

Russia has had a dire financial impact on our steel industry increasing the costs by \$100 million. Of course, the American consumer feels the pinch when buying products requiring chrome ore.

But even with the Russians making a profit at our expense by selling America this ore, our industry still has need for more ore. Just recently the U.S. House of Representatives passed legislation allowing the selling of the ore from our stockpile of strategic materials to alleviate this need.

An even stranger part of this story is that while the U.N. has placed stringent economic sanctions on Rhodesia for breaking away from British control, the Rhodesian economy continues to prosper. There is good evidence that many of the countries who have signed the U.N. economic sanctions are still buying chrome from the African nation. In fact, there is evidence that the Rhodesians may be selling the ore to Russia, who in turn sells it to us at inflated prices.

Recently a U.S. industry spokesman

testified before the House Foreign Affairs Committee that tests conducted by his company on chrome imports from Russia indicated certain geological marks showing the ore had to have been mined in Rhodesia.

In checking on this further, I was informed by the U.S. Bureau of Mines that their tests on the questionable chrome indicated that it was mined in Russia, however, suspicion still remains and the Bureau suggests tests be continued on the imported ore.

A partner in all this is the British Government which initiated the sanctions against Rhodesia. Yet, England has completely ignored the U.S. economic embargo against the Cuban Government and the Government of North Vietnam. State Department statistics show that Britain imported goods totaling about \$13 million from Communist Cuba in 1969 and exported goods to Cuba in excess of \$31 million. The British even did \$200,000 worth of business with North

Vietnam, a country with which we are technically at war.

Another interesting point is that the U.N. has contended that Rhodesia is not a true democratic nation. But, then how democratic are many of the member nations in the U.N. such as Russia, most of the East European nations and many of the African nations?

In a sense, this entire matter is a chrome-plated fantasy, and America is again the victim of a ridiculous foreign policy.

In an effort to help correct this situation, today I am joining with a group of my colleagues in the House and Senate by introducing legislation which will, if passed, amend the U.N. participation Act of 1945 and provide authority—to the President to import strategic materials from free world nations.

I hope this legislation will pass because it would end our dependence upon the Soviet Union for strategic material and hopefully set the path for some common-sense thinking in our State Department.

## SENATE—Friday, September 24, 1971

The Senate met at 10 a.m. and was called to order by the President pro tempore (Mr. ELLENDER).

### PRAYER

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

O God, infinite, eternal, and unchangeable, may Thy spirit brood over us and be in each of us to quicken our minds and guide our judgments through this day. Guide us in the wise use of money and the moral use of power.

Teach us, good Lord, so to serve Thee as Thou deservest; to give and not to count the cost; to persevere and not to heed the wounds; to toil and not to seek for rest; to labor and not to ask for reward, except the knowledge that we do Thy will. Guide us in the ways of peace for Thy name's sake. We ask not to be kept safe but to be kept loyal to one another and faithful to the high trust placed in us.

We pray in the Redeemer's name. Amen.

### THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, September 23, 1971, be dispensed with.

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

### COMMITTEE MEETINGS DURING SENATE SESSION

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

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

### THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the calendar beginning with No. 362 and ending at No. 376, but not including that measure.

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

### SPECIAL COMMITTEE ON AGING

The resolution (S. Res. 159) authorizing additional expenditures by the Special Committee on Aging was considered and agreed to as follows:

*Resolved*, That the Special Committee on Aging is authorized to expend from the contingent fund of the Senate not to exceed \$2,000, in addition to the amount, and for the same purposes and during the same period, specified in Senate Resolution 316, Ninety-first Congress, agreed to February 16, 1970, authorizing a complete study of any and all matters pertaining to the problems and opportunities of older people.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92-368), explaining the purposes of the measure.

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

Senate Resolution 159 would authorize the Special Committee on Aging to expend not to exceed \$2,000 in addition to the amounts it was authorized to expend during the second session of the 91st Congress. During that session, the special committee was authorized pursuant to Senate Resolution 316, agreed to February 16, 1970, to expend \$215,000, and pursuant to Senate Resolution 473, agreed to October 14, 1970, to expend an

additional \$24,000 for a total expenditure authorization of \$239,000 for the session.

### COMPILATION OF STATEMENTS BY PRESIDENTS OF THE UNITED STATES ON INTERNATIONAL COOPERATION IN SPACE

The resolution (S. Res. 161) authorizing the printing as a Senate document of a compilation of statements by Presidents of the United States on international cooperation in space was considered and agreed to as follows:

*Resolved*, That the compilation entitled "Statements by Presidents of the United States on International Cooperation in Space—A Chronology: October 1957—July 1971" be printed with illustrations as a Senate document, and that there be printed three thousand additional copies of such document for the use of the Committee on Aeronautical and Space Sciences.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92-367), explaining the purposes of the measure.

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

Senate Resolution 161 would provide (1) that the compilation entitled "Statements by Presidents of the United States on International Cooperation in Space—A Chronology: October 1957—July 1971" be printed, with illustrations, as a Senate document; and (2) that there be printed 3,000 additional copies of such document for the use of the Committee on Aeronautical and Space Sciences.

The printing-cost estimate, supplied by the Public Printer, is as follows:

Printing-cost estimate	
To print as a document (1,500 copies) .....	\$5,032.58
3,000 additional copies, at \$315.87 per thousand .....	947.61
Total estimated cost, Senate Resolution 161.....	5,980.19

#### DEVELOPMENT OF SYSTEMS TO ATTAIN ESTABLISHED MOTOR VEHICLE AND ENGINE EMISSION STANDARDS

The resolution (S. Res. 164) authorizing the printing of the report entitled "Development of Systems To Attain Established Motor Vehicle and Engine Emission Standards" as a Senate document was considered, and agreed to as follows:

*Resolved*, That the report of the Administrator of the Environmental Protection Agency to the Congress of the United States (in compliance with Public Law 90-148, the Clean Air Act, as amended) entitled "Development of Systems To Attain Established Motor Vehicle and Engine Emission Standards" be printed with illustrations as a Senate document.

Sec. 2. There shall be printed two thousand five hundred (2,500) additional copies of such document for the use of the Committee on Public Works.

#### ORGANIZED CRIME

The resolution (S. Res. 168) authorizing the printing for the use of the Committee on Government Operations of additional copies of part 3 of its hearings entitled "Organized Crime" was considered and agreed to as follows:

*Resolved*, That there be printed for the use of the Committee on Government Operations one thousand six hundred additional copies of part 3 of the hearings before its Permanent Subcommittee on Investigations during the Ninety-second Congress, first session, entitled "Organized Crime".

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92-365), explaining the purposes of the measure.

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

Senate Resolution 168 would authorize the printing for the use of the Committee on Government Operations of 1,600 additional copies of part 3 of the hearings before its Permanent Subcommittee on Investigations during the 92d Congress, first session, entitled "Organized Crime".

The printing-cost estimate, supplied by the Public Printer, is as follows:

<i>Printing-cost estimate</i>	
1,600 additional copies at \$706.45	
per thousand.....	\$1,130.32

#### MAYBELLE I. JENKINS

The resolution (S. Res. 173) to pay a gratuity to Maybelle I. Jenkins was considered and agreed to, as follows:

*Resolved*, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Maybelle I. Jenkins, widow of William E. Jenkins, an employee of the Architect of the Capitol assigned to duty in the Senate Office Buildings at the time of his death, a sum equal to six months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

#### MARY V. MARSHALL

The resolution (S. Res. 172) to pay a gratuity to Mary V. Marshall was considered and agreed to, as follows:

*Resolved*, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Mary V. Marshall, widow of Theron W. Marshall, an employee of the Senate at the time of his death, a sum equal to one year's compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

#### RESOLUTION PASSED OVER

The bill, Senate Resolution 171, relative to extending the privilege of the Senate floor to the Chaplain of the House of Representatives, was announced as next in order.

Mr. MANSFIELD. Over, Mr. President. The PRESIDENT pro tempore. The resolution will be passed over.

#### CONSTITUTIONAL RIGHTS

The Senate proceeded to consider the resolution (S. Res. 155) to investigate matters pertaining to constitutional rights which had been reported from the Committee on Rules and Administration with an amendment to strike out all after the resolving clause and insert:

That the Committee on the Judiciary, or any subcommittee thereof, is authorized to expend, from the date this resolution is agreed to through February 29, 1972, from the contingent fund of the Senate not to exceed the sum of \$10,000, in addition to the amount stated in section 2 and the first amount stated in section 6 of Senate Resolution 32, Ninety-second Congress, agreed to March 1, 1971, and for the purposes stated in such section 6 (relating to a study or investigation of constitutional rights), such sum of \$10,000 having not been included in that resolution because at the time at which that resolution was considered there was insufficient information to determine the total amount of expenditures the committee or any subcommittee thereof would incur in conducting such study or investigation.

The amendment was agreed to. The resolution, as amended, was agreed to.

The title was amended, so as to read: "Resolution authorizing supplemental expenditures by the Committee on the Judiciary for a study pertaining to constitutional rights."

#### COMPREHENSIVE PRESCHOOL EDUCATION AND CHILD DAY-CARE ACT OF 1969

The concurrent resolution (H. Con. Res. 319) to provide for the printing of 2,000 additional copies of the hearings before the Select Subcommittee on Education of the Committee on Education and Labor entitled "Comprehensive Preschool Education and Child Day-Care Act of 1969" was considered and agreed to.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report

(No. 92-370), explaining the purposes of the measure.

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

House Concurrent Resolution 319 would authorize the printing for the use of the Select Subcommittee on Education of the House Committee on Education and Labor of 2,000 additional copies of its hearings during the 91st Congress, first and second sessions, on H.R. 13520, the Comprehensive Preschool Education and Child Day-Care Act of 1969.

The printing-cost estimate, supplied by the Public Printer, is as follows:

<i>Printing-cost estimate</i>	
1st 1,000 copies.....	\$7,395.72
1,000 additional copies.....	1,804.80
Total estimated cost, H.	
Con. Res. 319.....	9,200.52

#### ENVIRONMENTAL QUALITY EDUCATION ACT OF 1970

The concurrent resolution (H. Con. Res. 320) to provide for the printing of 600 additional copies of the hearings before the Select Subcommittee on Education of the Committee on Education and Labor entitled "Environmental Quality Education Act of 1970" was considered and agreed to.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92-371), explaining the purposes of the measure.

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

House Concurrent Resolution 320 would authorize the printing for the use of the Select Subcommittee on Education of the House Committee on Education and Labor of 600 additional copies of its hearings during the 91st Congress, second session, on H.R. 14753, the Environmental Quality Education Act of 1970.

The printing-cost estimate, supplied by the Public Printer, is as follows:

<i>Printing cost estimate</i>	
600 additional copies.....	\$5,419.90

#### DRUG ABUSE EDUCATION ACT OF 1969

The concurrent resolution (H. Con. Res. 337) to provide for the printing of 500 copies each of parts 1 and 2 of the hearings before the Select Subcommittee on Education of the Committee on Education and Labor entitled "Drug Abuse Education Act of 1969" was considered and agreed to.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92-372), explaining the purposes of the measure.

