aircraft Corp. now purports to be a generic bill. It does create a Board with authority to guarantee loans up to a total of $2 billion. But it is no coincidence that the bill in its present form would prohibit any loans in excess of $250 million. In this and other ways, the bill is tailor-made to fit the Lockheed situation.

Mr. Charls Walker, in his testimony before the Committee on Banking, Housing and Urban Affairs, made it perfectly clear that, no matter what final form the legislation took, the Treasury Department would regard it as a congressional endorsement of the guaranteed loan for the Lockheed Corp.

In its present form, it is neither a generic bill nor a private bill; it is a hybrid. What does seem clear from the form of this bill is that the Senate will be deprived of a clean up or down vote on either the generic question or, the Lockheed guarantee. They are both important questions, and they are separate questions.

This amendment gives the Senate a chance to work its will on each of these issues.

One provision of the bill affords Congress an opportunity to disapprove guarantees of loans made by the Board. Approximately a year ago, Congress incorporated very much the same provisions in the Defense Production Act for *V* loan guarantees in excess of $20 million, to afford Congress an opportunity to pass on such loans. This bill does the same for all applicants except Lockheed. This amendment simply would eliminate that exemption. It would afford Congress a right, within a limited period of time, to disapprove the loan guarantees for all corporations, including Lockheed. Lockheed would not receive special treatment. It would be considered like any other corporation in distress seeking the help of the Federal Government.

Without this amendment which I am offering, Mr. President, Congress would effectively approve a loan guarantee before all the details have been hammered out by the banks, by Lockheed, or by the board which this legislation establishes.

Congress is operating in the dark. If Congress were to pass the legislation in its present form, it could safely assume that shortly afterward the banks, the Board, and Lockheed would get together to hammer out questions such as the future management of Lockheed, the right to counsel, the right to declare dividends, and the extent of the collateral, and many others. How can we approve before we know what sort of contractual arrangement the parties will work out?

Mr. President, there is no such blanket approval provided in the Defense Production Act. I submit that there is no reason for it here. If my amendment is adopted, the bill would set forth an expeditious procedure for approval or disapproval by Congress, after notification to Congress of the intended loan guarantee, and Congress would have 20 days in session in which to disapprove. If it did not disapprove, then the loan guarantee could be made.

I realize that Congress will be in recess beginning early in August and, therefore, that it could not act to disapprove a proposed loan guarantee before September. That need not adversely affect Lockheed. By September, it has been estimated that Lockheed would only need, by its own figures, about $25 million of the $250 million proposed for this financing. That relatively small figure could be provided in numerous ways, if necessary, to keep Lockheed going. It could be provided by the banks on a

short-term credit basis. It could also be provided by the Federal Reserve Board under its existing statutory authority—section 13–3 of the Federal Reserve Act.

Mr. JAVITS. Mr. President, will the Senator from Illinois yield?

Mr. STEVENSON. I gladly yield to the distinguished Senator from New York.

Mr. JAVITS. I have already expressed myself on this amendment. I believe that it is in harmony with the purposes of the bill. I am a supporter of the bill. I think the bill would be better served if everyone were in the same class, that is, included as Lockheed would be. I believe that we need the bill as a generic piece of legislation on the books, and for that reason I expect to support the Senator's amendment.

Mr. STEVENSON. I am very grateful to the Senator from New York for his comments.

Mr. President, I recognize that regardless of the merits of the Lockheed claim in this case, Lockheed would not be adversely affected by my amendment but would be treated as all other corporations would be.

In the absence of any extenuating circumstances, I cannot see any justification for discriminating in favor of the Lockheed Corp.

It would also, of course, give Congress the opportunity, in this case, to vote on two separable and two very important questions. One is the generic issue and the other is the merits of the proposed loan to Lockheed.

I might add, Mr. President, that the procedure established for a congressional vote on loan guarantees is not only incorporated in the Defense Production Act, even though in that act it is intended to assure that defense producers and corporations which are vital to our national defense will maintain their continued operations against financial adversity. If Congress is willing to grant loan guarantees in such a case, with its right to review in defense-related industries, it is very hard to understand why it should not do so for commercial projects. That is what we are faced with in this case.

It has been made clear in testimony before the Banking, Housing and Urban Affairs Committee, that the welfare of Lockheed as a defense producer and manufacturer is not at stake in this case. That is not the issue. The Pentagon has made that clear. With or without bankruptcy, with or without reorganization, Lockheed would continue meeting its obligations to the Pentagon. But at stake in this case is a commercial product, the survival of the Tri-Star. If Congress reserves its right to disapprove loan guarantees for defense-related industries or products, what conceivable justification can there be for failing to exercise the same rights in the case of a commercial product where there is no issue or question of national security involved?

Mr. President, it is unusual even to consider legislation such as this, legislation for the relief of corporations in financial difficulties simply because they are big and because their failure could have adverse effect on their employees.

It has been a matter of some controversy, and perhaps of doubtful wisdom, to legislate in this case for a particular corporation; but if we are going to do it, why should be sanction the deal before we even know what it is? In this case, we do not know what it is. The arrangements have not been worked out between Lockheed and the banks, or between Lockheed and the Board.

If this amendment were adopted, Congress would, to a greater extent, then have the opportunity to debate and vote up or down on the generic issue. Then later on, if legislation is passed, it would have another opportunity to vote up or down on the Lockheed issue. It would have an opportunity to evaluate the underlying assumption that a $250 million loan is enough to tide Lockheed over—bail it out, as has been stated, and that a sufficient market exists for the Tri-Star to justify the Federal guarantee of a $250 million loan to this large corporation.

I would hope, Mr. President, that this amendment could be acted upon in the Senate soon. I would be glad to enter into a time limitation agreement if the other parties are so disposed.

Mr. TAFT. Mr. President, will the distinguished Senator from Illinois yield?

Mr. STEVENSON. I yield.

Mr. TAFT. I commend the distinguished Senator from Illinois for introducing this amendment. I think it will improve the bill considerably. However, it points out one of the principal factors in regard to the entire matter that disturbs me deeply.

The pending bill is a so-called generic bill. It does not relate solely to Lockheed but to any corporation or any business that comes in and makes an application for a Government loan guarantee. When that happens, under the legislation, the Board is charged with making an assessment of the factors involved in the loan, measuring them against the criteria that will be in this measure in its final form.

The point I would like to make is that if these officials, who would serve on the Board if the act were passed, were to be the Secretary of the Treasury, the Chairman of the Federal Reserve Board, and the president of the Federal Reserve Bank of the district involved in the loan, that suggests the tremendous political pressure when the economic well-being of the Nation is in the hands of the administration in power, the Secretary of the Treasury is, at least, an appointed official of the President—confirmed by the Senate, it is true. Nevertheless, he is an arm of the President.

The Chairman of the Reserve Board in many instances will be a gentleman appointed by the President of the United States. The same thing would be true with respect to the Chairman of the Federal Reserve Bank of the district involved.

I believe there is a philosophical matter involved here. We have a most serious question before us as to the size and kind of pressures that are bound to be involved in a case in which millions of dollars and perhaps billions of dollars are involved.

They are the sort of questions that ought not to be handled without a thorough, on-going review. In fact, I have a philosophical question in my mind as to whether we should ever approve of a public body of officials having guarantee authority where competition is involved between companies in the industries in question. There is a very deep philosophical question.

However, I would like to point out that at the same time it helps to provide additional safeguards, possibly a combination of several philosophical difficulties which would expose the executive branch as well as Congress itself to the same kind of economic pressures.

I do not think that Congress should be called upon to take a position in favor of one company or against another. We should review this matter and recognize its existence. They are involved in the system of checks and balances.

It is true that if the actions of both the executive branch and the Congress are involved, the danger to the public interest would be less. For that reason, I favor the amendment. However, I feel it does still leave the bill serious and, I think, almost prevailing difficulties which would militate against supporting such a measure. If we are to support the position taken by the Senator from Illinois, which I think is extremely well taken, I see no reason for any distinction between the Lockheed case and any other case, while we have examined the Lockheed case. The circumstances change every day with regard to the Lockheed case.

One of the things I have complained about and one of the things that worries me the most is that during this period of time since the bankruptcy at Rolls-Royce, there has been a continuation of the British Government financing daily the operation in Great Britain, without financing through private sources and without hope of a private guarantee to the aircraft manufacturer involved, Lockheed.

There has been a continual buildup of inventory. I am told that there is $1.1 billion, almost $1.2 billion in inventory. I do not think that would be totally lost, because every day they build up the inventory and if the company were to go into bankruptcy under chapter X of the Bankruptcy Act, the trustee would have prevailing economic factors to lead him to a judgment so far as those items already in inventory are concerned. He could go ahead and produce airplanes without the lost jobs which we have heard so much about before.

We have to recognize that there is this serious difficulty in justifying the parts and inventory such as has been built up, the amount of which I have mentioned. It indicates what appeal such a measure would have.

If we once break down this wall, we are in great trouble. With regard to striking out the date, it would at least put Lockheed in the same position as most everyone else would be, if we got their applications in time. They would have to come back to Congress with whatever deal had been worked out, with whatever board would be set up, and

establish the details of the arrangements and give us a chance to review those details and establish some precedents and criteria and ideas of our own.

I hope that we would have a chance to review the entire process and determine whether we should continue with the $2 billion guarantee if that turns out to be unwise and the problems indicate that it is unwise with respect to Lockheed. We could then take another look at it and reject whatever guarantee had been given better than if we had a broad generic bill. I think the pending amendment is a step in that direction.

Mr. STEVENSON. Mr. President, I thank the Senator from Ohio for his perceptive comments. I commend him for the diligence with which he has attended to this matter both in the committee and on the floor.

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

Mr. STEVENSON. I yield.

Mr. BROCK. Mr. President, the Senator from Ohio raised the question of pressure. I ask if it is not true that pressure can be applied from both sides. Is there, for example, no communication between the management of General Electric and a competitive management, or McDonald Douglas?

I ask the Senator from Ohio or the Senator from Illinois what they call the stated price increase of General Electric that is to be effective 4 days after the August recess begins, on the 10th of August. Is that not ultimate pressure on the part of competitive airline purchasers to revoke their support of Lockheed and the airplanes they have placed orders with Lockheed to purchase?

It seems to me that if we are going to discuss pressure, we should consider the pressure on both sides of the street. We have to recognize that pressure is something that each Senator must evaluate within his own conscience. We must accept the fact that the amendment is in a sense a response to pressure. It is a response to pressure to cancel the manufacture of the plane at Lockheed. The effect of the amendment is particularly to eliminate totally purchase from Lockheed that might make a sound project of this aircraft.

There could be no possibility of that if the pending amendment were agreed to, and Lockheed has to continue its production to the period that the Senate would envision with the passage of his amendment, 20 legislative days following the return of the Senate, following the August recess.