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

House Concurrent Resolution 337 would authorize the printing for the use of the Select Subcommittee on Education of the House Committee on Education and Labor of 500 copies each of parts 1 and 2 of its hearings during the 91st Congress, second ses-

ston, on H.R. 9312, H.R. 9313, and H.R. 9314, the Drug Abuse Education Act of 1969.

The printing-cost estimate, supplied by the Public Printer, is as follows:

<i>Printing-cost estimate</i>	
500 copies:	
Pt. 1.....	\$3,967.49
Pt. 2.....	3,844.08
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Total estimated cost, H. Con. Res. 337.....	7,811.57

#### PRAYERS OF THE CHAPLAIN OF THE HOUSE OF REPRESENTATIVES

The concurrent resolution (H. Con. Res. 359) to provide for the reprinting of the prayers offered by the Chaplain of the House of Representatives was considered and agreed to.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92-373), explaining the purposes of the measure.

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

House Concurrent Resolution 359 would authorize the reprinting and binding, with appropriate illustration, of 8,800 copies of the prayers offered by the Chaplain, the Reverend Edward Gardiner Latch, D.D., L.H.D., at the opening of the daily sessions of the House of Representatives of the United States, during the 89th, 90th, and 91st Congresses, for the use of the House of Representatives (20 per Member).

The printing-cost estimate, supplied by the Public Printer, is as follows:

<i>Printing-cost estimate</i>	
1st 1,000 copies.....	\$3,136.37
7,800 additional copies, at \$1,654.98 per thousand.....	12,908.84
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Total estimated cost, H. Con. Res. 359.....	16,045.21

#### CONSTITUTION OF THE UNITED STATES

The Senate proceeded to consider the concurrent resolution (H. Con. Res. 365) to print as a House document the Constitution of the United States which had been reported from the Committee on Rules and Administration with an amendment on page 2, after line 2, insert a new section, as follows:

Sec. 2. There shall be printed fifty-one thousand five hundred additional copies of the document authorized by section 1 of this concurrent resolution for the use of the Senate.

The amendment was agreed to.

The House concurrent resolution, as amended, was agreed to.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92-374), explaining the purposes of the measure.

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

House Concurrent Resolution 365, as referred, would provide (1) that there be printed as a House document the Constitution of the United States, as amended through July 5, 1971, with an analytical index and ancillaries regarding proposed amendments, prepared by Representative

Emanuel Celler, of New York, to be bound with a paperback cover of the style and design used in printing House Document 124 of the 90th Congress; and (2) that there be printed 240,000 additional copies of such document, of which 20,000 copies would be for the use of the House Committee on the Judiciary and the balance prorated to the Members of the House of Representatives (500 per Member).

The Senate Committee on Rules and Administration has amended House Concurrent Resolution 365 to authorize the printing of 51,500 additional copies of the document for the use of the Senate (500 per Member).

The printing-cost estimate, supplied by the Public Printer, is as follows:

<i>Printing-cost estimate</i>	
Print as a document (1,500 copies) .....	\$789.50
291,500 additional copies, at \$143 per thousand.....	41,684.50
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Total estimated cost, H. Con. Res. 365.....	42,474.00

#### CONSTITUTION OF THE UNITED STATES—POCKET-SIZE EDITION

The Senate proceeded to consider the concurrent resolution (H. Con. Res. 367) authorizing the printing of the pocket-size edition of "The Constitution of the United States of America" as a House document, and for other purposes which had been reported from the Committee on Rules and Administration with an amendment on page 1, line 4, after the word "that", strike out "one hundred and ten thousand shall be for the use of the House of Representatives" and insert "there be printed one hundred thirty-five thousand seven hundred and fifty additional copies of such document, of which one hundred and ten thousand shall be for the use of the House of Representatives and twenty-five thousand seven hundred and fifty shall be for the use of the Senate".

The amendment was agreed to.

The House concurrent resolution, as amended, was agreed to.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92-375), explaining the purposes of the measure.

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

The Senate Committee on Rules and Administration has amended House Concurrent Resolution 367 to authorize the printing of 25,750 additional copies of the document for the use of the Senate (250 per Member).

The printing-cost estimate, supplied by the Public Printer, is as follows:

<i>Printing-cost estimate</i>	
To print as a document (1,500 copies) .....	\$423.24
135,750 additional copies, at \$49.39 per thousand.....	6,704.69
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Total estimated cost, H. Con. Res. 367.....	7,127.93

#### ORDER OF BUSINESS

The PRESIDENT pro tempore. Does the minority leader wish to be recognized? If not, under the previous order, the distinguished Senator from Georgia

(Mr. TALMADGE) is now recognized for not to exceed 15 minutes.

#### CONGRATULATIONS TO THE PRESIDENT PRO TEMPORE

Mr. TALMADGE. Mr. President, today is September 24, 1971. Today is the 81st birthday of ALLEN J. ELLENDER, a Senator from Louisiana, President pro tempore of the U.S. Senate, chairman of the Appropriations Committee, and former chairman of the Committee on Agriculture and Forestry.

I wish him a very happy birthday and congratulate him on achieving this landmark in life. May he celebrate many, many more of these days.

In congratulating him I want to say that he has set a goal for all of us. He is noted for his hard work, his diligence, and his stamina that strain the will, the mind, and strength of those of us who work with him. His knowledge, capability, and acuity stand as a beacon in the night for us to follow. I served under his leadership on the Committee on Agriculture and Forestry for 14 years and know of what I speak.

He is now serving his 35th year in the U.S. Senate. He served as chairman of the Committee on Agriculture and Forestry for a total of 18 years, longer than any of the 40 chairmen of this committee since the first was named in the year 1825. He would be serving now except that he relinquished that chairmanship in order to assume the chairmanship of the Appropriations Committee.

Mr. President, it would be difficult indeed to list all of his accomplishments because throughout his tenure he has been deeply involved in all matters relating to agriculture.

When he first came to the Senate in 1937, he was named a member of a special subcommittee which held hearings throughout the Nation on agricultural policy for the future. Subsequently, he assisted in drafting and enacting the Agricultural Adjustment Act of 1938, which still remains the basis for much of our present farm price support programs. He has never waived from his goal of a prosperous, strong and efficient farm economy.

His interest in conservation and environmental preservation is deep seated. He has played a major role in the development and expansion of programs designed to conserve and protect our land, forests and water.

He has been closely involved in furthering agricultural research by both the Department of Agriculture and the State experiment stations. This effort combined with his support of the Cooperative Extension Service has contributed substantially toward the development of our production and marketing system which is the most efficient and effective in the world.

He has shown a deep interest in rural development, knowing full well that unless our rural areas are prosperous, our Nation suffers.

He has been in the forefront in expanding the availability of farm credit. Both the Farm Credit Administration

and the Farmers Home Administration have grown under his chairmanship. In addition, he has worked diligently in order to bring both electricity and telephone service to rural areas through the Rural Electrification Administration.

His humanitarian instincts led him to sponsor the National School Lunch Act, along with our late beloved colleague, Senator Russell of Georgia, which for over 25 years has loomed large in improving the health and well-being of our Nation's children. He sponsored the school breakfast program, and has supported the food stamp and the special school milk program, as well as the commodity distribution program. He was also instrumental in furthering the food for peace program. These programs make constructive use of our Nation's agricultural abundance for the less fortunate at home and abroad.

His concern and desire to protect consumers, as well as farmers has caused him to strengthen and expand departmental activities which assure that consumers have nutritious, wholesome and unadulterated food.

Mr. President, his past achievements are many, but, I expect even greater achievements will be forthcoming as a result of his activities in the future. Indeed, this Nation owes him a debt of gratitude for his contribution to our well-being.

Mr. President, I ask unanimous consent that a resolution adopted by the Committee on Agriculture and Forestry to commemorate Senator ELLENDER's service as a member and chairman of that committee be printed in the RECORD as a part of my remarks.

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

**RESOLUTION OF U.S. SENATE COMMITTEE ON AGRICULTURE AND FORESTRY**

Whereas Honorable Allen J. E. Ellender of Louisiana has served honorably and faithfully as a member of the Committee on Agriculture and Forestry since January 8, 1937, and as the Chairman of the Committee from January 15, 1951 to January 13, 1953, and from January 11, 1955 to January 23, 1971, when he became chairman of the Committee on Appropriations; and

Whereas the term of Allen J. Ellender as chairman has far exceeded that of any previous chairman of this Committee; and

Whereas Allen J. Ellender, as member and chairman, has devoted his abilities and energies for the last thirty-four years, beginning with the Agricultural Adjustment Act of 1938, to legislation improving the economic condition of the farmer, assuring the consumer through war and peace of plentiful supplies of food and fiber, protecting and enhancing the soil, water, forest, and recreation resources of this country, feeding and clothing the needy at home and abroad, providing for nutritional needs of our children, and improving the quality of life in rural areas: Now, therefore, be it

*Resolved*, That the Committee on Agriculture and Forestry hereby expresses to Allen J. Ellender its sincere appreciation and gratitude for his faithful and devoted service to the fulfillment of the obligations of this Committee, and commends him for his outstanding contributions to agriculture and to the country.

Herman E. Talmadge, Georgia, Chairman; James O. Eastland, Mississippi; B. Everett Jordan, North Carolina; George McGovern, South Dakota; James B. Allen, Alabama; Hubert H. Humphrey, Minnesota; Lawton Chiles,

Florida; Jack Miller, Iowa; George D. Aiken, Vermont; Milton R. Young, North Dakota; Carl T. Curtis, Nebraska; Robert Dole, Kansas; and Henry Bellmon, Oklahoma.

Mr. JORDAN of North Carolina. Mr. President, I am delighted to join my colleagues in celebrating the 81st birthday of the senior Senator from Louisiana.

My good and dear friend, the distinguished President pro tempore of the Senate, has served in this body continuously since January 3, 1937—longer than any other Senator. Through all those years he has provided dedicated and talented leadership in a host of important positions.

We in North Carolina feel we have a special claim on ALLEN JOSEPH ELLENDER. For many years he served as chairman of the Committee on Agriculture and Forestry, and it was through working with him on this committee that I got to know him best. Agriculture is an important business in North Carolina where we have more farmers than any other State in the Union. So in a way, while he was chairman of the Agriculture Committee, North Carolina provided Senator ELLENDER his largest constituency. No man was ever more in tune with the needs of that constituency than the senior Senator from Louisiana. And he still is, as the ranking Democrat on that committee.

But agriculture is not the only common bond between Senator ELLENDER and the people of my State. Until recently he also served as chairman of the important Appropriations Subcommittee on Public Works, a position he retained until he became chairman of the full Appropriations Committee at the death of our beloved mutual friend, the late President pro tempore of the Senate, Richard B. Russell. As chairman of this subcommittee Senator ELLENDER always worked closely with me to see that funds were provided for the water improvements projects which have been so important to the overall development of North Carolina. I am grateful to him for the interest and dedication he brought to this post.

Senator ELLENDER and I also share in common the fact that we will both be running for reelection next year. It can be said without exaggeration that Louisiana has never sent to the Senate a more dedicated and capable public servant than ALLEN JOSEPH ELLENDER. I have no doubt whatsoever that he will be returned for continued service by the same overwhelming mandate which has characterized his previous elections and reelections.

North Carolinians across the State join me, I am sure, in wishing for him a happy birthday and many years of continued service to his State and Nation.

Mr. TALMADGE. Mr. President, I yield to the distinguished majority leader.

Mr. MANSFIELD. Mr. President, I want to take this occasion to join with the distinguished Senator from Georgia (Mr. TALMADGE) in expressing my personal appreciation and great respect and affection for the distinguished senior Senator from Louisiana (Mr. ELLENDER), the President pro tempore of this body.

There is not much that can be added to the detail with which the Senator from Georgia has honored Senator ELLENDER.

I would add that I personally feel very deeply that ALLEN ELLENDER has been a force for immense good, a force for high integrity, and a force that has made this institution of the Senate, a far more effective and efficient body.

As chairman of the Committee on Appropriations, a committee on which I proudly serve under him, ALLEN ELLENDER has performed with great diligence, and in doing so he has been responsible for bringing about a far closer scrutiny of the annual budget presented to the Congress. He has been responsible for expediting the legislative process, particularly as it concerns appropriations measures. At the time the Senate went out in early August, we were on an appropriations par with the House of Representatives. Of course, it is understood in this framework that the Senate cannot act until the House does. ALLEN ELLENDER, however, has worked so as nearly to overcome that hurdle. His devotion has made possible an immense improvement in the entire system.

To my knowledge there has never been a more effective chairman of the Committee on Appropriations than the distinguished senior Senator from Louisiana. His physical stamina is overpowering. His ability to work long hours is already a legend in the Senate. His effectiveness is unquestioned.

I want to close by expressing the hope that the distinguished President pro tempore of this body, Senator ALLEN ELLENDER of Louisiana will be with us for a good many more years to come.

Mr. TALMADGE. Mr. President, I yield next to the distinguished senior Senator from Vermont, a past chairman of the Committee on Agriculture and Forestry.

Mr. AIKEN. Mr. President, a few nights ago on television I saw a rerun of a very interesting story called "The Unsinkable Molly Brown." I think that story could be rewritten and revised and that the title could be "The Unshakeable Allen Ellender."

I became acquainted with ALLEN ELLENDER socially and personally about 31 years ago when I came to Washington and since that time we have served together on the Committee on Agriculture and Forestry. At that time, I was told that when our national debt reached \$50 billion, the country would collapse. I have not been able to ascertain quite to my satisfaction whether the increase to over \$400 billion since that time constitutes a mortal blow to our economy or not but am optimistic enough to believe that as a nation we still have a long way to go.

At any rate, the Senator from Louisiana apparently believed that a great increase in our national debt would not be good for the country. And in some ways he was not mod then. And apparently he is not mod yet. He actually believed then that we should get a full dollar's value for a dollar spent, whether State or Federal money.

He actually believed we should put in a full day's work for a full day's pay. Of course, the idea that exists today may be quite different than it was 31 years ago.

He actually believed then that to have an adequate staff for a committee to do

the necessary work was all that was necessary. That idea has not become more popular as time has gone on.

And politically the senior Senator from Louisiana has probably had the most monotonous career of any Senator according to the record. Listen to this record:

1936, elected to the Senate; no opposition.

1942, reelected; no opposition.

1948, reelected; no opposition.

1954, reelected to the Senate; no opposition.

1960, reelected to the Senate; no effective opposition.

1966, reelected to the Senate; no noticeable opposition.

1972, reelected to the Senate; no opposition.

1978, reelected to the Senate; no opposition.

Maybe I am going too far in reading the future, so I will not go beyond that.

I do not see any hope that he will ever go mod.

He still believes in work. He still believes in getting full value for a dollar. He still believes that we should not overstaff our committees.

At any rate, I see little hope for his acceptance of some modern ideas. There is a saying "if you can't lick 'em, join 'em". Apparently we cannot convert him to all modern ideas so why don't we join him. The sooner we do that, the better off the country is going to be.

I know that the Senator from Louisiana is the Senate's expert in the manufacture of gumbo. However, he flatly refuses to make legislative gumbo.

As I see it, our only other alternative to joining him would be to make him a candidate for President even though that field is already crowded. Certainly his old fashioned ideas have enabled him to make a considerable mark on the Senate as he has done, but the very thought of applying ALLEN ELLENDER's ideas on dollar values to the White House would probably create consternation down town.

I understand that today is his birthday. Birthdays seem to have no noticeable effect on him. Seriously, I do not think he could be elected President, so I say "Let's join him," and work for better government.

Mr. President, I now ask to have inserted in the RECORD at this point a copy of a letter from Secretary of Agriculture Clifford M. Hardin, addressed to Senator ELLENDER, under date of September 24, 1971.

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

THE SECRETARY OF AGRICULTURE,  
Washington, September 24, 1971.

HON. ALLEN J. ELLENDER,  
U.S. Senate,  
Washington, D.C.

DEAR MR. CHAIRMAN: The outpouring of birthday greetings you will receive reflect an admiration, respect, and affection that few men ever achieve in their lifetime. I am honored to add my own good wishes to this flood-tide.

The tributes are well earned. They laud you as a dedicated public servant, as senior statesman of the U.S. Senate, and as an un-failing friend of agriculture. Never content to be carried along by the rapidly changing

currents of our times, you have challenged and channeled those currents.

There is little anyone can say that would add to your many contributions to American life. Let me simply wish you continued good health and more years of service to the nation.

Sincerely,

CLIFFORD M. HARDIN.

Mr. TALMADGE. Mr. President, I yield next to the distinguished senior Senator from Virginia (Mr. BYRD).

Mr. BYRD of Virginia. Mr. President, I rise to congratulate the dean of the Senate, the President pro tempore of the Senate, Senator ALLEN J. ELLENDER of Louisiana, on his 81st birthday.

In spirit, in energy, in outlook, Senator ELLENDER is one of the youngest men in the Senate. Many of us who are younger in years have good reason to envy the great vigor and vitality of the senior Senator from Louisiana. The amount of work he does is astonishing.

Senator ELLENDER came to the Senate in 1937. During the long tenure, he has seen many great changes in our Nation and its Government—and he has kept alert to all those changes. With his sound judgment, his great capacity for work and his dedication to duty, he has made a major contribution toward solving the many difficult problems this country has faced in the last 35 years.

It is my hope that we shall continue to have the benefit of Senator ELLENDER's dedicated service for many years to come.

He is an able Senator, an effective Senator, a hard-working, dedicated Senator—and to me a beloved friend.

Mr. TALMADGE. Mr. President, I yield to the distinguished senior Senator from Nevada.

Mr. BIBLE. Mr. President, it is a privilege to join my colleagues in wishing a very happy birthday to the senior Senator from Louisiana.

I have served with Senator ELLENDER for almost half his Senate service and have a great opportunity to observe a conscientious and dedicated public servant as he has gone about the business of this country, always with the thought of helping not just his Louisiana constituents but all of the people of the United States and, indeed, the world.

It is not an empty phrase when I say that no one works harder than ALLEN ELLENDER. He is on the go constantly, putting in long hours at his desk, attending committee sessions and taking an active role in floor debates. He is an expert on any given subject at any given time, and his expertise is sought by all Senators. We rely on his knowledge and his good judgment and we envy him his energy and his capacity for long, tiring hours of work.

Senator ELLENDER's workload increased—if that is possible—when he became chairman of the Senate Appropriations Committee. He is there to chair every meeting of the full committee and his subcommittee on defense. And he is there when other subcommittees are holding their hearings and markup sessions. Unquestionably, no chairman has cracked the whip on appropriations as has ALLEN ELLENDER. That is why we are where we are today, with all but a few of the session's major appropriation bills enacted, most of them before the August

recess. If Senator ELLENDER had the same influence over all aspects of legislation in both Houses I am confident we could celebrate his birthday by adjourning. We would be out of work by now.

Senator ELLENDER is a particular expert on appropriations for public works projects and on agricultural legislation. Throughout the United States are many flood control, navigation, and power installations which would not exist except for his interest and his belief in them as necessary to the well-being of the citizens of the United States, to a sound economy, and to the national security of this country. And there are on the statute books many laws sponsored by him which encourage and support the greatest agricultural industry in the world.

Again, I wish him the best for today and for many more birthdays which I trust will be recognized on this floor.

The PRESIDENT pro tempore. The time of the Senator has expired.

Mr. TALMADGE. Mr. President, if I may be recognized for 10 seconds, I have a long list of Senators who wish to speak. I hope the Senator from North Dakota will be recognized.

The PRESIDENT pro tempore. The Senator from North Dakota is recognized.

Mr. YOUNG. Mr. President, today is the 81st birthday of our esteemed colleague, the senior Senator from Louisiana, ALLEN J. ELLENDER.

Your friend and my friend, ALLEN ELLENDER, is one of the most amazing persons I have ever known. No one during my time in the Senate works as hard, is more energetic, or has a keener mind than he. I never cease to be impressed with how one man can do as much in the Senate and do it so well.

Our friend, ALLEN ELLENDER, is blessed with a very searching and inquiring mind and great physical stamina. This, together with his down-to-earth approach to all issues, is one of the reasons why he has established such an outstanding record and over so many years.

Senator ELLENDER, first of all, is a truly patriotic person—one who has a great respect for our system of government. His every action as a Member of this body has been to preserve and strengthen our Government.

He has established a truly remarkable record in many areas of legislation. He is one of the most economy minded Members of the Senate. Yet, he is fair and always ready to help a cause he feels is deserving and worthy.

There are few, if any, Senators, at least in my time, who have been as effective in handling legislation on the floor of the Senate. There are many reasons for this. One is that he always knows his subject well and no one ever doubts his sincerity or fairness. However, he always strongly opposes any legislation he believes to be unwise, no matter who the sponsor may be.

Our friend, ALLEN ELLENDER, has served longer than anyone in the history of the Senate on the Senate Agriculture Committee—35 years; 18 of those years were as its chairman, which is also a record. These were difficult years during a great farm depression and three wars. Years during which practically all

of the important farm legislation, especially with respect to price support programs, has been written. He is the author and sponsor of many of our most important farm programs. His contribution to farmers and farm legislation of all kinds is immeasurable. I have been privileged to serve with him on the Agriculture Committee for the past more than 26 years.

Too, I have been privileged to serve with him during the past 16 years on the Subcommittee on Public Works Appropriations. During all of this period, he was its chairman. Hundreds of great public works projects of all kinds in every State of this Nation would not have been constructed if it had not been for him. I doubt if any chairman of any committee of the Senate has ever enjoyed the almost unanimous support and confidence of its committee members as has ALLEN ELLENDER.

Mr. President, I am privileged to serve with him now as the ranking Republican on the Senate Appropriations Committee of which he is chairman. We have always had a very close and friendly working relationship.