So we are talking about a date extending into October. The Senator knows full well that Lockheed Corp. is not in a position at all to do this.

The Senator from Ohio indicates that he would supply a bare Lockheed loan. The fact is that we could not do it. The Senator's amendment would eliminate the prospects of a Lockheed loan so that they could not keep the guarantee. Is that not correct?

Mr. TAFT. Mr. President, would the Senator yield?

Mr. STEVENSON. I yield to the Senator from Ohio.

Mr. TAFT. Mr. President, I would like to answer the question of the Senator. I do not think that is so. Going to the first point he made, with regard to the question of whether Lockheed would be eliminated by the passage of this amendment, I find that there would be very little difference than if we were to pass this entire bill as is. There has been testimony before the committee that it would probably take a considerable period of time in which to work out the final details of any loan arrangement that might come about.

The deadline here, and we should understand it, is not one proposed by the bank, but proposed by the British Government, which says that after August 8 it will no longer conduct its daily financing in the $1 million category to the Rolls Royce plant, which they have not taken over.

I think that is the factor involved. All we have to do to extend this deadline is to give the British Government some way to get off the hook.

In the last analysis, as has been commented on by one Senator, there is a good chance if we do not go ahead with this the British Government will go ahead with it anyway, considering the amount of money they put in.

No, I do not think because we fail to act finally before August 8 the company will fail. If we authorize generally, the position of the British Government will probably be met, although I do not know what position they will take. That will be up to them. But I do not think the fact that we have a final yes or no would prevent them from extending their credit. So much for the first point.

With respect to the second point, I would like to borrow from the advertising spokesman and say it seems to me the Senator helped in the argument he made rather than hurt. In effect, he said "Double action, double the fund." Just because the pressures on one side may be bad does not mean they will not be worse from both sides. If you get double pressures on the Government, the possibility of sound decisions being made are not necessarily helped.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield?

Mr. STEVENSON. I yield.

Mr. BYRD of West Virginia. Mr. President, I ask for the yeas and nays on the pending amendment.

The yeas and nays were ordered.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield further?

Mr. STEVENSON. I yield.

Mr. BYRD of West Virginia. It is my understanding that a motion to table the pending amendment may be presented. I ask unanimous consent that it may be in order to order now the yeas and nays to occur on such a tabling motion if and when it is made.

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

Mr. BYRD of West Virginia. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD of West Virginia. I thank the Senator for yielding.

Mr. STEVENSON. Mr. President, I would point out to the Senator from Tennessee that while this proposal contemplates a $250 million loan, it has not been suggested by anyone, to the best of my knowledge, that Lockheed would by October need $250 million. It is my impression from the Lockheed cash-flow statements that it might need as much as $25 million. That being the case, and the interest of the banks and the continued economic health of Lockheed being considered, it should not be very difficult for Lockheed to arrange short-term financing on the order of $25 million. Surely there would be enough collateral to protect the banks against any risk of loss for that short a period of time. If Lockheed has enough collateral to protect the Government's interest in $250 million, it should have enough collateral to protect the Government's interest for a $25 million loan.

I would also point out that if, as the supporters of this proposal contend, this financing is important to the national interest, that the Federal Reserve Board has statutory authority right now under section 13–3 of the Federal Reserve Act to make short-term credit available to Lockheed. It could provide the $25 million to Lockheed.

The Senator also raises the specter of the adverse effect upon competition in the airframe industry. Well, if one thing has been made clear in the testimony before the Committee on Banking, Housing, and Urban Affairs it is that the airframe industry suffers from a surfeit of competition. In this case we are not talking about competition between domestic airline manufacturers. We are talking about competition for just one airplane, the wide-bodied trijet. Surely other manufacturers that have been very successful in the world would enter that market in competition with McDonnell Douglas. Already there is competition which could have a healthy effect on the price of these aircraft from European competitors. The Europeans manufacture a very similiar aircraft.

I think the Senator from Ohio has very commendably pointed with concern at the pressures that would be brought to bear upon the Board—economic pressures, political pressures—and there would not be a bank in this country that would not come to the Board seeking a loan for one purpose or another, one corporation or another; it would be almost under a duty to do so, to shift the risk from stockholders and depositors to the taxpayers.

This amendment would not eliminate Lockheed. It would simply require Lockheed be treated as all other corporations and banks would be treated under this bill. It would reduce some of those pressures on the Board. It would have a therapeutic effect on the Board in the conduct of its business.

It would give the elected representatives of the people in their Congress a chance to be represented in these determinations, a chance for Congress to finally disapprove a nonmeritorious loan guarantee.

If Lockheed's need is so great and if the guarantee is in the public interest, the Board would approve and so would Congress, and in plenty of time to tide Lockheed over.

The Senator acknowledges it would not take longer than October. Under procedures established in this bill Congress is given only 20 days in session in which to disapprove. That is not very long. It might delay as long as some time in October, perhaps as early as September. Surely, in that short period of time Lockheed could keep going either with its own resources or short-term financing which could be arranged either from the banks or from the Federal Reserve Board, and perhaps there are other sources of short-term finances available.

I might ask the Senator from Tennessee if he has heard of or received any information to indicate that more than $25 million would be required or that $25 million interim financing would not be available either from the banks or the Federal Reserve Board.

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

Mr. STEVENSON. I yield.

Mr. BROCK. We had very extensive information from the banks that they are in no position to proceed with further loans to this corporation without additional security. There is none other than the prospect of a loan guarantee. They make their judgment based upon the hope that some approval may be forthcoming from Congress, when Congress is in doubt.

If the Senator from Illinois is indicating that support would not be forthcoming then I think any bank manager who made such a loan would be subject to being fired by his board of directors, and I would understand if they took that action.

In terms of cash flow, yes, there is a need for more than $25 million. Presently there are 14,000 men and women unemployed as a result of this hiatus in production.

In order for the appropriation to move rapidly to put people back on the payroll, to proceed to full production, to proceed with their sales contracts, there is a reasonably large amount of money planned to be spent for the calendar year.

I again restate my earlier comment that, under the best of circumstances, the amendment of the Senator from Illinois would have the effect of precluding from the application of this bill those people who are now unemployed or who will be unemployed from Lockheed Corp. I see no alternative to that statement, and I cannot for the life of me see how the Senator would rationalize any alternative assumption.

Mr. STEVENSON. Does the Senator suggest that it would be improvident for the banks to extend credit during this interim period—according to my figure, $25 million at most would be required—because the risk is too great? That, of course, is the purpose of this legislation—to transfer the risk in the loan of the $250 million from the banks, to the taxpayers. In this case we are talking about perhaps $25 million of interim credit. It has been represented to us time and time again that the loan guarantee of $250 million would be fully collateralized; the Government could not lose a thing. I ask the Senator, if that is the case, how could it be that Lockheed would not have enough collateral to cover the banks for a very short period of time, perhaps 2 months?

Mr. BROCK. The Senator obviously is posing a rhetorical question, to which he knows the answer. The fact of the matter is that the banks are collateralizing today. If the loan guarantee is accepted, as it has been presented to our committee—the Senator was a diligent attender at those hearings—the Federal Government takes precedence. It takes precedence on those assets, but not until the loan guarantee. We take precedence. The Federal Government takes precedence at least to the extent of $250 million. It is hopeful that there will be something less than $250 million in prior claims. Certainly there is a lack of assets, because the assets are now guaranteeing existing loans. But to say that there are assets to guarantee an additional $250 million is something else entirely.

Let me respond to the earlier question of the Senator and his comment that, not $20 million, but $25 million would be adequate. From our hearings, the chairman of Lockheed placed in the record of hearings on page 13 the corporation's financing plan and borrowing requirements, which show that by December of this year slightly in excess of $100 million would be required to place in full employment those who would be laid off, an amount which is considerably more than the $25 million that the Senator mentioned.

Mr. STEVENSON. I thank the Senator from Tennessee. I have seen the Secretary's testimony in the record, including a chart which sets forth the requirements of Lockheed. If I am not mistaken, by October it indicates a need of about $25 million. That information is corroborated in a separate statement that was furnished by Lockheed to the Committee on Banking, Housing, and Urban Affairs.

If the banks and Lockheed are willing to give the Government priority on all its collateral for a $250 million loan, it seems to me they would also give such a priority to the Federal Reserve Board if the Federal Reserve Board did make the $25 million available in short-term interim financing.

I think this argument today demonstrates one of my earlier points. There are two very important issues involved that become confused in the consideration of the bill and in the debate. One is on the whole question, addressed earlier by the Senator from Ohio, of the propriety of the Government's interfering in the marketplace in the free enterprise system to effectively bail out a large corporation in failing circumstances. And why? Simply because it is a large corporation and its failure could have adverse effects on the economy, employers, creditors, investors, and suppliers.

I might add in passing that it is possible that were this loan not made, and consequently $250 million of credit contemplated here was allocated according to the free play of the forces in the marketplace, it might do far more good toward promoting human welfare and a healthy economy and jobs. $250 million favorably put in the marketplace to banks, to corporations, big corporations and small corporations, the public sector and the private sector, corporations in all parts of our country, profitable corporations employing people, paying taxes, might do far more for the economy than spending $250 million for a corporation in failing circumstances and with virtual assurance that that $250 million will not be enough.

That is one of the issues.

The other involves the particular claim of Lockheed for this support from the Federal Government. We cannot debate that issue properly without even knowing what arrangements are going to be made between the banks, Lockheed, and the board. We do not know what the circumstances of the airframe market will be within the time that this loan guarantee is carried out. There is evidence indicating that the market for these aircraft is softening all the time.

This amendment, if adopted, would now give Congress an opportunity for debate and a clean vote on the first issue, really the most important and most far-reaching question, the generic question. It would also, when the facts are in and the deal is made, give the Congress a chance to evaluate and vote cleanly on the Lockheed guarantee.

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. WEICKER. 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. WEICKER. Mr. President, I commend the Senator from Illinois (Mr. STEVENSON) for his amendment. It really brings into very sharp focus one of the principal bones of contention between the opponents and the proponents of the bill.

Were this amendment to be accepted by the Senate, we would take away from the proposed legislation one of the present doubts that is hanging over us; namely, that the bill is being presented as generic legislation when, in fact, it is specifically for Lockheed.

One of the clouds that has been hanging over the debate, both in the hearings and on the Senate floor, is the special treatment that is accorded to Lockheed. What the Senator from Illinois has done, as I understand him, is simply to say that the provisions of the bill, all of which have been drafted by the committee, will apply to Lockheed as they will apply to any other corporation that makes application for a loan. It is as simple as that; there are no exceptions.

As I have pointed out, under the bill as now written, it would be possible not only for Lockheed but also for any other business entity to go to a three-man panel and make a request for a loan and have it granted out of hand without hav-

ing any of the provisions for congressional approval in the legislation applied.