Probably the highest recognition that has been accorded this great man is his recent elevation as President pro tempore of the Senate.

Mr. President, our friend has established a truly outstanding record and one of which the State of Louisiana can be justly proud.

I am very proud and happy that I have been privileged to serve with him these many years and to be one of his close personal friends. We all look forward to having the opportunity to observe here in the U.S. Senate many more ALLEN ELLENDER birthdays.

Mr. President, I yield to the distinguished Senator from Arkansas, chairman of the Committee on Government Operations and second ranking majority member of the Committee on Appropriations.

Mr. McCLELLAN. Mr. President, it is a very distinct privilege and I am delighted, indeed, to join in this birthday salute to our esteemed friend and honored colleague, the President pro tempore of the Senate, ALLEN J. ELLENDER.

Senator ELLENDER's service in this distinguished body extends over three decades. His contributions and accomplishments during that long span of service are quite outstanding and extraordinary. He has initiated, been associated with, and has processed many pieces of landmark legislation, beginning as far back as 1938 with his work at that time on the Agricultural Adjustment Act. He later served as chairman of the Agriculture Committee of the Senate for a period of 18 years, but his legislative interest and activities have by no means been limited to that field.

Some of his most effective labors and greatest contributions have been in the area of public works. As chairman of the Subcommittee on Public Works of the Appropriations Committee for the past 15 years, Senator ELLENDER has worked diligently for river and harbor projects that were designed to protect, develop, preserve, and enhance our water resources so as to strengthen our national economy and make the benefits of these

resources available to all of the people. He has not only constantly sought and fought for adequate funds to carry on vast river and harbor and flood control programs, but he has also made an earnest effort to see that appropriations for these purposes were so allocated that each and every section of the country would benefit therefrom.

He has given of himself unstintingly to the development of the Mississippi River Valley, the Columbia Basin, and many other major rivers throughout the Nation. His own State of Louisiana has profited immensely by the flood control and drainage projects which he has secured for it. I know the people of Louisiana recognize the valuable service he has rendered and are grateful to him for the tremendous contribution that he has made to the progress and welfare of the State he so ably represents.

And I want to pay particular tribute to him on behalf of the people of Arkansas for his support of and the valuable assistance he rendered to my State in connection with the construction of the Arkansas River navigation system.

Senator ELLENDER worked with Senator Bob Kerr and me shoulder to shoulder on this great river development program and helped nurture this magnificent undertaking to its successful completion. I know that he shares my pride in this project and is proud of the progress that it has already brought and that it will yet bring to the Arkansas River Valley. The benefits of this water resource improvement to date have far exceeded all predictions and projections. As a result of this inland waterway navigation, new industry is moving into the area, and the amenities of good living in that region have been greatly enhanced. We are now able to provide employment opportunities for many of our young people—inducements for them to remain in the Valley—thus obviating the necessity of their having to migrate to some other section of the country in order to follow their professions or to find employment.

I recall, too, Mr. President, some of the other projects, as well as the Arkansas River navigation project, that vitally affected the State of Louisiana. The Borref Tensas Basin, for instance, is one where Arkansas water was flowing uncontrolled into a large area of Louisiana, causing extensive damage and making it impossible for permanent investments and proper development of a great section of Louisiana. Working together, we were able to secure the authorization necessary and also the appropriations to control and harness the destructive forces of that river and bring them under control to the point where, both in Arkansas and in Louisiana, great areas of highly fertile land are now being brought into a state of production, thus strengthening the whole economy of that valley.

Yes, Mr. President, Senator ELLENDER has vigorously and unrelentingly supported legislative programs and appropriations for the development and conservation of the Nation's land and water resources, and I doubt that there is a section of this country anywhere that has not directly benefited from his dynamic leadership in this field.

And, today, on his birthday, I am proud to pay tribute to him. He has been an inspiration to many of us—especially those of us who serve on the Appropriations Committee under his chairmanship. As chairman of the powerful Appropriations Committee, he provides that quality of able and responsible leadership that moves forward the work of the committee efficiently and expeditiously.

Senator ELLENDER is a great credit to his State; he is an asset to the Nation. I offer him today my sincere congratulations and felicitations, and I look forward with appreciation to the opportunity of continuing to serve with him and to work with him here in the Senate in the initiation and promotion of programs and projects that are intended to further strengthen our Nation and to enhance the well-being of the American people.

So, happy, happy birthday, Senator ELLENDER, and may you have many, many more, and we hope you will celebrate them here in the U.S. Senate.

The PRESIDENT pro tempore. The Chair thanks the Senator.

Mr. YOUNG. Mr. President, I now yield to the distinguished Senator from Mississippi (Mr. EASTLAND), chairman of the Senate Judiciary Committee who is also second ranking on the Senate Agriculture Committee.

Mr. EASTLAND. Mr. President, because of my deep affection for the senior Senator from Louisiana, I am delighted to join my colleagues in recognizing him on his birthday.

His experience gained over many years in public service is tremendous. He began as a city and district attorney and then moved to the State legislature and graduated as speaker of the house. This local and State service fitted him well for the outstanding contribution he has made to our Nation the past 35 years in the Senate.

What he has experienced, he learned and has remembered. His mind is a storehouse of knowledge and, like a computer, it can recall, analyze, and resolve the problems with facts and wisdom. His energy is boundless and his dedication to duty unlimited. He is the hardest working Member of the Senate.

In spite of his national responsibilities, he has maintained close contact with his people and is thoroughly conversant with their problems. Better than this, he is adept at solving them when they relate to government.

I have served with him closely and long on the Senate Committee on Agriculture and Forestry and I know he is the friend and servant of the farmer.

My State, and every State in our Nation, is a beneficiary of his wonderful grasp of the needs for flood control, water resource development, navigation, and harbors. Monuments to his leadership in public works are innumerable and their contribution to safe homes, water for jobs and transportation affect the pocketbook and the level of living of every American family.

He is perhaps best known as a watcher of the public purse. His study of every appropriation has eliminated unnecessary and wasteful spending. His inspection of overseas military facilities and

evaluation of foreign aid programs running above \$100 billion has saved this country billions of dollars and retarded the erosion of the value of the dollar. Every American should acclaim his service because he has served every American well.

I congratulate my friend ALLEN ELLENDER today. He begins a new year on his long tenure of faithful service. I know he has many more useful years to contribute to the progress of this Nation, which shall be eternally in his debt.

Mr. YOUNG. Mr. President, I now yield to the distinguished chairman of the Senate Committee on Armed Services, who is also chairman of the Subcommittee on Public Works Appropriations.

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

Mr. STENNIS. Mr. President, it is really a happy privilege for me to be given a chance to say a few words here with reference to one of the finest, most respected Members of our body, and I think a man who covers more legislative ground, both in the committee and on the floor, than any other Member.

I am not going to take very much of the time that remains, but I know that one of the most outstanding achievements of his career has been his work this year, in the way he had led, prodded, and pushed these appropriation bills through the subcommittees, the committees, and this Chamber, so that now I think all the appropriation bills have already been approved—as a matter of fact, they had been before the recess—except that public works was added the other day, and those that remain are only the military, which is tied up by the bill we have under consideration, military construction, which is a companion to it in a large way, and foreign aid.

That, gentlemen, is an amazing achievement, greatly to the benefit of every Member of this body and of the Senate.

In the process of his work, he has come to know more about more things in that Appropriations Committee by far than any other individual Member among us. He not only touches on the areas of those committees of which he is chairman and has been chairman, but all the rest as well. But this long, long record of the constructive work he has done on the Appropriations Subcommittee for what we call public works—which, by the way, includes reclamation, atomic energy, now Appalachia, and a number of other items in addition to the rivers and harbors, dams, flood control, and all those constructive things involving navigation and related points—has given him a most amazing, intimate knowledge of the subject, and firm opinions concerning public works matters all over this Nation. I know, because I have been on the subcommittee with him a long time, and this year it has been my privilege to be chairman of it; and I know how valuable it was to have him there.

I do not see how he managed to be there all the time, but he was. He is the only man I know in our membership who can be in the committee room and on this floor at the same time. He can do that, not quite physically, but he will be

leading a committee down there, and also managing the passage of a bill up here, in the magic way that he has. It goes back to his dedication, his hard work, and his inexhaustible energy and untiring effort.

By the way, I want to mention one thing in passing. He is my instructor down at the gymnasium also. He is teaching me how to pull those weights down, and I know he used to pull them just as a warmup getting ready to go out and play golf. That shows his great vitality and his tremendous care of himself.

I want to mention another thing here, and that is the fine example he gives us of frugality of living and frugality of expenses in Government, and his ever-constructive and at the same time conservative approach in spending the taxpayer's money.

But foremost among his duties, I think, is not to forget who sent him here, the people of Louisiana. Their interests and their needs he has never forgotten. It is amazing how much he has done.

My opportunities to observe our distinguished friend from Louisiana stretch over a great many years. My State of Mississippi shares a geographic boundary with his State of Louisiana. The water of the Mississippi River, and the commerce it carries, flows from my State into his. We have shared common problems of many kinds. I want to say, Mr. President, that there has never been a more faithful servant of the people of his State than is Senator ELLENDER.

I repeat, I know of no one man who has done as much as ALLEN ELLENDER toward the development of the water resources of this country. He has demanded, and has received, high standards in terms of the return in benefits for dollars expended. He has been relentless in rooting out and eliminating any semblance of inefficiency or waste. But he has been dedicated to the development of our rivers and waterways, and he has shown vision in accomplishing this.

I also pay tribute also to Mr. Kenneth J. Bousquet, longtime valued and dedicated staff member who has rendered such outstanding service to the Subcommittee of Appropriations for Public Works which was chaired for many years by our colleague.

It would be very difficult to pick out one single characteristic of Senator ELLENDER that makes the strongest impression on me. He is a man of reasoned judgments, a practical man of great logic and courage, and a gentleman of discernment and quiet humor. If I had to pick out a single impression, however, on which to comment, I would have to say it is his great vitality. I cannot recall ever seeing him walking slowly when there was an opportunity to move ahead briskly. His mind works briskly, too, and he is impatient of any delay in getting ahead with the job. He sets an example for all of us in what he can get done in a single day.

Mr. President, there is much more I could say in tribute to our President pro tempore. I have not even mentioned his long service as chairman of the Senate Committee on Agriculture and Forestry, or the vigilance with which he observes the state of our national budget. There are many other Members, however, that

wish to speak. Let me only say further of my good friend and respected colleague from Louisiana that I am a better man for having had the privilege of serving with him in the Senate, that I wish him many happy returns on his birthday, and many more years of service in this body.

The PRESIDENT pro tempore. The time of the Senator from North Dakota has expired.

Mr. MANSFIELD. Mr. President, we now go into the morning hour for the conduct of routine morning business. I ask unanimous consent that this time be devoted, for as long as needed, to the continuation of this remarkable series of compliments to a man who has done so much for his State, for the Nation, and for the Senate, and done it so effectively and so well.