The legislation as presently drafted says that after October 1, 1971, any applicant that comes before the Board—let me be specific. The heading reads "Congressional Review."

That is very significant, I think, because I think the committee honestly intended to restore to Congress this power of review. As I have mentioned many times during the debate, we have delegated great power to the Executive, and only now, with a great effort, are we bringing it back within our own fold.

But right off the top, what do we do? We go ahead and try to pass legislation which again takes power away from the legislative branch of Government and gives it to the Executive or to a board that is dominated by the executive.

The committee sensed this when they drafted the legislation, and entitled the section "Congressional Review" so that Congress would make sure that none of these loans would go out without the legislative branch having the opportunity to take a careful look at the loan in all of its terms and conditions, much as the loan committee in a bank would do, which is proper, since we are the loan committee dealing with the taxpayers' money.

So they put in a section entitled "Congressional Review."

If the amendment of the Senator from Illinois is agreed to, the section will read:

> The Board shall not guarantee or make a commitment to guarantee any loan unless—
>
> (1) at least twenty calendar days prior to making such guarantee, the Board transmits to the Congress a notification of its intention to make such guarantee together with a detailed justification therefor; and
>
> (2) a period of twenty calendar days of continuous session of the Congress following the date on which the notification is transmitted elapses, and during such period there is not passed by either the Senate or the House of Representatives a resolution stating in substance that the Senate or the House of Representatives, as the case may be, does not approve the proposed guarantee.

If the amendment is not accepted, then the language will read, as proposed to the Senate:

> The Board shall not guarantee or make a commitment to guarantee any loan after October 1, 1971, unless—

and then lists the conditions after October 1, 1971.

I think we will find that the members of the committee will quite frankly admit, "We do not want these conditions to be in there for Lockheed. We do not want them for Lockheed."

Then, of course, we go all around the merry-go-round again: Is it a generic and an overall bill, or a Lockheed bill?

Is there anything so wrong that maybe the Senate of the United States cannot stand up on its own two feet and reject an ultimatum of August 8, and maybe not even go ahead and guarantee a loan by September or October? Can we not go ahead and set the date? Can we not have the review that is called for, as a matter of principle, by the drafters of the bill?

I do not think any particular honor is accorded the body by the committee when they go ahead and ostensibly draft generic legislation, which has not even been passed by the Senate, without already making an exception before the bill is passed. You know, really, we strain the credibility of the American people with that kind of maneuvering, and that is all it is.

What the Senator from Illinois has done is just eliminate this cloud that hangs over all the proceedings and all the legislation, this cloud which says that Lockheed is being given special treatment, because as the bill now reads there can be no question of the fact that Lockheed is being given special treatment. As I indicated in the comments prior to the cloture vote, the step which is being requested here is rather monumental, both as it applies to our traditional concepts of Government assistance and as it applies to our whole free enterprise system.

During the course of the debate, we have heard read a letter from the President of the United States urging the Senate to pass with deliberate speed this particular measure. I believe the administration has been heard from loud and clear on this legislation. They have had their people going over it for months on end.

What is our contribution going to be, as 100 responsible men, in formulating this precedent-shattering legislation? Is it going to be just to go ahead and rubber stamp an administration bill, without any original thinking on our part at all?

I think the original thinking comes down to rather a bare minimum, when the only amendment that so far is before us simply eliminates the date October 1, 1971, but I think it does the trick insofar as flushing out the intent with which the legislation as presented is concerned.

I think it is extremely important that we do have congressional review, not only with respect to this matter but many others. There comes to mind the bill I cosponsored with the Senator from New York, the so-called war power bills, which limits the conditions under which the President can commit troops, and makes such commitment subject, within 30 days, to approval by Congress. There is no real difference. This is an economic situation that has come to pass, in which we are giving enormous power, again, to a board, not at all designated by Congress, but with the imprimatur being to take an administration bill and say that we should have congressional review.

I commend very sincerely the Senator from Illinois. I think he is doing a great service to this body to clear the air here and to make it specific that there are no exceptions. It is the exceptions that get us into trouble around this place. One rule for everybody. If that encompasses congressional review, then that should apply to everybody. For heaven's sake, let us not do business the way Lockheed does. Otherwise, we will be having somebody bail out the U.S. Senate before it is all over.

Does the Senator from Illinois care to ask a question?

Mr. STEVENSON. I want to thank the Senator for his comments and for the sensitivity he has expressed toward the public confidence in our whole legislative process, public confidence which he feels—and I believe rightly—would be impaired by the special treatment contemplated in the proposed legislation for one corporation, and for one corporation because it is a big corporation.

I thought, too, that I might point out that it was only approximately a year ago that the Defense Production Act was changed to permit Congress to approve the V-loan guarantees for the support of defense projects. If Congress is going to reserve to itself the right to approve guarantees of loans for defense projects, as it already has, should it not do so in the case of commercial projects? What makes this particular commercial project so much more important? There is no satisfactory answer to that question.

Mr. WEICKER. Will the Senator yield for a comment?

Mr. STEVENSON. I am glad to yield.

Mr. WEICKER. I will tell the Senator what I think it is.

Mr. TOWER. Mr. President, who has the floor?

The PRESIDING OFFICER. The junior Senator from Connecticut has the floor.

Mr. WEICKER. I will tell the Senator what I think it is, at this point in time: Pride of authorship. Anyone who has been a proponent of the bill says it has to be done this way, by this date, and we cannot deviate on it. So far as I am concerned, pride of authorship does not stand very tall next to the great principles that are being argued in this bill. Certainly, if there is a little deviation in the date, it might be the healthiest thing that ever happened for this legislation.

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

Mr. WEICKER. I yield to the Senator from Illinois.

Mr. STEVENSON. Assuming, for the sake of debate, that this was a meritorious loan guarantee for Lockheed, does the Senator know of any reason why—whether it takes 60 days or 90 days, or whatever, for congressional disapproval or approval, as the case may be—the banks could not make that temporary financing available? According to the cash-flow figures that have been given us by the Lockheed Corp., as the Senator knows, it would require only $25 million during that period.

Does the Senator know of any reason why Lockheed could not arrange interim financing, fully collateralized, with those banks for $25 million, and why it could not obtain it, if it is so important for the public interest, from the Federal Reserve Board, which, as the Senator knows, has the authority, under existing statutes, to make such short-term credit available?

Mr. WEICKER. I am not going to speak for the bank. All I am saying is that a little extra time on behalf of the American people—on behalf of the American people—to make sure that it has been given the most thorough type of scrutiny, certainly should not upset anybody unless—unless the lid on the garbage can only hold the smell back for so long. That is the only reason I can

figure out. Certainly, the additional time provisions called for in the bill are not going to make that much difference, unless somebody wants to run one through fast. That is exactly why we are here now. Fortunately, a majority of our colleagues felt additional debate was necessary on this particular motion.

I think this is a superb and an absolutely necessary amendment. I am not one to give advice to the proponents of the bill as to tactics to use to get it through, but I think it would go a long way to convince much of the Senate that everything is on the up and up so far as this legislation is concerned, were it accepted by the committee.

I would hope that the Senator from Illinois has had discussions with the committee, and that they have shown interest in supporting this amendment.

Mr. STEVENSON. I thank the Senator.

Mr. WEICKER. The point that I started to make a few minutes ago was as to the administration's support of this legislation and the fact that differences have been aired and persons within the administration have said that they are or they are not for this type of legislation.

I want to make one thing very clear and put it on the RECORD. I think there is a definite difference of opinion within the administration, and I do not think it is anything that has to be covered up by anybody. I think it is one of the most refreshing things I have seen since I have been in Congress, and I think it stands to the great credit of the administration that such differences exist. Really, we are not all schoolboys around here, to have a group of letters rushed in the next day to make it look as though everything is all right again. It just makes one sniff a little bit harder as far as the bill is concerned.

This really answers the question as to what the committee is trying to do with this particular amendment. We will get the answer from the committee and the position they take should make the situation clear.

If, in fact, the committee opposes the amendment of the Senator from Illinois, then clearly they are saying Lockheed is an exception to the legislation which they are requesting the Senate to pass. There cannot be any variation of that whatsoever. Lockheed is an exception—we admit—to this proposal, to the original bill.

Again, before sitting down and yielding the floor to my colleague from Texas, I repeat the statement made earlier that this cannot blithely be explained away as only being a guarantee of $250 million, that it really does not come out of the pocket of the taxpayer, and that if everything goes wrong, we have sufficient assets to collateralize this loan so that really there will not be that much of a loss. We are setting aside $250 million in case the worse does happen, so to that extent it is the taxpayers' credit that is being pledged.

Point No. 2, even more frightening to me, is that we now have an interest in Lockheed. More particularly, we have an interest in the assets of Lockheed. The Government, once it takes this position, cannot afford to see those assets depleted unless they are willing to reduce the security of the loan.

Where does that leave me, or any of us in the Senate, when the Lockheed Corp. is in competition with United Aircraft for a Government contract, or with General Electric, or with North American Rockwell, or with Fairchild-Hiller, or with Boeing? I can go right down the list. Where does it leave the Government? It leaves them with the fact that it is to the Government's financial interest to see that Lockheed gets the business so that the assets will not be depleted. That is the whole trouble with the Government's getting into private enterprise. It comes down to being a matter for the public good to boost Lockheed even more. One of the great difficulties here with the step we are being asked to take is that if we are going to make that first step let us have the question go out of the Senate smelling clean, with no exceptions. That is why I support the amendment of the Senator from Illinois, because I think that what he has done is to say to the American people that if circumstances have so changed that the Government has to assume this new role, at least let us assume it from the outset with integrity and not in a slipshod, mediocre, around-the-corner, type of way. That way belongs to Lockheed. That is why we are here today. For heaven's sake, let us not have it assumed by the Senate.

Mr. TOWER. Mr. President, I oppose the amendment offered by the junior Senator from Illinois. My opposition is not because I want any special treatment for the Lockheed Aircraft Corp. as has been suggested by some as the purpose of the October 1, 1971, date being included in our committee bill. I oppose it because I believe that the conditions of the bill should not require a much greater burden on Lockheed than would be imposed on any other company that may apply for a loan guarantee.

Mr. President, section 12 of the pending bill states that the Emergency Loan Guarantee Board shall not guarantee or make a commitment to guarantee any loan after October 1, 1971, unless:

(1) at least twenty calendar days prior to making such guarantee, the Board transmits to the Congress a notification of its intention to make such guarantee together with a detailed justification therefor; and

(2) a period of twenty calendar days of continuous session of the Congress following the date on which the notification is transmitted elapses, and during such period there is not passed by either the Senate or the House of Representatives a resolution stating in substance that the Senate or the House of Representatives, as the case may be, does not approve the proposed guarantee. For the purposes of this paragraph, in the computation of the twenty-day period there shall be excluded the days on which either the Senate or the House of Representatives is not in session because of adjournment of more than three days to a day certain or an adjournment of the Congress sine die.

Mr. President, this is the only provision in the entire bill which was, according to my recollection, included as a result of a unanimous rollcall vote in the committee. I have carefully reviewed the transcript of our executive session on this matter and find that it was not a vote on which any of the members of the committee were in doubt. It was discussed thoroughly as is shown from 23 pages of the transcript. Alternatives were offered and this measure was the final, unanimous decision of the committee.

In discussing the congressional review issue, there was no doubt that additional congressional review would not be involved so far as a Lockheed loan guarantee might be concerned. I do not wish to quote from our executive session, but I can say that it was stated on several occasions that none of the measures on which we were voting would apply to a Lockheed loan guarantee because the language of the amendments said that congressional review would not apply to any loan, a commitment of which was made before October 1, 1971. Members of the committee knew that there would be no way for the congressional review requirement to apply reasonably if we were to give Lockheed a chance to be helped under the legislation because of the rapidly approaching time when the various suppliers and purchasers involved in the Lockheed issue had said that they could not afford to go beyond without a decision on the matter.

The fact is that millions of dollars are being invested every week, and to withhold a decision on Lockheed as would be required if the amendment were to be approved by the Senate puts all of the small suppliers as well as Lockheed in the unacceptable position of spending millions of dollars, all during our recess, which may in fact be wasted. I cannot believe that any Member of the Senate desires this.

Mr. President, I have shown that the committee fully realized that it was excluding Lockheed from this additional congressional review before it ever voted on the issues in the committee. I have also shown that the proposal included in the bill received a unanimous vote from the committee's 15 members. The rationale of excluding Lockheed is very simple. As the Senator from Wisconsin and others have amply demonstrated, Lockheed has already been the subject of congressional review for a much longer period than is required by the language in the bill. The administration transmitted a draft bill providing for legislation under which the Lockheed Aircraft Corp. could obtain a loan guarantee. A few days later, May 18, 1971, S. 1891 was introduced by the senior Senator from Alabama, the chairman of our committee. There has been no question that the purpose of that legislation was to make it possible for the Lockheed Aircraft Corp. to obtain private financing with a Federal Government guarantee.

Since the legislation was introduced, 70 calendar days have elapsed, and the Senate has been in session for 42 days, including today, July 26. This has certainly given Congress ample opportunity to consider the Lockheed guarantee. As the Senator from Wisconsin has stated, everyone expects the Board to grant the guarantee if the legislation is enacted even though the final decision is to be made by the Board. If Congress approves

this legislation, it is in effect saying that it does not desire to veto the decision of the Emergency Guarantee Board in the Lockheed case.

If we were to apply the 20-day congressional review period contained in the bill for all decisions made after October 1, 1971, to the Lockheed case, we would in fact be requiring an unacceptable delay. We all know that the moment of truth on the Lockheed issue is August 6, just less than 2 weeks from now. That is the important date, not because the British Government has set it or because the airlines find delay beyond that date unacceptable, but because the Congress of the United States goes on recess that day and does not intend to return until September 8. Even though we complete action on this bill by August 6, which I feel sure we will, the 20-day congressional review period would not begin until we come back on September 8. The need for cash to meet the requirements of the Lockheed Aircraft Corp. must be met before that time or the alternative is bankruptcy for the corporation.

Mr. President, if we approve this amendment, it would be very unlikely for a loan guarantee commitment to be possible for the Lockheed Aircraft Corp. before the middle of October, or a good 60 days after the time when the decision is necessary, and 5 months after the issue first received congressional attention. In summary, let me say that a vote for this amendment is a vote to deny the Lockheed Aircraft Corp. access to the procedure which we are setting up to assist major businesses in critical periods. If that is what the Congress desires to do, the Members should support the amendment. If, in fact, we want to give Lockheed at least a chance, the amendment should be defeated.

Mr. President, we have debated the substance of this issue ad infinitum and I therefore move to table the amendment of the Senator from——

Mr. PROXMIRE. Mr. President, will the Senator yield before he does that?

The PRESIDING OFFICER (Mr. TUNNEY). The motion has been made. The motion is not debatable.

Mr. PROXMIRE. I just asked the Senator to withhold——

Mr. TOWER. For how long?

Mr. PROXMIRE. For a minute or two, I want to clarify the——

Mr. TOWER. I will withdraw my motion and yield to the Senator from Wisconsin (Mr. PROXMIRE) for a question, with the understanding that I do not lose my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered, and the motion is withdrawn.

Mr. PROXMIRE. I want to clarify at least one question, because I do think that many of us are confused about this amendment. It came suddenly. It is an important amendment. Is it true, I ask the Senator from Texas, that the bill as now drafted provides that after October 1, any guarantee made by the Emergency Guarantee Board must come before the Congress—before either Senate or House?

Mr. TOWER. That is correct.

Mr. PROXMIRE. For an action—a negative action?

Mr. TOWER. It must. It must.

Mr. PROXMIRE. It must. On the other hand, a guarantee made before October 1 is not subject to that kind of negative action by either House or Senate, is that correct?

Mr. TOWER. That is correct.

Mr. PROXMIRE. What this means, then, is that if we table the Stevenson amendment and then pass the bill, Lockheed would not be subject to any kind of Senate or House action—negative action; is that correct?

Mr. TOWER. That is correct.

Mr. President, I move to table the amendment of the Senator from Illinois (Mr. STEVENSON).

The PRESIDING OFFICER (Mr. TUNNEY). The question is on agreeing to the motion to table the amendment of the Senator from Illinois.

On this question and 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 Indiana (Mr. BAYH), the Senator from Mississippi (Mr. EASTLAND), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Utah (Mr. Moss), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PELL), and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I further announce that, if present and voting, the Senator from South Dakota (Mr. MCGOVERN) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Kansas (Mr. DOLE) is necessarily absent.

The Senator from Nebraska (Mr. HRUSKA) is absent because of death in his family.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), and the Senator from North Dakota (Mr. YOUNG) are detained on official business.

The result was announced—yeas 38, nays 45, as follows:

[No. 164 Leg.]

YEAS—38

Allen	Curtis	Packwood
Bellmon	Dominick	Pearson
Bennett	Ellender	Prouty
Bentsen	Fannin	Roth
Boggs	Fong	Scott
Brock	Gambrell	Smith
Buckley	Goldwater	Sparkman
Cannon	Griffin	Stennis
Case	Gurney	Talmadge
Cook	Hansen	Thurmond
Cooper	Hollings	Tower
Cotton	Mathias	Tunney
Cranston	Miller	

NAYS—45

Aiken	Church	Hughes
Anderson	Eagleton	Jackson
Beall	Ervin	Javits
Bible	Fulbright	Jordan, N.C.
Brooke	Gravel	Jordan, Idaho
Burdick	Harris	Kennedy
Byrd, Va.	Hart	Magnuson
Byrd, W. Va.	Hartke	Mansfield
Chiles	Hatfield	McClellan
McGee	Percy	Spong
Metcalf	Proxmire	Stevens
Mondale	Randolph	Stevenson
Montoya	Ribicoff	Taft
Nelson	Saxbe	Weicker
Pastore	Schweiker	Williams

NOT VOTING—17

Allott	Humphrey	Mundt
Baker	Inouye	Muskie
Bayh	Long	Pell
Dole	McGovern	Symington
Eastland	McIntyre	Young
Hruska	Moss	

So Mr. TOWER'S motion to table Mr. STEVENSON'S amendment was rejected.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Illinois.

Mr. TOWER. Mr. President, a great deal has been said about the pressure being put on us by the Lockheed lobby. Of course, nothing is said about the General Electric lobby, and I believe General Electric, from the standpoint of total assets, is a much larger corporation. It does three times the annual volume in business. But it might be worthwhile for Senators to know what happens if there is not going to be competition.

In very recent weeks, the Trans World Airlines Co. received separate notices from the McDonnell Douglas Co., the manufacturer of the DC–10, and from the General Electric Co., the manufacturer of the engines for the DC–10. The McDonnell Douglas notice indicated that the DC–10 would be available to TWA, and other potential purchasers, with GE engine prices at the current level if orders were made by August 10, 1971.

Now, what kind of pressure are we talking about here? What they are saying is, "You had better make your orders with us before August 10 or the price is going to go up." Of course, if we do not act, there will not be any competition in the field after August 10.

The GE Co. notified TWA that any orders for engine spares made after August 15, 1971, would be subject to increased prices.

Now what is the pressure we are talking about?

Charles C. Tillinghast, TWA board chairman, said these two notices indicated that there would be a $12 million price increase after these dates on a quantity of 20 DC–10's TWA is considering in the event that Lockheed L–1011 is canceled.

Eastern Airlines, one of the other major L–1011 customers, received similar notices in recent weeks from McDonnell Douglas and General Electric. Eastern has stated that the price increase effects on DC–10 orders after August 10, 1971, for Eastern would be comparable to the effect on TWA.

Mr. President, the timing and the amount of these price increases by McDonnell Douglas and General Electric places enormous economic pressure on TWA and Eastern to cancel their Tri-Star orders and shift to the DC–10, unless the Congress has completed its action on this legislation before the August recess.

I am not suggesting that the timing on these price increases was deliberately chosen to complicate matters for TWA and Eastern. Nor is it really necessary to inquire into the motivation for these

actions. But we in the Senate cannot ignore the plain, hard economic implications of these decisions by GE and McDonnell Douglas. I believe that faced with these facts we have no choice but to make final disposition of this issue—either up or down—before the August recess.

The amendment proposed by the Senator from Illinois would, of course, if it carries, result in the L–1011 going down the drain, Lockheed going down the drain, and as a result McDonnell Douglas being able to jack prices up as high as they want to.

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

Mr. TOWER. I yield.

Mr. GAMBRELL. I would like to say, in further reference to the point the Senator has made, that much has been said about the discipline of the free enterprise system, and very little has been said about the windfalls and bonanzas that occur in this type of free enterprise system.

If the L–1011 program fails, as it will fail if this loan guarantee is not provided, McDonnell Douglas will get a windfall amounting to $1.4 billion in investment because they will inherit the business that Lockheed Corp. has gotten or would have gotten in this program.

I suggest that the winners then will be not only McDonnell Douglas but those people who are wise enough to go out and buy McDonnell Douglas stock and participate in the windfall that will naturally occur from the failure of this Congress to support the L–1011 program, not with money or loans or dollars out of the Treasury, but with a guarantee of loans to be made by banks.

We have talked about the disciplines of the free enterprise system enough; we need to reflect on some of the windfalls which may occur.

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

Mr. GAMBRELL. I yield.

Mr. TAFT. I would like to propose a question to the Senator. I would like to have him explain how something is a windfall when the Government is not in it at all, when we are allowing the private market to make the determination, when we do not know as a certainty that Lockheed will fail, when we have evidence that a referee in bankruptcy will see that that program is carried on, which he probably will do.