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

Mr. RIBICOFF. Mr. President, I would like to join my colleagues in congratulating the distinguished Senator from Louisiana. At 81, he has the physical vigor and intellectual quality of men half his age.

Critics of the Senate often do not understand what this body means and what it represents. If they would look at the distinguished Senator from Louisiana, they would better understand the integrity of the Senate, and the meaning of the U.S. Senate as an institution for the continuation of this great country of ours.

The Senator from Louisiana represents his State. All the 100 Members here represent their respective States, and they represent the thinking of the people of their States, their philosophy, and their ideas. The genius of this country is that here in this body, we can debate every great issue, domestic and international, and after the debate is over you know what the people of the country are thinking about, and what their philosophy is on any question. Ideas shift and ideas change here as the constituencies of this Nation change.

The Senator from Louisiana combines the great qualities of hard work, integrity, and knowledge. I have listened to many heated debates on this floor in which the Senator from Louisiana has been a participant. I do not recall the Senator ever once casting any aspersion or personally slighting any Member of this body. He always discusses an issue under debate to the fullest extent of his knowledge, which is deep and great.

One of the things that I think all of us appreciate is that special invitation each of us receives each year to go to his office for a Louisiana repast. I can say without equivocation that the single greatest dish I have tasted anywhere in the world is crab gumbo a la Ellender. When it is topped off with the dessert of a praline made by the distinguished chef who presently occupies the Chair, every Member of this body goes away with a sense of warmth and appreciation for a man who has many facets to his ability and his character.

It is a great honor for me to serve in this body and to be associated with Senator ELLENDER. I join my colleagues in paying tribute to his many, many years of service, and wish him great health

and continued service to his country and this body for many future years.

The PRESIDENT pro tempore. Is there further morning business?

Mr. FONG. Mr. President, I want to join my colleagues in offering to the distinguished President pro tempore, the senior Senator from Louisiana (Mr. ELLENDER), my warmest felicitations on this happy occasion.

To celebrate 81 birthdays is remarkable, indeed. But to have the vigor, stamina, and vitality that Senator ELLENDER has after fourscore years is even more remarkable.

About ALLEN ELLENDER we can truly say, "He is 81 years young."

In the 12 years I have been privileged to be a Member of this body, I have seen my good friend from Louisiana shoulder an ever heavier burden of responsibility here in the Senate—in the field of agriculture, public works, national defense, and Federal expenditures.

An example of his diligence and efficiency can be seen in the record the Senate Appropriations Committee compiled this year under ALLEN ELLENDER's chairmanship. Since he became chairman in February, the committee has handled a total of 15 money bills for the 1971 and 1972 fiscal years. Because he prodded committee members to hold hearings and do their preparatory work well in advance, nine of these bills were reported to the Senate either the same day they were received from the House or 1 day later.

When Congress recessed on August 6, only four bills had not passed the Senate. All four are still in the House Appropriations Committee, which cannot act until Congress passes the necessary authorizing legislation.

To the best of my recollection, never in recent years have these very important money bills been handled so expeditiously. As a member of the Appropriations Committee, I take my hat off to my chairman.

I should like very much to know the key to my chairman's energy and longevity. But I shall not ask him to disclose his secret in this public forum in advance of the next election. Probably he would say, "Because I keep healthy and I was born so long ago."

All I can say is that anyone thinking of challenging ALLEN ELLENDER had better be in top physical and mental condition.

In closing, I just say to my friend, may your blessings be as full as the eastern ocean and your life as everlasting as the southern hills.

Mr. CASE. Mr. President, "Praise to the face is open disgrace" is a statement that comes from some literary artist such as V. S. Lean. But this man from Louisiana is sturdy enough to take even this without flinching.

It is a great pleasure to join our colleagues in expressing our respect, affection, and admiration for the Senator from Louisiana. Many of us have known him for a long time, directly and indirectly, as a Member of the House and then the Senate. It has been a quarter of a century in my case, and I am by no means the oldest of his acquaintances.

I have never had any occasion on which

to doubt the soundness, the decency, the reliability, or the humanity of this man.

I do not know to what purpose these remarks are going to be put. If it is for his reelection, so be it, even though I am a Republican. On the other hand, if he would like to suppress some for that purpose, such as mine, in his own interest, that is all right, too.

All I want to do is to say that, as a member of the committee on which he serves as chairman, as a Member of this body, in which he has rendered such distinguished service, I am honored and proud because of my association with him.

Whenever one of us thinks he knows something about his own State, I suppose it is an antidote to self-satisfaction to find out that, by gosh, this man has been there before you—even in your own State. He has flown over New Jersey in a helicopter to view problems on which I have been working for quite a while, and he knows about them intimately.

One could ramble on indefinitely, but all I shall say is, ALLEN it is wonderful to be with you, and we look forward—I know you will be here, and I hope I shall be here—to many a long year to come.

Mr. CHURCH. Mr. President, I should like to join in saluting the distinguished Senator from Louisiana today on his 81st birthday.

Among his many attributes, it has already been noted that he is one of the best cooks in the Senate. He is also one of the younger men of the Senate, because, as we all know, age is not measured by counting years alone.

Those of us who have been privileged to serve closely with the Senator appreciate that he displays so many of the qualities of youth. Here is a man, celebrating his 81st birthday, who has preserved throughout his life a young spirit. His agility of mind, his capacity for creative thought, his immense and proven vigor which enables him to do such astonishing amounts of work—all these are the attributes of youth.

So I salute him on his 81st birthday as one of the younger Members of the Senate in the ways that matter most.

Mr. CRANSTON. Mr. President, I rise to join in the tribute to our beloved and esteemed colleague.

One of my great regrets about my service in the Senate is that I have not been able to serve with ALLEN ELLENDER as long as most of my colleagues. Of course, nobody in the Senate has served with him as long as he has served with himself.

His record in this body is truly an incredible one. The great accomplishments he has achieved in the time he has served as chairman of the Appropriations Committee, and moving on such a rapid schedule, have been a benefit to all Members of Congress and to all citizens of our country.

I believe that out of his great experience, his understanding of the issues of our time, his compassion, and his concern we will see some remarkable achievements in the days and months and years ahead in terms of allocating the funds of our country in ways in which they can be used most effectively for all the people of our country.

I am counting upon ALLEN ELLENDER to

help bring about a change in priorities that relates to what we spend on military matters and what we do not spend on the tremendously challenging problems we face at home, in this beloved country of ours.

I am everlastingly grateful to ALLEN ELLENDER for the advice and assistance he has given to me, as a relatively newcomer in this body, and the fact that, despite his heavy duties and all the burdens he carries, he is always available to help and guide me and others when we need that help and guidance.

I heartily congratulate him on his birthday and on many, many other things.

(Mr. GRAMBRELL took the chair as Presiding Officer at this point.)

Mr. BENTSEN. Mr. President, I have known Senator ELLENDER for many years, first when I served as a Member of the House of Representatives and then again this year when I became a Member of the Senate. Both experiences have been rewarding.

I have been impressed by both his courtesy and his fairness in dealing with other Members of Congress, especially with new Members. I have been impressed, too, by his dedication and energy. As his neighbor in the Old Senate Office Building, I am aware of the long hours he devotes to his work as President pro tempore, as chairman of the Appropriations Committee, as chairman of the Subcommittee on Defense Appropriations, as ranking member of the Agricultural and Forestry Committee, and as a member of the Democratic Policy Committee. This is a tremendous workload for any man, but Senator ELLENDER attacks it as though he is 18 years old instead of 81. Since he took on the chairmanship of the Appropriations Committee this year, he is in fact just a freshman in that job. He has tackled the job with the experience of a well-seasoned veteran and the energy and enthusiasm of a rookie. That is one reason why the Appropriations Committee has cleared 10 of its 14 bills already this year and why it currently has a clean docket.

Monuments to Senator ELLENDER's work can be found in Texas, as well as in just about every other State in the Union. Although he looks after his own State very carefully, he has in fact become a national figure and he shows his concern for problems and needs in all our States.

When I speak of monuments, I am speaking in particular about the public works projects that Senator ELLENDER has worked so hard to develop throughout the Nation. As a member of the Senate Public Works Committee, I know that these navigation channels, dams, and reservoirs are helping our people live a better life. These projects produce more jobs, fewer floods, more fresh water, and lower transportation costs. These are lasting tributes to his work. They extend from coast to coast and up and down our Ohio, Missouri, and Mississippi Valleys.

We also enjoy the benefits of his long term as chairman of the Senate Agriculture Committee, a period of 18 years. During this chairmanship—the longest in Agriculture Committee history—Senator ELLENDER has initiated and backed pro-

grams that have helped convert America from a land of depression soup lines to a Nation of food and fiber abundance. Our Federal agricultural programs have helped make our Nation the richest land in the world. And, Mr. President, we are still the richest Nation, despite our current inflation and our dollar and gold problems.

As Senator ELLENDER has often said, the real measure of a nation's wealth is not its gold, but its ability to produce food, clothing, and shelter for its people. In the United States today, a family has to spend only 16 percent of its income for food. That is the lowest percentage in the world. In some parts of the world, the people have to devote nearly half of their total income just to feed their families. In the United States we can do this with one-sixth of our income.

Sometimes we take this agricultural abundance and our public works projects for granted. But Senator ELLENDER and his colleagues on the Agriculture and Appropriations Committees have had to fight long, sometimes thankless, battles for these programs. He stuck to his faith in these programs because he knew that they were helping to develop this Nation's land and water resources.

Mr. GURNEY. Mr. President, I, too, want to join my colleagues in this eventful occasion honoring the 81st birthday of the dean of the U.S. Senate, the distinguished senior Senator from Louisiana, ALLEN ELLENDER.

As we have all noted—and I note, also—the most remarkable fact about Senator ELLENDER on his 81st birthday is his youth and vigor. His appearance as well as his energies are of a man 20 years younger, and it is well known and universally regarded that he is the hardest working Senator of all of us. His ability as a Senator is also acclaimed by all of us. His leadership in the field of appropriations, agriculture, and public works has never been excelled by any Senator in this or any other time.

His long service over 35 years in this great legislative body has seen the most constructive, innovative, and sound ideas of ALLEN ELLENDER put into practice which have made major contributions onward and upward to the progress of this Nation.

There is no more respected Member of this body than ALLEN ELLENDER.

It is my fervent hope and prayer that ALLEN ELLENDER, the dean of the Senate, will have other birthdays under the same identical circumstances, and as the President pro tempore of the Senate, so that the Nation may have the benefit of his ever sound and ever wise counsel and judgment.

Many happy returns on your birthday.

Mr. MCGEE. It is with pride and great pleasure that I join Senators in paying tribute to the senior Senator from Louisiana on this occasion of his 81st birthday. In addition to being the senior member of this body in terms of length of service, and therefore, President pro tempore, Senator ALLEN ELLENDER is also chairman of the Appropriations Committee—a position which places many awesome responsibilities squarely on his shoulders.