When the windfall backed by the British Government was being proposed in 1968, I revealed a memorandum indicating that certain officials in our Government would look with favor to replacing all our airbus engines at that time with the Rolls-Royce engine. That was stopped. We got denials from the Secretary of Transportation; he backed away from that.

But the pressures we are talking about are pressures upon the Government. The pressures of private industry that the Senator is talking about here may or may not be accepted by the other party, but the pressures being put on Congress are the deadlines set by whom? The British Government itself.

Mr. GAMBRELL. That is not accurate. The deadline set here is set by the banks, because they are the ones being asked to lend the money on the L–1011. Yes, they can take into account what the airlines have said. Yes, they can take into account what the British Government has said, because they are the other participants with Lockheed in this project. But the banks have it within their control to say, "No, we are not feeding this any longer. Nobody wants competition"——

Mr. TAFT. If the Senator will yield, they are not going to be able to make further loans without our Government's guarantee. They are not going to ask the Government to make a guarantee unless they have a guarantee from the British Government to go ahead with the engine, with the guarantee of the British Government.

Mr. GAMBRELL. The British Government fixed a deadline in February, and they have been putting in their own cash money. The United States will not put in any of it until, apparently, $1.4 billion has gone down the drain.

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

Mr. GAMBRELL. I yield.

Mr. BROCK. I would personally object to any corporation or any nation's deadline, but I wonder sometimes if those who talk about pressures on Congress have seen bodies of Congress vote out defense authorization bills of $20 billion in less than 1 hour. Now we seem to be reacting adversely to excessive pressure.

The deadline is the deadline of payments being made on homes, refrigerators, and automobiles, by 14,000 already out of work, and another 16,000 who would be out of work and on the welfare rolls, just in direct jobs, not counting 30,000 additional people who would be put out of work if this amendment is adopted and Congress fails to act. That is the deadline we should consider, not the deadline of Rolls-Royce or some other manufacturer. I am talking about the deadline of the people who have to make payments.

Mr. GAMBRELL. I could not agree with the Senator more. We are not talking about a deadline of which we knew nothing. We have known about this deadline since February. Ever since I came to the Senate we have known that Lockheed was going to ask for such a guarantee. We have known of that issue all along. Anybody who wanted to know about it has had the opportunity, because it has been in the front pages. We have had full knowledge of it.

There is no question of further Congressional consideration of this loan guarantee after the August recess. I hope by the time we go home for the August recess the issue is behind us. I have heard as much as I would like to hear. When the committee hearings were had, the Senator was present when we said, "Let us not go through all the agony of this hearing if we are not going to deal with the problem up or down before August 6 or 8."

The members of the committee who are here, including both the Senator from Ohio and the Senator from Illinois, were present. They had an adequate opportunity to review this question, and I think they would agree that they have had the matter under consideration long enough to have the matter reviewed by both Houses.

Mr. BROCK. I think it is most interesting that it seems as though the proponents of this amendment and the opponents of the bill want to have their cake and eat it, too. They propose an amendment which would take Lockheed out of the bill, and say we should consider only generic legislation, but when we propose some so-called generic legislation, they say, "You are getting away from the basic problem, the problem of Lockheed; we ought to just consider that."

I question the sincerity of their position. The proposed amendment would have the pure and simple effect of eliminating the possibility of reinstating those people who have lost their jobs and giving them the opportunity to maintain productive employment.

Mr. GAMBRELL. I much appreciate the comments the Senator is making with reference to deadlines on payments on houses, automobiles, air conditioning, and refrigerators. We were entertained with a colloquy the other day between the Senator from Wisconsin and the Senator from Louisiana about, I believe it was, Bob and Jake's Restaurant in Baton Rouge, La., and what they would have to say about Congress granting loans to big corporations and not to small businesses.

There are a lot of small people who are affected vitally by this issue, and need to have it settled. That is the deadlines we are talking about. We are not talking about the sort of deadlines on the bill before us, where for 6 months, we have been talking about emergency legislation. Mr. President, if we cannot act on emergencies within 6 months, we might as well outlaw any emergency legislation in this Congress, because we are unable to deal with emergencies.

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

Mr. GAMBRELL. I yield to the Senator from Ohio for a question.

Mr. TAFT. I would like to present this question for the Senator's consideration: Is it not true that the General Electric Co. has already laid off 7,000 men, and that those men are already off work, and that many of them were laid off in connection with further engine production? They are at least as far behind with their payments, I am sure, as any employees laid off at Lockheed. As a matter of fact, Lockheed's layoff presumably has not yet occurred; they seem to be maintaining a force to complete this program.

But if we are going to talk about jobs in this situation, I am ready to talk about them, because there cannot be any argument that through the manufacture of DC–10's with U.S. engines we are going to have more American jobs and more people on payrolls in the United States than if we go ahead with a plane with the engine production in Great Britain, and leave the jobs there.

I am sorry about those men who may be laid off, too. But if we have a choice, I think our responsibility is to be concerned with jobs in the United States. I covered this thoroughly the other day.

The likelihood of loss of jobs here is something we can only speculate on. Maybe the trustee in bankruptcy would decide it was the part of wisdom to direct the use of U.S. engines on the L–1011.

There is over $200 million, I believe, in inventory with regard to the L–1011 airframes and engines. I cannot conceive of a trustee in bankruptcy not attempting to reorganize and go ahead with the program.

Mr. GAMBRELL. I would anticipate, since the Senator continues to make the suggestion that a trustee in bankruptcy may go forward with this program, that the testimony has universally been that the trustee in bankruptcy would not be able to go ahead, and this would be a washout.

Speaking personally from experience, I would anticipate that the trustee's first move would be to come to the U.S. Government and say, "If you can get my loan guaranteed at 24 banks, we can go on with this program, otherwise we cannot."

Mr. TAFT. Mr. President, will the Senator yield on that point?

Mr. GAMBRELL. I yield for a question.

Mr. TAFT. I have introduced a bill that would enable the Government to do exactly that. I intend to offer an amendment to this measure to do exactly that, but only after a chapter X reorganization has been filed, or chapter 77 in the case of loans.

Under those circumstances, you do not have to say it is a failure situation. You go ahead and try to reorganize the company, to keep the men employed and to protect all other interested parties. But the entire situation would remain before Congress on the basis of an ongoing enterprise.

Mr. GRIFFIN. That same trustee in bankruptcy would have a privilege that Lockheed does not have, and that is to renegotiate contracts for defense procurement.

Mr. TAFT. Mr. President, will the Senator yield on that point? I believe the Senator is in error.

Several Senators addressed the Chair.

Mr. TOWER. Mr. President, will Senators forbear for just a moment, and let me address the distinguished acting majority leader on the program for the remainder of the day?

Mr. BYRD of West Virginia. Mr. President, in response to the Senator's question, there will be no more rollcall votes today. I have discussed the pending amendment with parties on both sides of the question, and it is obvious to me that there will be no final disposition of that amendment today.

Mr. TOWER. What time does the Senator anticipate the Senate will convene tomorrow?

Mr. BYRD of West Virginia. The Senate will stand in recess, upon the completion of business today, until 10 a.m. tomorrow.

Mr. TOWER. I thank the Senator.

Mr. TAFT. Mr. President, will the Senator from Georgia yield?

Mr. GAMBRELL. I yield for a question.

Mr. TAFT. I would like to ask the Senator if he is sure he is correct in the statement he has just made. I have just today reviewed the law on this subject, and I find that trustees in bankruptcy, or the limitations on the powers of the court to approve the recommendations of trustees in bankruptcy, have a specific exception, which provides that the trustee may not void contracts involving the U.S. Government. There is a specific exception in the law in this regard. So I think the Senator is in error.

Mr. GAMBRELL. I am talking about as a practical matter, on the basis of my experience. As a practical matter, the trustee in bankruptcy says:

> I can go forward under these conditions, otherwise I cannot, and the government and everybody else will have to accede to it.

So that beautiful provision of the law just does not work in practice, and that is why it is absolutely foolish to put this company into bankruptcy, to go back and do over just exactly the thing we are talking about doing now.

Someone asked one of these law professors, "What would you do if you were the trustee in bankruptcy for this company," and he said, "Well, first I would go back and see if I could get an advance, then I would go to Rolls-Royce and see if they could build the engines, and then I would go to the airlines and see if they wanted to retain the orders."

I thought to myself, this is exactly what Mr. Haughton has been doing for the last 3 or 4 months; why should we send it to bankruptcy court, to go through the exact same business transactions, and have the trustee in bankruptcy come back to Congress with exactly the same package?

If the people who have the most at stake in this program have said we ought to go forward with it, the airlines, the subcontractors, the suppliers, the banks, all of those who have a billion and a half dollars to lose in this thing before the Government loses a dollar, if they all say we ought to go forward with it, it seems to me the best possible judgment at this point would be to go forward, and not to say, "No, go down to the bankruptcy court and go through the same routine and come back with the trustee in bankruptcy." It does not make practical sense to me at all.

Mr. TAFT. Mr. President, I would not want the Senate to have the misimpression that we are talking about public contracts here. We are talking about private contracts. However, Lockheed has many public contracts, many of them with sizable, ongoing, profitable subsidiaries of Lockheed Aircraft Corp.

Under those circumstances, to say that the trustee in bankruptcy would somehow have to void or say he had to void, or ask for voiding, unless the U.S. Government goes along, of a good contract, I think speaks for itself as being fallacious.

Mr. PROXMIRE Mr. President, will the Senator from Georgia yield to me for a question?

Mr. GAMBRELL. I yield to the Senator from Wisconsin for a question.

Mr. PROXMIRE. Did the Senator from Georgia understand the acting majority leader to indicate there would be no vote tonight, because of objections from people on both sides of the question, or objection from some of the Senators concerned?

Mr. BYRD of West Virginia. Mr. President, let me answer that, if I may.

I indicated that, having discussed the matter with parties on both sides of the question, there appeared to me to be no inclination to dispose of this amendment tonight.

Mr. PROXMIRE. May I further ask the Senator——

Mr. BYRD of West Virginia. Mr. President, let me make the record clear, inasmuch as the Senator has referred to the acting majority leader.

I did not mean to imply, in having said that, that there was opposition on both sides of the question to a vote tonight.

Mr. PROXMIRE. Is it not true that no one on the side of the question who supports the Senator from Illinois (Mr. STEVENSON) objected?

Mr. BYRD of West Virginia. I do not know whether that is true or not.

Mr. PROXMIRE. Did anyone object to the acting majority leader?

Mr. BYRD of West Virginia. I can only state that no one on that side of the question indicated opposition to a vote tonight.

Mr. PROXMIRE. It is my understanding that those who are delaying a vote now are those who are on the side of the bill. Those of us who have been in favor of the position taken by the Senator from Illinois in this case, and some of the rest of us, are anxious to have a vote. We would be delighted to have a vote tonight. The acting majority leader has announced that there will not be a vote tonight, so I am not going to press it.

I hope I am not going to be put in the position where I have to start organizing a cloture motion so that we can get a vote on the pending Stevenson amendment.

I hope the Senator from Georgia does not intend to filibuster this amendment. If he does, I think it would be interesting to have notice of it.

Mr. BYRD of West Virginia. May I state that, so far as the junior Senator from West Virginia is concerned, I have no objection to having a vote tonight. I can vote at any time and would be glad to vote at any time on the pending question. But the question was asked by the able Senator from Texas as to what the program was for the rest of the day, and I think I stated the situation factually when I indicated that, in my judgment, there would be no more rollcall votes today. That was based on discussions I had had with Senators. Of course, any Senator who wishes to talk on the matter late into the evening may do so and thus delay a rollcall vote until tomorrow. There is no inclination on my part, certainly, to delay a vote.

Mr. PROXMIRE. I understand. I simply want to say to the acting majority leader—the Senator from Illinois is in the Chamber, and he can correct me if I am wrong—that those who are delaying the Senate's progress on the bill are those who favor the Lockheed guarantee and favor going ahead with it. They are now, for some reason, delaying us from coming to an early vote.

Mr. GAMBRELL. My understanding of the opposition to the tabling motion was that some thought it ought to be debated further; so I thought we were going on with what the opponents of the tabling wanted to do. Perhaps they have changed their minds as to what they would like to do.

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

Mr. GAMBRELL. I yield.

Mr. STEVENS. I should like to ask a question about the date in controversy and whether the amendment of the Senator from Illinois is opposed because of the provision on page 10, line 24, that suspends the 20-day period while the Senate and the House are not in session for more than 3 days. Does the opposition to this date come about because of the August recess?

Mr. GAMBRELL. I have to get the language of the bill.

I wonder whether the Senator from Illinois would care to respond to that, as to the effect of his amendment.

Mr. STEVENSON. I cannot say what reason the opposition has. The Senator from Alaska has the proper interpretation of the bill. It would give either House of Congress 20 session-days in which to disapprove. This means that, with the August recess intervening, Congress could not act until some time in September or October.

I might add, however, that, according to the cash flow charts of the Lockheed Corp., by October 1 it would need only $25 million to tide it over. There are many ways—including secured, short-term credit agreements or loans by the Federal Reserve Board—by which it could acquire that short-term financing.

Mr. STEVENS. Why have this provision for a 20-day period if the October 1 date comes out?

Mr. GAMBRELL. The October 1 date was put in along with the entire congressional review provision. In other words, the committee felt that there should be provision for congressional review of loan guarantees of this type. However, it was felt that Lockheed had been more than adequately reviewed so far as Congress was concerned, or would be by the time the bill was voted on, if it was approved, and that it should not be necessary for Lockheed not only to have to go to the new board but also to come back for further review, particularly in view of the fact that it had been stated pretty plainly by the bankers, by the British Government, by the airlines, and by all concerned, that Lockheed could not wait until after the August recess, plus 20 days after that. They would be in bankruptcy.

Mr. STEVENS. That is my question. Why impose the 20 days on the Lockheed loan if that is the real problem? I wonder why we cannot make an exception for the August recess in a subsequent provision of the bill and not deal with a special provision for Lockheed. Lockheed only needs a special provision in here because we are going to take a month off in August. Is that correct?

Mr. GAMBRELL. Lockheed does not have a special provision. The way the bill is written now, if the board approves their loan guarantee now, it will be approved for the 1st of October, and it will not have to come back to Congress for review.

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

Mr. GAMBRELL. I yield for a question.

Mr. WEICKER. Is it not true that the October 1, 1971, date was put in there for Lockheed?

Mr. GAMBRELL. Yes. There is no doubt about that. No one ever questioned it. The Senator from Connecticut has treated it as though he discovered a nugget in the midst of all this, and we put it in there.

Mr. WEICKER. I am trying to clarify the question raised by the Senator from Alaska.

Point No. 2 is that, since we have not passed the bill, the Board has not been set up—the Board consisting of the Secretary of the Treasury, the Chairman of the Federal Reserve Board, and the president of the board in the district—so they have not set up any criteria in the evaluation of any loan request. Does the Senator from Georgia know that the Chairman of this Board will be Arthur Burns, since he is the Chairman of the Federal Reserve Board? Does the Senator know that Mr. Burns said in his testimony:

> Let me say that I have not studied the Lockheed finances sufficiently. The President assigned this task to the Secretary of the Treasury some time ago. He has worked at it. In these circumstances, I did not consider it my duty or responsibility to involve myself in the details of Lockheed finances.

This is the man who is going to head the Board that is automatically going to put its stamp of approval on the loan guarantee.

Mr. TOWER. Mr. President, will the Senator yield? He is not——

Mr. WEICKER. I do not yield.

Mr. TOWER. The Senator is incorrect.

Mr. WEICKER. He has not involved himself as a member of the Board, has he?

Mr. GAMBRELL. All we are talking about is whether they have to come back to Congress, not whether they have to go before the Board.

Mr. WEICKER. The Senator not only is trying to eliminate congressional review, but also, he is saying to this Board that the Board is automatically going to recommend the Lockheed loan, when the members of the Board, themselves, say they know nothing about the finances of Lockheed.

Mr. GAMBRELL. This is a conclusion that the Senator would like everyone to jump to.

All this provision of the bill says—and if the Senator reads it honestly and with an open mind and a fair mind and a nonrhetorical approach to the matter, he will see it—is that Lockheed, prior to October 1, can go to this Board and can ask for a loan guarantee.

If they do not get it, they are just out of luck. That is all there is to it. But if they do get the approval of the Board, they do not have to come back to Congress, and we do not have to go through all this again. Once this bill has been passed, a majority of the Senate would have said, "We are going to let Lockheed get their loan guaranteed if the Board agrees to it." It seems to me eminently reasonable.

We have passed billions and billions of dollars in appropriations by unanimous consent, and we have spent 2 months arguing about whether we are going to grant a very minimal risk of the possibility of losing a quarter of a billion dollars in a loan guarantee which will follow, a dollar of which will not be spent until a million and a half dollars of private investment has gone down the drain.

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

Mr. GAMBRELL. I yield for a question.

Mr. STEVENSON. Mr. President, I think this matter has received lengthy debate. I do not want to be party to an extended debate on my amendment. I do not want to be party to a filibuster. I think the Senate should be permitted an early vote on this amendment and also on the underlying legislation.

Therefore, I ask unanimous consent that 1 hour be set aside tomorrow for debate on this amendment, with the time to be equally divided between the two sides.

Mr. TOWER. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. GAMBRELL. I might say, Mr. President, that I understood that those who objected to tabling the motion were interested in further debate, and the more I hear from the Senator from Connecticut, the more I think maybe the amendment does need more debate and discussion in order to be clearly understood. I am not seeking to conduct a filibuster on the matter, but I think that the Senator had asked for a discussion of the matter. They have demonstrated the need for discussion of the matter so that the issue becomes clearer on what we are talking about; namely, have we reviewed the matter, or will we review it by the time we vote on it, or will we not have done so? It seems to me that we will have reviewed it.

Mr. PROXMIRE. Mr. President, will the Senator from Georgia yield?

Mr. GAMBRELL. I yield for a question.

Mr. PROXMIRE. I believe that the Senator from Georgia is making a great deal of sense in this regard. I would agree that there should be more debate on this amendment, but I hope that the Senator from Georgia will recognize that this is only one of a series of amendments that need this same kind of comprehensive and full debate. This is a complicated bill. There are all kinds of things in it which should be explained, challenged, examined, and so forth. If we will do that, we will have a much better bill.

It will be hard to do that under the limitations of cloture. In fact, it will be impossible. The distinguished Senator from Georgia who has spent a lot of his time discussing the bill, the Senator from Texas from whom we have heard on the bill, and the Senator from Tennessee, have all been discussing the principles behind the bill. I think that the Senate would be enlightened to hear the wisdom

of the Senator from Georgia, the Senator from Tennessee, and the Senator from Texas, and many other Senators, on other amendments that we wish to discuss. The Senator from Georgia is fighting a good fight in a cause in which he believes, and we should have considerably more debate on this amendment and, I think, on others.

Mr. GAMBRELL. I should like to point out that on the motion to table there were 17 absentees. I think it is important that we have the presence of all Senators voting on an amendment of this kind. According to the entire record, it will be the end of the Lockheed Corp. itself if the amendment is adopted, on a matter which has been before us on an urgent basis for 2 months now. The only reason we are discussing it today is due to the urgency of the Lockheed situation, and we are entitled to have a vote on it.

Mr. STEVENS. Mr. President, will the Senator from Georgia yield?

Mr. GAMBRELL. I yield to the Senator from Alaska for a question.

Mr. STEVENS. I would merely ask my colleagues to take a good look at the vote, at the bill, and at the provisions of the bill. It seems to me the October 1 date—and correct me if I am wrong—is there as a special provision for Lockheed. There are many who believe that a general bill may not be bad but that a special bill, clothed in the cloak of a general bill, would be bad.

I made the point, and I still think it is valid, that all we need to do is not make the recess period of August count toward the 20-day period, but make it come up on the first day when we come back.

Even with the amendment of the Senator from Illinois in the bill, we still do not have a special provision in here for one company. Many of us have objected to a special bill or a general bill. We have a general bill and we find out that it is not a general bill because of the provision that makes it very special for Lockheed. I, for one, would very much like to see a vote come up on what the board has done on the Lockheed loan on the first day after the recess, because many colleagues might come back on the first day after the recess, if that happens. There is no problem about the amendment of the Senator from Illinois. We should make the provision run from the first day we come back. That is what gives us all this trouble. Let us suspend the provision, and we will vote on it the first day we come back, if they act that fast, and I do not see any reason why Lockheed should not come back here, if the Board gives them the loan.

Mr. GAMBRELL. I yield to the Senator from Texas for the purpose of responding to those comments.

Mr. TOWER. Mr. President, any company that comes in before October 1, not just Lockheed—if there be others, and I do not know of any others—but should there be any, any company would qualify that came in before October 1 for the immunity for the congressional approval. But the fact is, this is so urgent with Lockheed, they will go down the drain if we do not keep it in there. Let us be candid about it, that is what will happen. What the Senator proposes does not obviate the problem any. The airlines have to decide whether to stick to Tri-Star, and they have to do that very soon, made necessary by the jacked-up prices which involves the aircraft of McDonnell Douglas and GE who seized on the opportunity to raise their prices.