In this body, one soon learns that a

measure of a man's ability does not rest so much in agreement expressed for his views, but in the respect and high esteem in which he is held. It was in this manner that I began my first association with Senator ELLENDER. I have served with him all of my 13 years in the Senate as a member of the Appropriations Committee. On those occasions when we have been on the opposite side of an issue, he not only has been tolerant of my differing views but also most helpful to me in presenting my position.

Moreover, since his assuming the chairmanship of the Appropriations Committee, many other qualities have come clearly into view. One of these is his toughness. However, he makes no demands upon the rest of us that he does not first exceed himself.

There are 13 major subcommittees of the Appropriations Committee. The new chairman is invariably present whenever any of them is in session. His energies seem boundless. His singleness of purpose is action. Those of us who are younger in years nonetheless find it difficult to maintain the pace he sets for himself.

But, above all, ALLEN ELLENDER, as a colleague and as chairman of the Appropriations Committee, has always been eminently fair. I daresay that before his service in this body is completed, he will have written a new and admirable record in the Senate.

In this year alone—the first during which the committee itself has been under his leadership—all but four of the appropriation bills were cleared by the Senate prior to the August 6 recess. Those four measures remaining were necessarily delayed pending enactment of authorizing legislation by other committees. This record has no equal in modern times.

As a result of his many years of service on the Committee on Agriculture and Forestry—including, until recently, the chairmanship of that all-important committee—he has been instrumental in formulating and implementing an effective agricultural policy for this Nation.

Just recently the Department of Agriculture conducted ceremonies commemorating the 25th anniversary of the highly successful school lunch program—a program which Senator ELLENDER initiated a quarter of a century ago.

While he has been extremely interested and active in matters involving agriculture, he has by no means limited his activities to that field. He has been a consistent and effective leader in matters of national defense, in development and conservation of our resources, and in fiscal responsibility, as well as many other areas of concern.

Senator ELLENDER has served his State, his country, and this body with honor and distinction throughout his more than 34 years of public service in the U.S. Senate. Those of us who have had the pleasure of serving with him even for a small portion of this time are richer as a result of that opportunity.

His service has been characterized by hard work, long hours, and an extreme sense of dedication of purpose. On this occasion, however, I choose not to look back nor reflect on the past, but to look forward to many more years of association with the senior Senator from

Louisiana. And if I can only be as vigorous and perceptive at 61 as ALLEN ELLENDER is at 81, I will indeed be very fortunate.

Mrs. McGEE joins me, Mr. President, in extending my congratulations and best wishes on your birthday.

Mr. STEVENSON. I join my colleagues in extending congratulations and good wishes to ALLEN ELLENDER on his 81st birthday. His wisdom, energy, and sense of justice make him a great U.S. Senator; his grace, wit, and exuberance make him a fine human being. It is a pleasure and a privilege to serve with him—and to be educated by him in the workings of this body.

Mr. COTTON. Mr. President, it has been my privilege to serve for 17 years in this body with the distinguished Senator from Louisiana, ALLEN J. ELLENDER. Like all Senators, I have admired and respected him for the forthrightness of his approach to every issue and for the fidelity and tenacity with which he fights for his convictions.

Throughout all these years I have marveled at the boundless energy with which he has pursued his duties and ever-increasing responsibilities as a Senator. I have marveled even more that his energy has not decreased one whit with the passing years. Indeed, his energy and capacity for hard work have seemed to gather momentum with each passing year. We who serve with him and under him on the Appropriations Committee have had striking evidence of this as he has speeded the consideration of appropriation bills and pushed them to the floor of the Senate with almost unprecedented rapidity. His fervor has been contagious and has inspired all of us to renewed activity.

We congratulate him upon his 81st birthday, even though it is one of those statistical facts that has little real significance for obviously he is not 81 years old in mind, body, or spirit.

As I think of ALLEN ELLENDER, the words of an old sage that I learned long ago come back to me:

Age is a quality of mind.  
If you have left your dreams behind  
And hope is cold;  
If you no longer look ahead  
And your ambition's fires are dead;  
Then you are old.  
But if from life you take the best  
And in life you see the jest,  
And love you hold;  
No matter how the birthdays fly,  
No matter how the years roll by;  
You are not old.

Mr. HOLLINGS. Mr. President, I am pleased to join with Senators to express my best wishes to Senator ELLENDER on this occasion of his 81st birthday anniversary.

The Senator from Louisiana has served here longer than any other Senator, and he certainly has learned how to get things done. As chairman of the Appropriations Committee, of which I have the honor to be a member, he has set a pace that has kept the rest of the members straining to match. We are far ahead of previous years in handling annual appropriations bills. Ten of these bills have already been passed by this body, and the other four are ready to

be acted upon as soon as the other body acts.

The chairman has not let speed override thoroughness, and the committee's record, which includes 3,202 witnesses and 183 days of hearings, has been due to comprehensive advance planning by the chairman. His conscious and perceptive awareness of financial matters are obvious to all who have worked with him and his sharp and pointed questioning is often painfully obvious to those who have testified before him.

I am pleased and proud to have had the opportunity to work with my distinguished colleague, Senator ELLENDER. I wish him many happy returns on this special day, and I wish him many more years of continued good health and good fortune.

Mr. CHILES. Mr. President, it is a great privilege for me to join with others of this fine Senate body in paying tribute to Senator ELLENDER on the occasion of his 81st birthday today. Others who have served with him for longer periods of time and have had a chance to work with him and observe him more closely can attest more eloquently to the magnitude of his contributions to the people of this country. I welcome the opportunity, however, of offering some brief comment.

The Senator from Louisiana is a fine man, and outstanding lawmaker, an upstanding public figure, and I stand in awe of his record. I have managed to find one parallel in his and my careers, though. Senator ELLENDER has been a member of the Senate Committee on Agriculture and Forestry, without interruption, since he entered Congress in 1937—some 34 years ago. Well, this Senator from Florida has also been a member of the Senate Committee on Agriculture and Forestry, without interruption, since he entered Congress—only in his case it was just 9 months ago. Still, I hope this is an omen for the future, an indicator that I will be able to serve as well as he has served.

I have been in the U.S. Senate and on the Agriculture Committee for only a short time, as I said. But in that short time I have found the distinguished Senator from Louisiana has left his mark indelibly, playing a major role in the development and enactment of all legislation affecting agriculture. It started in that first year, 1937, when he traveled throughout the country as a member of the Special Senate Agriculture Subcommittee which held grassroots hearings in all the major farm areas of the United States. Subsequently, he assisted in drafting and enacting the Agricultural Adjustment Act of 1938 which still stands as the basis of our present farm price support programs.

He initiated and supported legislation to expand programs designed to conserve our land, forest, and water resources. He fostered and supported legislation for the creation of small watersheds designed to assist in flood prevention, in promoting recreational facilities and in providing water for industrial and municipal uses.

The Senator promoted expanded programs of agricultural research into development of new and improved varieties

of agricultural commodities, as well as more efficient production.

His concern and desire were to provide consumers with nutritious and wholesome foods in abundance. To that end, he advocated effective and realistic pest control programs, meat and poultry inspection, and other regulatory measures.

The Senator was influential in regard to other important measures—the rural electrification program, soil conservation, the School Lunch Act which he coauthored, the school milk programs, and the food for peace program. He sponsored and guided passage of the Food and Agriculture Act of 1965, the most far-reaching bill affecting agriculture passed in many years.

It is my belief that Senator ELLENDER's efforts have reflected his philosophy that the Government's function in agriculture is to work for the benefit of both farmer and consumer within the framework of the free enterprise system.

His is an enviable career, and I am happy to have the opportunity to commend him on this special occasion.

Mr. HUMPHREY. Mr. President, today is an important occasion in the Senate, for it marks the 81st birthday of the distinguished senior Senator from Louisiana, Senator ALLEN J. ELLENDER.

Seniority is both an absolute and a relative term when applied to this outstanding colleague. He is, indeed, senior to all Members of the Senate, with terms of continuous service commencing on January 3, 1937, and marked by his elevation to the office of President pro tempore of the Senate this year. It is a seniority well respected by those of us who bear the distinction of Senate "freshmen."

But for the Senator from Louisiana, the seniority of age is a misnomer, for he continues to demonstrate a strength and vigor that is the envy of many of his "younger" colleagues. Anyone acquainted with the heavy responsibilities and continuous work schedule demanded of the chairman of the Senate Committee on Appropriations knows well that "seniority" connotes wisdom and determination in seeing a difficult job through.

As a past and present member of the Senate Committee on Agriculture, I count it a particular privilege to celebrate this occasion by noting the numerous accomplishments of Senator ELLENDER.

A member of this committee since 1937, he served as its distinguished chairman for 18 years—a term of service exceeding that of any other of the 40 chairmen of this committee. From the outset, his goal has been the establishment of a prosperous, strong, and efficient agriculture. He helped draft the Agricultural Adjustment Act of 1938 which still stands as a basis of our vitally important farm price support programs. And it was my pleasure to have his partnership and needed leadership in the enactment of the food for peace and national school lunch program which have accomplished so much in combating malnutrition at home and abroad. And for those of us for whom rural electrification and land, forest, and water conservation programs have been of vital importance, the legislative foundations laid by Senator ELLENDER will not be forgotten.

As he has been a dependable coworker in a presidential election campaign and in legislative action on vital housing and public works programs, so now he fully shares my concern that there be established a firm national commitment to bring revitalization and growth to rural America.

Each of us can relate pleasurable reminiscences of occasions shared with this remarkable gentleman. Senator ALLEN ELLENDER, honored colleague, may there be many more annual gumbo luncheons and may you continue to reign as honored guest at the Louisiana Society Mardi Gras Ball.

Mr. MONTROYA. Mr. President, service to one's nation is in itself a great honor. But today I offer special tribute to our friend and colleague, the senior Senator from Louisiana, ALLEN J. ELLENDER. Today is his 81st birthday, and he has spent most of his life in service to his fellow citizens and our country.

Since 1937, he has devoted his services to a series of vital causes. Today, as chairman of the Committee on Appropriations, he makes perhaps the unique and most important contribution of all.

We who serve on that strategic committee know how much effort he devotes to the appropriations process, painstakingly scrutinizing this legislation. He knows that effective legislation of this sort requires a concerned, involved, and determined chairman who makes it his business to produce finely honed measures that do justice to the appropriations process.

His home State of Louisiana fully understands the scope of his Senate role and has honored him again and again with reelection to this body. As President pro tempore of the U.S. Senate during the 92d Congress, Senator ELLENDER officiates over this body with wisdom and composure from which we all benefit. His intimate knowledge of the democratic process and respect for the traditions of this body significantly contributes to the conduct of the legislative business of the Nation in this Chamber.

Each Member of the Senate has had cause to call upon him for advice, assistance, and knowledge. Never has it been refused to any of us, regardless of party or cause. He has been as ready to understand the problems of an individual State as he is to look at a problem with a national viewpoint.

It is a pleasure to pay tribute to him today, wishing him the best of the day and many more years of distinguished service.