Mr. GAMBRELL. I might say, if the Senator from Alaska will permit me, that I hope the amendment of the Senator will allow the committee some credit for having evaluated the considerations being raised here. This particular proposal was put in as part of the congressional review procedure. It was done in a very deliberate and careful way by the committee. The consideration that the Senator urges right now was put forth in the committee, that if it is to be a general bill, let it be a general bill, but they recognize that Congress should not play cat and mouse with Lockheed, that if Lockheed has a crisis to be dealt with, we have to deal with it and face it.

No one is trying to cover up the situation at all. All that has been said in reference to a general or generic bill is that there may be other situations we do not want to have to dispose of every 2 months on every one of these things that come up.

If there was a special exception made for Lockheed it has been because Congress felt there was a particular need by many people who are poorly informed on the subject. This is the importance of having a board review the matter and come back with an expert opinion on what should be done. In this case, they may look at this thing and turn it down. We do not know. I am simply saying that we do not want to bring Lockheed back before the Congress recesses—for goodness sake, we have heard about enough.

Mr. STEVENS. May I ask a question right there: Why not? We do not know what the terms of the legislation, we do not know what the conditions of the loan will be. I do not see how we can pass special legislation under the guise of general legislation. The Senator is giving, no matter what he is saying, intentionally giving to Lockheed an exception under the terms of a general provision. That is the real problem.

If I were to vote on a strict Lockheed vote, I would want to know that I am voting on a strict Lockheed vote and not have to go home and tell my constituents that I voted on a Lockheed bill but that what Lockheed got was in a general bill, through the back-door approach.

Mr. GAMBRELL. The only question is whether we are going to guarantee the loan that the banks will be making.

Mr. STEVENS. There is nothing in the bill that says we are approving those conditions, that they have to go by those conditions. They can change them, and if they do, they do not have to come back here, if they do not accept the amendment.

Mr. BROCK. Mr. President, if the Senator from Georgia will yield, I do not argue the intent of his question on what he is trying to achieve, but I think the point I make is twofold. First, the thrust of my amendment which is incorporated in the bill to which the Senator is now addressing himself, was to require congressional review just for the purpose that the Senator from Alaska mentions. But I think the Senator would have to recognize, as the Senator from Wisconsin (Mr. PROXMIRE) has diligently pointed out a dozen times or more during the course of this debate, that most of the hearings were on Lockheed—6 weeks of them. We heard every witness that the Senator from Wisconsin wanted to call, at least those who said they would come because they were against the bill.

The hearings have been exhaustive on the subject. The loan contract was submitted to the committee. The details of the commitment were made fully within the awareness of the committee. So, when we bring the bill to the floor of the Senate, as the Senator from Georgia has pointed out, it is not in a totally generic sense but with the full knowledge that Lockheed will get the first loan. We think that it should be one of the sections in the bill, with its approval on a generic approach, with a 2-year life.

One such question I heard the Senator state was, how can we have that in the bill. Whatever that says in the bill, if we followed the terms and conditions that were before the committee, it was a loan brought before the committee.

Mr. STEVENS. As I read the bill, does it not say that the board is going to do that and that the board has the leeway and the discretion to change it and can do something different than they brought before the committee. Is that not correct?

Mr. BROCK. Mr. President, if the Senator from Georgia would yield, the bill is very carefully drawn to take into account the criteria voted by the committee. With Lockheed they had to get very specific criteria. And the criteria do not go for Lockheed. They are in the bill, but they go for all corporations.

The Senator's point on congressional review would be valid if we could vote this bill up or down on the floor on the first day that the Senate returned from its recess.

I would think in all candor this would be something that could get this bill moving. But that is not what the Senator from Illinois suggests at all. His amendment would put it into October at best. And that is a totally destructive amendment, in effect.

Mr. STEVENS. Mr. President, may I ask one other question?

Mr. GAMBRELL. Mr. President, is it the proposal of the Senator from Alaska that the bill could not be amended as the Senator from Illinois has suggested. But if the bill passes before the recess, after the recess the bill could be reviewed. Is that in effect the proposal?

Mr. STEVENS. Mr. President, my suggestion would be to take the amendment of the Senator from Illinois and state that the time that we are in recess does not run against the time we are in recess.

Mr. GAMBRELL. In other words, the Senator is offering an amendment to his amendment to eliminate the 20-day waiting period.

Mr. STEVENS. I make the suggestion. I see nothing wrong with his amendment in either event, as far as I am

concerned. But from the point of view of the Senator from Georgia, his argument is that he cannot stand that delay after we get back and start the 20 days running then. I do not see why it should not start running now.

Mr. GAMBRELL. We have no evidence that if it is not concluded by August 6, it is over with. As the Senator from Texas pointed out, the price of competing airplanes keeps going up and a lot of other things take place at that point. I would think that if the economic facts show we can wait until the 8th of September, we could probably wait until the 15th of October. I do not know. I am just going on the record that we had before us that the situation would not stand a delay. It is not as if there had not been a delay. The matter has been before the Senate for over 2 months. It has been all over the newspapers for 6 months. It is not something on which the Senate is not going to negotiate the terms of a loan. It is a question of whether Lockheed will be saved from bankruptcy.

Mr. WEICKER. Mr. President, will the Senator from Georgia yield so that I may ask a question?

Mr. GAMBRELL. I yield.

Mr. WEICKER. Mr. President, the Senator from Tennessee commented that it is the proponents of the bill that want to have their cake and eat it, too. Yet, is not this particular difficulty we are being confronted with here that it is the proponents who, in effect, have pushed out a Lockheed bill under a generic cloak. The proponents of the bill want to have their cake and eat it, too. I cannot understand the accusations of the proponents along that line.

The difficulty that the Senator from Alaska has and that I have is that the bill on the floor is a generic bill. The admission of the Senator from Georgia is that there are exceptions in it specifically for Lockheed. Therefore, it is not generic. It is Lockheed.

The Senator from Tennessee and the Senator from Georgia say that hearings were held and testimony was taken. Testimony was taken on Lockheed. Testimony was taken for Lockheed and not on generic legislation.

Mr. GAMBRELL. Mr. President, this is the mistaken impression that has been repeated and repeated. I would like to clear it up for the Senator now, because I was at almost every meeting that took place.

Mr. WEICKER. Other corporations were asked to come and testify.

Mr. GAMBRELL. There was plenty of testimony on generic bills, yes, and other corporations came and testified, the point being that we started off with a bill that would have been limited to Lockheed. The Senator is correct. If I recall correctly, the Senator from New York (Mr. JAVITS) came in and said he would support the bill if, along with it, came the generic bill. He said that this was a generic problem in our economy and that we ought to consider the broader situation. We were willing to go into that. We extended the testimony for 4 or 5 days in order to take testimony on four or five generic bills that we had in front of us. It is not correct to say that we never heard anything on a generic bill.

Mr. WEICKER. Would it be fair to say on the basis of the committee effort that what we have is both a generic bill and a Lockheed bill?

Mr. GAMBRELL. That is a lot fairer than what has been said.

Mr. STEVENS. Mr. President, would the Senator yield?

Mr. GAMBRELL. I yield.

Mr. STEVENS. Mr. President, I would think many of us would have supported a generic bill that included the whole bankrupt spectrum and not just major enterprises. I have an amendment in for small business enterprises. The Senator from South Dakota has an amendment in for the farmers also.

The problem we have with the bill is that having made the suggestion—and I believe many Senators have made suggestions, that we would support a generic bill—we find that we have a generic bill wrapped around a very specific bill which has very specific guidelines and protections for one company which will not have to live up to the general criteria.

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

Mr. GAMBRELL. Mr. President, I will yield to the Senator in a minute to respond to that. We have to deal with a time limitation. As the Senator will recall from the hearings and from the procedures before the Committee on Banking and Currency, the committee concerned itself from the first day that I attended to committee sessions, with small business, with housing business, with farmers, and with people engaged in small business. It is just not so. I hate to hear that the Senators have fallen into the trap of believing that the committee is not concerning itself with individuals and small business.

We have been talking with Dr. Burns ever since I was there about developing legislation to do just this thing for small business.

The Senator from South Dakota is not the first person to suggest legislation of that type. We had legislation suggested by the Senator from Wisconsin.

The Senator's bill is not the first bill that has been suggested. What we are talking about is the emergency that was precipitated by the Lockheed Corp. Anyone who reads the newspapers knows that Lockheed is the thing staring us right in the face.

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

Mr. GAMBRELL. I yield.

Mr. BROCK. Yes, it is a generic bill with provisions in it that would allow a loan to Lockheed.

I want to make it clear that this is a guarantee of a loan, and not a loan. That seems to creep into the question once in a while, but the point is that the criteria in the bill are the same criteria that are needed, that are committed—and it is a firm commitment—to the Lockheed Corp. by the banks and by the Treasury. So, those are the criteria.

Let me take it one step further. It is not only the Senator from Alaska who is suggesting the generic approach. It is the interference of Lockheed that brought us over to the generic approach.

This is not something that is unique and will happen only once in a lifetime.

We went to the generic approach because we felt the Lockheed situation demonstrates a need, a problem, that requires addressing the Congress of the United States.

We considered that. The fact of the matter is that the very problem that brought us to focus on this whole range of problems on the generic approach is now going to be at the stroke of a pen eliminated from consideration by those who cry for small business or small corporations.

I do not accept the Senator's argument on small or big corporations. People work for the corporations. People are all the same size. That is what concerns me. I think we ought to talk more about that than taking the easy route and slapping a political finger in the face of giant corporations or whomever they happen to be. As far as I am concerned, they are simple human beings who have wants and needs the same as the rest of us.

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

Mr. GAMBRELL. I yield.

Mr. STEVENS. Mr. President, I want to make one last comment. I am too tired to take umbrage at the remarks just made by the Senator, frankly, because I do not think anyone has claimed to be the primary author of anything around here.

I do believe that both Senators are missing the point. We have strikes all over the country—longshoremen strikes, railroad strikes. In my State, we have small businesses that have extended themselves to the end of their credit. If they do not get their supplies they will fail this summer. We have no mechanism for a post-crisis loan in the Government today. Here is a vehicle to help us solve that problem. With respect to those Senators who have a proprietary interest, we do not mind helping them solve their problems but we would like to get a solution to ours. I do not think we will get those problems solved if we just solve the problems of big business.

Mr. GAMBRELL. I did not mean to say anything to which the Senator would take umbrage. I have no objection to adding others that can be fitted into the framework of the bill. We are talking about whether to agree to the amendment of the Senator from Illinois and throw Lockheed out of the bill, when they brought it to the fore.

Mr. STEVENS. Precisely. We are asking for a bill to govern business, and it will pass.

Mr. BROCK. The chairman introduced generic legislation also. I simply question whether or not you want to do it in this particular bill, in this particular framework.

Mr. GAMBRELL. What concerns me is the fact that we are spending hours engaged in extended debate over this problem, which is just one of many, as

the Senator from Alaska pointed out. I would like to have a vote up or down on this matter and get on to the solution of the problems of small business. Ever since I came to Congress I have been asking Dr. Burns what we can do to help small business.

Mr. President, I yield the floor.

QUORUM CALL

Mr. PROXMIRE. 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.

ORDER FOR AMENDMENT NO. 334 TO FOLLOW AMENDMENT NO. 317

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that upon the disposition of the pending amendment by the Senator from Illinois (Mr. STEVENSON), amendment No. 334 by the Senator from Indiana (Mr. BAYH) be made the pending question, insofar as the pending business is concerned.

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

Mr. BYRD of West Virginia. I yield.

Mr. PROXMIRE. The Senator from West Virginia is not removing the Stevenson amendment, is he?

Mr. BYRD of West Virginia. No.

Mr. PROXMIRE. The Senator means after we dispose of the Stevenson amendment the Bayh amendment will come up. Is that correct?

Mr. BYRD of West Virginia. Exactly.

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

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the pending business now be temporarily laid aside until the disposition of an unobjected-to item on the calendar.

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

EGG PRODUCTS INSPECTION ACT EXEMPTION

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 277, H.R. 9020.

Mr. GRIFFIN. Mr. President, reserving the right to object——

Mr. BYRD of West Virginia. This matter has been cleared on both sides, I may say to the able Senator from Michigan.

Mr. GRIFFIN. I withdraw my objection.

The PRESIDING OFFICER. The bill will be stated by title.

The ASSISTANT LEGISLATIVE CLERK. A bill (H.R. 9020) to amend the Egg Products Inspection Act, to provide that certain plants which process egg products shall be exempt from such act for a certain period of time.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. BYRD of West Virginia. Mr. President, at the request of the junior Senator from Alabama (Mr. ALLEN), I move that all after the enacting clause of H.R. 9020 be stricken, and that the text of S. 2072—which is also on the calendar—be substituted in lieu thereof, as reported by the Committee on Agriculture and Forestry with an amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

The PRESIDING OFFICER. The 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 (H.R. 9020) was read a third time and passed.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92-282), explaining the purposes of the measure.

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

This bill, with the committee amendment, would require the Secretary of Agriculture to exempt from specific provisions of the Egg Productions Inspection Act any plant located in the noncontiguous areas of the United States where, despite good faith efforts, the owner had been unable to bring the plant into full compliance with the act. Such exempted plants would, however, be subject to continuous inspection to assure that they are operated in a sanitary manner. No exemption could continue beyond December 31, 1971.

The act went into effect July 1. Plants located in Hawaii and Puerto Rico have been unable to obtain the equipment necessary to comply with the act, although they have diligently tried to do so. The committee understands that the needed equipment has been ordered, but delivery has not yet been effected.

The committee amendment is identical to the text of H.R. 9020, as passed by the House, except that it omits a requirement of the House bill that the exempted plant must comply with all provisions of the act not related to pasteurization of egg products. The Department of Agriculture advised the committee that other equipment besides pasteurization eqiupment has not been obtainable, and consequently, inclusion of this requirement would tend to defeat the purpose of the bill. There is no less reason for exempting a plant that has been unable to obtain other essential equipment than there is for exempting a plant that has been unable to obtain pasteurization equipment. The bill as introduced was restricted to cases where pasteurization equipment could not be obtained, and the Department proposed an amendment to broaden it to other cases where the plan had been unable to come into compliance. The committee amendment contains all of the substance of the Department's recommendation.

COST

The committee estimates that no costs would be incurred in carrying out the bill in the current fiscal year or any of the five succeeding fiscal years. The Department of Agriculture advises, as shown in its report that it would reduce costs in the current fiscal year by about $30,000, and the committee agrees with that estimate.

Mr. BYRD of West Virginia. Mr. President, I now ask unanimous consent that S. 2072, which is a companion bill on the calendar, be indefinitely postponed.

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

THE SUGAR ACT—MODIFICATION OF UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD of West Virginia. Mr. President, earlier today a time agreement was entered with respect to the so-called sugar quota bill, and that time agreement encompassed certain specified amendments, one of which may or may not be germane.

I ask unanimous consent that the amendments enumerated in the agreement shall be in order.

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

QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum. I assume this will be the last quorum call of the day.

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.

ORDER FOR ADJOURNMENT FROM TUESDAY UNTIL WEDNESDAY AT 10:30 A.M.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business on tomorrow, it stand in adjournment until 10:30 a.m. on Wednesday.

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

ORDER FOR 1 HOUR OF DEBATE UNDER RULE XXII TO COMMENCE AT 11 A.M. ON WEDNESDAY NEXT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, notwithstanding the requirements of rule XXII dealing with cloture, the 1 hour which immediately precedes the mandatory quorum call under the rule not start running until 11 a.m. on Wednesday next.

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

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the controlled time during that 1 hour on Wednesday be equally divided between the distinguished senior Senator from Wisconsin (Mr. PROXMIRE) and the distinguished senior Senator from Texas (Mr. TOWER).

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

ORDER FOR ADJOURNMENT FROM WEDNESDAY UNTIL 9 A.M. ON THURSDAY, JULY 29

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business on Wednesday, it stand in adjournment until 9 a.m. on Thursday.

The PRESIDING OFFICER. Without objection, it is so ordered

PROGRAM

Mr. BYRD of West Virginia. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 10 a.m. following a recess.

Immediately following the recognition of the two leaders under the standing order, the Senate will resume its consideration of the pending business, the so-called Lockheed bill, and the pending question will be the amendment offered by the distinguished Senator from Illinois (Mr. STEVENSON). Because the Senate will be reconvening following a recess, there will be no morning business. The Senate will resume consideration of the Stevenson amendment immediately following the standard recognition of the two leaders.

At such time as the Stevenson amendment is disposed of, the Senate will then proceed to the consideration of amendment No. 334 to S. 2308, proposed by the Senator from Indiana (Mr. BAYH).

At not later than 2 p.m. tomorrow—in other words, possibly before 2 p.m.—the Senate will temporarily lay aside the pending business, and will proceed to the consideration of Calendar Order No. 296, H.R. 8866—an act to amend and extend the provisions of the Sugar Act of 1948, as amended, and for other purposes.

A time limitation agreement has been entered into with respect to the so-called sugar quota bill, under which agreement there will be 1 hour to be equally divided on the bill; and there will be 30 minutes to be equally divided on amendments, with the exceptions, as to time, of the so-called South African amendment, on which there will be 3 hours, the so-called confiscation amendment, on which there will be 2 hours, and an amendment to be offered by the Senator from Arkansas (Mr. FULBRIGHT), on which there will be 1 hour.

It is anticipated, Mr. President, that there will be a number of rollcall votes tomorrow. There will be a vote, certainly, on the amendment offered by the Senator from Illinois (Mr. STEVENSON), when debate is completed thereon. There presently is no time limitation agreement with respect to debate on that amendment. Moreover, there will surely be rollcall votes on various amendments to the sugar quota bill.

It is anticipated that action will be completed on the sugar quota bill tomorrow, which would mean that the Senate would likely stay in session until a reasonably late hour. Undoubtedly there will be a rollcall vote on passage of the sugar quota bill.

A motion to invoke cloture on the pending business was entered today, and a rollcall vote on that motion will occur on Wednesday immediately following the mandatory quorum call, which means that the vote would occur at about 12:15 p.m. on Wednesday.

RECESS UNTIL 10 A.M. TOMORROW

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 recess until 10 a.m. tomorrow.

The motion was agreed to; and (at 6 o'clock and 47 minutes p.m.) the Senate took a recess until tomorrow, Tuesday, July 27, 1971, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate July 26, 1971:

U.S. DISTRICT COURTS

William Brevard Hand, of Alabama, to be a U.S. district judge for the southern district of Alabama, vice Daniel H. Thomas, retiring.

IN THE MARINE CORPS

The following-named officers of the Marine Corps for temporary apopintment to the grade of brigadier general:

William L. McCulloch	Robert L. Nichols
Robert W. Taylor	Clyde R. Mann
Adolph G. Schwenk	Albert C. Pommerenk
William H. Lanagan, Jr.	Herbert L. Wilkerson
	Manning T. Jannell
Francis W. Vaught	Ernest R. Reid, Jr.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 26, 1971:

DEPARTMENT OF DEFENSE

Frank P. Sanders, of Maryland, to be an Assistant Secretary of the Navy.

HOUSE OF REPRESENTATIVES—*Monday, July 26, 1971*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Fear not, for I am with thee: Be not dismayed, for I am Thy God. I will strengthen thee, yea I will help thee.
—Isaiah 41: 10.

Eternal Father of our spirits, at the altar of prayer we bow praying that we may receive wisdom for the facing of these hours, courage for the living of these days, and strength that in the fight to set men free we may not fail man nor Thee.

We are disturbed by the troubles of these times, worn out by many worries, disheartened by the difficulties which beset us, and tempted at times to give up wondering if the struggle is worthwhile. Now we bring our worries and our difficulties to Thee, not to run away from them, but praying for strength and courage that we may do our work with a new spirit and a new confidence because we know Thou art with us.

Bless our astronauts and grant them a safe journey to and from the moon. May their endeavor add to the sum of our human knowledge and benefit the whole human race.

In the spirit of Christ we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 1892. An act for the relief of Stephen C. Yednock;

H.R. 1907. An act for the relief of Arnold D. Smith;

H.R. 2110. An act for the relief of the estate of Julius L. Goeppinger;

H.R. 2246. An act for the relief of Charles C. Smith;

H.R. 3344. An act to authorize the Administrator of Veterans' Affairs to sell at prices which he determines to be reasonable under prevailing mortgage market conditions direct loans made to veterans under chapter 37, title 38, United States Code;

H.R. 3753. An act for the relief of Sgt. Ernie D. Bethea, U.S. Marine Corps, retired;

H.R. 6217. An act to amend the peanut marketing quota provisions of the Agricultural Adjustment Act of 1938; and

H.R. 7271. An act to authorize appropriations for the Commission on Civil Rights.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 4263. An act to add California-grown peaches as a commodity eligible for any form of promotion, including paid advertising, under a marketing order; and

H.R. 5208. An act to authorize appropriations for procurement of vessels and aircraft and construction of shore and offshore establishments for the Coast Guard, and to authorize the annual active duty personnel strength of the Coast Guard.

The message also announced that the Senate had passed bills, joint and concurrent resolutions of the following titles, in which the concurrence of the House is requested:

S. 389. An act for the relief of Stephen Lance Pender, Patricia Jenifer Pender, and Denese Gene Pender;

S. 733. An act to create an additional judicial district in the State of Louisiana, and for other purposes;

S. 1866. An act for the relief of Clayton Bion Craig, Arthur P. Wuth, Mrs. Lenore D. Hanks, David E. Sleeper, and DeWitt John;