Mr. MILLER. I wish to join with my colleagues in wishing the distinguished Senator from Louisiana, the Honorable ALLEN ELLENDER, a very happy 81st birthday.

His long and distinguished record is well known to all of us, particularly those who have had the privilege of serving on committees with him—as I have had on the Senate Agriculture Committee.

It is exceptional to find a person of his years who has retained such a dynamic, keen, alert, and hard-working character and capacity. Senator ELLENDER has been blessed with excellent health, but he has worked at doing so—setting an example for many of those far younger. More than anything else, however, his

great mental ability and sharp interest have undoubtedly contributed to maintaining the physical health he enjoys.

Senator ELLENDER is an outstanding example of the truism that age is not always a criterion of a person's ability to provide great service and outstanding leadership. He carries those 81 years proudly, and he serves the people of Louisiana and the U.S. Senate proudly.

Happy birthday, ALLEN.

Mr. PASTORE. Mr. President, it is not something new that this Senate should pause in its deliberations to pay tribute to the senior Senator from Louisiana (Mr. ELLENDER). For more than a generation the Senate has marked the milestones of his service here—and the repetition has been reassuring and the occasion inspiring.

Year in and year out—as the arduous appropriations bills have the attention of this Senate, we have heard and have seconded the praise of our leaders. We have echoed their declarations of skill and competence and diligence. For the industrious scholarship of our colleague and his management of these measures on this floor have made better Senators of us all.

But annually we transcend from bills to birthdays. It is a chance to remind ourselves how long we have possessed the abilities of this man—and to be reminded how long ago ALLEN ELLENDER was enlisted in causes that claim our most earnest attention at this very hour.

Senator ELLENDER came to Washington in the backwash years of the depression of the 1930's. He came from a grass-roots schooling in Louisiana—with a State government grappling at first hand with the problems of the poverty and the people—and to the growing realization that government might have a duty in personal distress and disaster.

A liberal State government projected relief programs far ahead of their time—and ALLEN ELLENDER did not alter his course in Washington. He helped pass the Housing Act of 1937. That act created the U.S. Housing Authority. In the 1940's he joined with the then Senator Taft of Ohio and Senator Wagner of New York in cosponsoring the Housing Act of 1949. He canvassed the Nation personally to generate support for the legislation which forms the basis for many of our present low-cost housing programs.

In all his thinking he has been against abuses but not for abandonment of programs that reach down to the needy.

With all the weight of his responsibilities in public works, agriculture and appropriations, with all his international involvement and experience—with all his expertise in every phase of government Senator ELLENDER has remained the most unaffected, approachable and helpful of colleagues. He is a delightful host in the Louisiana fare that he dispenses with a master's hand. He is the statesman who has remained the good neighbor and good friend—as modest in demeanor as he is earnest in dedication.

That is the dedication—in his own words—to serve his State and Nation as long as he has the capability and his people command him.

May the commitment of the Senator

and of his State bring us to many more anniversaries like this.

Mr. BROOKE. Mr. President pro tempore:

Your friends at State  
Planned to give you a fete—  
But their entertainment budget's no more.

The men in blue  
Planned a "fly by" for you—  
But their funds have been cut to the core.

Your colleagues here  
Hold you specially dear  
For your rectitude and great lore

We salute you today  
In the only way  
That the country and we can afford:  
Happy Birthday!

Mr. CURTIS. Mr. President, in order to adequately discuss the public service of Senator ALLEN ELLENDER of Louisiana, it would take not one speech nor 10 speeches, not one book but several volumes. His public service is marked by much more than just the number of years. It has been in-depth public service.

Senator ELLENDER is not one who is willing to take the bows and let somebody else do the work. He is diligent in his committee work. He masters all the details of legislation that comes before the committees upon which he serves. He is thorough. He is a hard worker. These traits of character and habits of work, plus his years of service, give him a storehouse of knowledge that makes him an outstanding legislator.

Senator ELLENDER is admired because of his strong physique, his excellent mind, and his ability to state a position and defend it with clarity and forcefulness.

Mr. President, I can not compete with Senator ELLENDER's biographers. Therefore, I shall be content to say happy birthday to our friend and colleague, ALLEN ELLENDER of Louisiana. I hope he has many more of them.

Mr. ALLEN. Mr. President, it is a real pleasure to felicitate our distinguished colleague, the senior Senator from Louisiana (Mr. ELLENDER), on the occasion of his 81st birthday.

We all know of Senator ELLENDER's many accomplishments for the people of Louisiana and of his great contributions to our country during his 35 years of service in the U.S. Senate. He has been a dedicated defender of the ideals and principles upon which our Nation was founded.

ALLEN ELLENDER has long been recognized as a leader in the important areas of agriculture, water resources development, and fiscal responsibility. He has always fought wholeheartedly to better the lot of our farmers, to benefit the cause of our veterans, to provide more and better health facilities for our people, and to insure the workingman decent hours and decent wages under safe working conditions.

Senator ELLENDER's particular charge has been American agriculture; in fact, the farmers of America have no better friend than the senior Senator from Louisiana. He has been a member of the Senate Agriculture Committee since he

entered the Senate in January 1937 and, with the exception of the 83d Congress, has served as its chairman since 1951 until the beginning of the current Congress when he assumed the chairmanship of the Senate Appropriations Committee.

For the past 35 years, Senator ELLENDER has played a vital role in shaping programs for American agriculture. I am confident that every Member of the Senate will agree that it would be difficult to find an American at any point in our history who has done as much for the farmers of America as ALLEN ELLENDER. When I came to the Senate in 1969, I specifically requested to be assigned to the Senate Agriculture Committee and from the moment of our first committee meeting, Senator ELLENDER has been my good friend, wise counselor, and has helped me in so many ways.

Mr. President, the people of Alabama have a special place in their hearts for ALLEN ELLENDER. As chairman of the Senate Public Works Appropriations Subcommittee for many years, Senator ELLENDER consistently supported and assisted our State in the development of the God-given resources that are the great waterways of Alabama.

No other State is blessed with inland waterways as is Alabama, and it has been through the generosity and understanding of Senator ELLENDER that we of Alabama have been able to make great strides toward developing the full potential of our vast water resources.

As chairman of the Senate Appropriation Committee during this, the first session of the 92d Congress, Senator ELLENDER has done yeoman service in speeding up committee consideration and approval of the various spending bills. This feat, in and of itself, has permitted the Senate to schedule its work on a more orderly and timely basis.

My service here in the Senate with Senator ELLENDER has made me deeply aware of his exceptional qualities and capabilities. Yes, Mr. President, every time I think of ALLEN ELLENDER's many wonderful contributions and what he stands for and fights for, my heart grows warm. He is, in truth, one of the great statesmen of America.

The people of Louisiana are most wise and fortunate to be represented by a man of the character, the ability, and the effective leadership of Senator ELLENDER. He has, indeed, been indefatigable in his work in the Congress and in his devotion to the people of Louisiana and the Nation.

I salute you, Senator ELLENDER, and wish for you many, many more years of health and happiness, and a long continuation of your distinguished service in the U.S. Senate.

SENATOR ALLEN ELLENDER—A WINDOW  
ON THE WORLD

Mr. PROXMIRE. Mr. President, it gives me particular pleasure today to join my colleagues in wishing Senator ALLEN ELLENDER a very happy birthday. The accomplishments of our distinguished President pro tempore are many. As chairman of the Senate Agriculture Committee he has been instrumental in the shaping of farm policy over the years. As ranking member and now chairman of

the Senate Appropriations Committee he is a valiant battler against wasteful Federal spending and for the beleaguered American taxpayer.

Perhaps Senator ELLENDER's most characteristic activity has been his wide-ranging world travels for they demonstrate his tremendous energy, his ingrained curiosity about what is really going on in the world, his determination to get the facts at first hand before he takes legislative action, and his passion for seeing that Federal funds are wisely spent.

As chairman of the Foreign Operations Appropriations Subcommittee I can assure this body that Senator ELLENDER, who I am fortunate enough to have as a colleague on the subcommittee, is, in large degree because of his globe girdling trips, one of the most informed Members of the Congress in the field of foreign aid.

Just as he has visited every parish in Louisiana every year for the past 30 years, Senator ELLENDER has toured the world to find out what people are thinking and doing.

Traveling on his own time and at minimum expense to the Government, Louisiana's senior Senator has provided the Congress and the American people with insights into our aid policies that were never before available.

These reports have aided the Senate Appropriations Committee—and have been of special value to the Foreign Operations Subcommittee.

Shortly after being assigned to the Appropriations Committee in 1949, Senator ELLENDER volunteered to make a personal inspection of our aid operations throughout the world and to report his findings to the committee and the Senate. It was to be the first of many such tours abroad, with the scope of inspections expanding to America's embassies, consulates and military missions in every country of the world except Albania.

Seven times the Louisiana lawmaker circled the globe; the other years brought him to Europe four times, to Latin America three times, and to Africa, Southeast Asia, and the Near and Far East.

Reports of nine of his trips have been published and are still in wide use by Members of Congress, agency personnel, and students around the world.

Senator ELLENDER's copious notes present a look into the very life fabric of the world's people—their life styles, their customs, and, perhaps most importantly, their attitudes toward the American presence on their soil.

He has dined with kings and princes, he has mingled with peasants, he has diligently questioned U.S. embassy personnel, and, in exhaustive detail, he has described the strengths and weaknesses of our assistance programs. As Stephen Rosenfeld of the New Republic wrote:

Ellender rummages beyond a hunt for waste and duplication into a kind of political and economic cost-efficiency analysis.

It is out of this first-hand observation that Senator ELLENDER has come to treat America's yearly multibillion dollar foreign aid package with skepticism. Although he supported the original Marshall plan, undertaken to rehabilitate

Western Europe after the Second World War, he became disillusioned by the direction our aid efforts had taken.

His on-the-scene assessments have convinced him that the United States is shouldering too many of the burdens of too many other nations, a view which is becoming increasingly prevalent among his colleagues in Congress. His foreign aid cost-cutting recommendations are legendary. His disclosures of overstaffing and waste have saved the U.S. taxpayer millions, and have kept foreign assistance administrators constantly in search for the most efficient methods of distributing the money that goes abroad.

But his evaluations go beyond economic questions. As early as 1954 Senator ELLENDER argued that America should get out of Southeast Asia and advised President Eisenhower against it. After a visit to Vietnam in 1961 he said:

It is my belief that much of the trouble (in Vietnam) stems from within. . . . Boiling discontent threatens to erupt at any moment. . . . Some feel that we should send American troops here. I would not do so under any circumstances.

The senior Senator's most incisive commentary on American foreign policy has come from five visits to the Soviet Union. Since his first trip there in 1955, he has preached that there can never be a true detente between the East and West until fear and suspicion are dispelled.

Senator ELLENDER is a strong opponent of Communist ideology but he has attempted to convey to the American people that the Soviet people are just that—people, people who were formerly allies. His films on the Russian way of life, produced with a hand-held camera and at his own expense, have been distributed throughout the United States to high school and college classrooms, to civic groups, and to educational television stations. He has tried to show American that bridges of understanding must be built so that the two superpowers can find some common ground on which to create a lasting peace.

Mr. President, in pursuing a goal of a more responsible and prudent program of U.S. foreign assistance I am glad to do so with the cooperation and assistance of my good friend, ALLEN ELLENDER.

Mr. Chairman, congratulations on this milestone and many happy returns of the day.

Mrs. SMITH. Mr. President, I wish to pay tribute to the President pro tempore of the Senate on his birthday. There are so many of his great attributes that are deserving of recognition and praise. We hardly know where to start or how to end.

Let me be brief and simply say this. At his age, he is twice as active and works twice as hard as many of us in the Senate, including even those who are only half his age. At his age, he is twice as healthy and twice as strong as most of us in the Senate, including even those who are only half his age.

But more than that, he is probably the most productive and most powerful Member of the Senate. He has done an amazing job this year as chairman of the Appropriations Committee. If all other chairmen did half as well as he did, we would have completed our work long ago

and have adjourned and returned to our people back home.

And speaking of the people back home, even though I am a Republican from the North and he is a Democrat from the South, I have no hesitancy or reservation in saying that the people of Louisiana would be wise to keep ALLEN J. ELLENDER in the U.S. Senate just as long as he is willing to serve in the U.S. Senate. For he is truly irreplaceable to the State of Louisiana and the people of that great State. When the day comes that he no longer represents Louisiana in the Senate that State will have suffered an irreparable loss.

Mr. BURDICK. Mr. President, I wish to join my colleagues in extending best wishes to the senior Senator from Louisiana (Senator ELLENDER) on this anniversary of his birthday.

In more than three decades of service in the U.S. Senate, Senator ELLENDER has made tremendous contributions in every area of legislation. I particularly want to express my personal appreciation for his thorough, patient, and understanding approach to the problems of agriculture. In 34 years on the Senate Committee on Agriculture and Forestry, serving 27 of those years as chairman, he has proved himself the friend of every farmer, East, West, North, and South.

Coming here in 1937, one of a long series of dark years for farmers, Senator ELLENDER helped shape the landmark Agricultural Adjustment Act of 1938, which still stands on the books as the basis of our present farm price-support programs.

The seventies have brought us new problems and new opportunities in farming and all other areas. I am glad that Senator ELLENDER is here to help us with his wisdom and his experience. I wish him many happy returns of the day.

Mr. HRUSKA. Mr. President, it is a pleasure and an honor to join my colleagues in extending best wishes and congratulations to the senior Senator from Louisiana (Mr. ELLENDER) on his 81st birthday.

We all recognize that our deliberations in this body help us to grow daily in wisdom and understanding of our fellowman. Nowhere is this principle better illustrated than in the case of my good friend from Louisiana.

While it may not be proper to use a superlative and say that he is the wisest and most understanding of us all, we certainly must rank him well up among the leaders in those and other admirable qualities.

It has been my especial privilege to work closely with the Senator for many years on the Agriculture, as well as Public Works Appropriation Subcommittees. Anyone who has been so privileged knows what a tower of strength he has been to the work of the Senate and how beneficial his labors have been to the interests of the Nation as well as his own great State.

It is wise to reflect on this date upon our good fortune at having the Senator with us. I join my colleagues in saying we hope his birthday today is followed by many more as happy as this one.

Mr. CANNON. Mr. President, it is indeed a pleasure to share in paying tribute

to our colleague, Senator ALLEN ELLENDER, who is today celebrating his 81st birthday.

The distinguished Senator from Louisiana is in his 36th year of Senate service to his State and Nation, and I have had the honor and privilege of associating with him since I came to this Senate body nearly 13 years ago.

Although I have not had the good fortune of sharing committee assignments with Senator ELLENDER, in my years of association with this statesman I have developed great admiration for his almost unlimited knowledge of Federal finances, public works, and the Nation's agricultural development and needs.

It is this combination of service to his country, knowledge, and leadership which has brought Senator ELLENDER to his respected post as President pro tempore.

ALLEN ELLENDER has said his legislative philosophy holds that the function of government is to stimulate and maintain a fair and competitive atmosphere, permitting no group and no element to gain a stronghold on another. Within that framework his Senate activities have been directed toward efforts in assuring that our citizens are provided with economic opportunity according to their skill, equal educational opportunity according to their ability, and adequate housing and hospitalization at prices people can afford to pay. In his efforts to assure these opportunities, Senator ELLENDER's leadership has been recognized by all his colleagues.

So I join with all other Members of this body in honoring ALLEN ELLENDER in his 81st year, and wish him the best of health and happiness in the years to come.

Mr. JACKSON. It has been said that growing old is nothing more than a bad habit—which a busy man has no time to form. No man proves the point better than ALLEN ELLENDER. He attacks a heavy workload with the energy and enthusiasm of a man half his age. His diligence and attention to detail as chairman of the Appropriations Committee set a high standard for all of us. He is a master of the Federal budget and all its intricacies.

The 81st birthday of the senior Senator from Louisiana is a happy occasion for all of us who are trying to keep up with him. As one who meets him in the Senate gym every day, I can assure the Senate that we have our work cut out for us.

Mr. SPARKMAN. Mr. President, I am delighted to join with my colleagues in wishing the President pro tempore a happy birthday today.

I have known ALLEN ELLENDER from the time I first came to Congress in 1936. Senator ELLENDER came to the Senate in 1936, and it was that year that I was elected as a Member of the House of Representatives. I have known him and valued him as a friend ever since.

Senator ELLENDER and I have always shared a strong interest in and concern over the housing problems of our country. As chairman of the Senate Committee on Banking and Currency, which has responsibility for the primary housing activities of the Government, I would

like to take especial note of Senator ELLENDER's record in the drawing and early sponsorship of the Housing Act of 1949. That first legislation, which proved so difficult to get through the Congress, today forms a cornerstone and the foundation of all our major subsequently housing policies.

Senator ELLENDER fought for this early legislation when public housing was not a politically popular concept throughout the country. He did everything in his power to garner support for it both in the Congress and in the Nation. His basic approach to our housing problems can be summed up with the thought that employers could not expect their workers to put in a productive 8-hour day if they were forced to go home to inadequate, decrepit, and substandard housing for themselves and their families.

In addition to his early work in housing, Senator ELLENDER was also a cosponsor of a program which meant so much to my colleague from Alabama, Senator Lister Hill. I refer to the Hill-Burton Act which made possible the construction of so many hospitals throughout the United States.

Senator ELLENDER's State of Louisiana has many of the same advantages as well as many of the same problems that my State of Alabama has. It has been a privilege for me to have worked with him down through the years in an effort to solve these problems and to develop our section of the country.

Few men in the Senate have either the energy or the alertness that ALLEN ELLENDER has. His responsibilities as chairman of the Senate Appropriations Committee, as ranking member of the Agriculture and Forestry Committee, as ranking member on the Joint Committee on Reduction of Federal Expenditures, as ranking member on the Select Committee on Nutrition and Human Needs, as a member of the Democratic steering committee, as a member of the Democratic policy committee, and as President pro tempore of the Senate are enough to burden down a man half his age. And yet, all of us know that he fulfills these responsibilities completely and with distinction. I have no doubt that all of us will have many more opportunities to celebrate the birthday of our President pro tempore. It is an honor and a privilege to remember in this way his 81st birthday. I look forward to doing it again and again and again in the years to come.

Mr. LONG. Mr. President, ALLEN ELLENDER is the best living example I know of that the way to lead a long and healthy life is through diligence, clean living, and hard work.

At age 81, he is just getting his second wind.

The distinguished senior Senator from Louisiana and ranking Member of this body has always been dedicated to the public interest, both for Louisiana and the Nation since he came to the U.S. Senate in 1937.

It is a distinct pleasure to join my colleagues in honoring Louisiana's senior Senator, and to extend my compliments for the diligent manner in which his Appropriations Committee has pushed

through important money bills this year with such dispatch.

Mr. President, I would wish my distinguished colleague continued good health and many more fruitful years here in the Senate, which he has served so well. It would be difficult and would take all day to list the accomplishments which the senior Senator from Louisiana has achieved in the almost 35 years he has served his country here.

His interest in the now popular conservation field and preservation of our environment was deep, long before it became fashionable. We in Louisiana and his colleagues in the Senate are familiar with the major role he has played in the development and broadening of programs designed to conserve and protect our land and its people through various public works measures such as flood control and navigation of our inland waters.

In his 18 years as chairman of the Committee on Agriculture and Forestry, which he gave up to become head of the Appropriations Committee this year, he played a major role in drafting laws which are still the basis for the strength in our farm economy.

Mr. President, my distinguished colleague is also noted for having helped develop the essential school lunch program to help feed the Nation's needy children.

His accomplishments are many, of which he can be proud. This Nation owes him its gratitude for the diligence with which he has served, and he has my heartfelt wish that he continue to serve us for many years in good health.

Mr. President, I ask unanimous consent that the official biography of my distinguished colleague be printed in the RECORD.

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

#### BIOGRAPHY OF SENATOR ALLEN J. ELLENDER

Allen Joseph Ellender, Democrat, of Houma, La.; born in Montegut, Terrebonne Parish, La.; September 24, 1890; lawyer and farmer; graduate of St. Aloysius College, New Orleans, La.; and Tulane University of Louisiana, at New Orleans, with degrees of M.A. and LL.B.; married to Miss Helen Calhoun Donnelly (died September 30, 1949); one son, Allen J., Jr.; served in World War I; City Attorney of Houma, 1913-15; District Attorney, Terrebonne Parish, 1915-16; delegate to Constitutional Convention of La. in 1921; member of House of Representatives of La., 1924-36; floor leader, 1928-32, during administration of the late Huey P. Long, Governor; speaker of the House of Representatives, 1932-36; Democratic nominee for U.S. Senator from La., and elected without opposition in the general election held November 3, 1936, for the term ending Jan. 3, 1943; reelected Nov. 3, 1942, in the general election without opposition for the term ending Jan. 3, 1949; reelected without opposition in the general election held Nov. 2, 1948, for the term ending Jan. 3, 1955; reelected without opposition in the general election held Nov. 2, 1954, for the term ending Jan. 3, 1961; reelected Nov. 8, 1960, for the term ending Jan. 3, 1967, and reelected Nov. 8, 1966, for the term ending Jan. 3, 1973; Democratic National Committeeman from Louisiana, 1939-40. (From the Congressional Directory).

Senator Allen J. Ellender, Democrat of Louisiana, was first elected to the Senate in 1936 and has served continuously as a member of that body since January 3, 1937.

Because of his long service and his active interest in matters pertaining to the agricultural and fiscal policies of the nation, Senator Ellender holds high positions on two of the Senate's most powerful standing committees—Appropriations and Agriculture. He is also a longstanding member of the influential Democratic Steering Committee, as well as the Joint Committee on Reduction of Nonessential Federal Expenditures. As of January, 1971, he has become a member of the Democratic Policy Committee and was elected President Pro Tempore of the Senate at the beginning of the 92nd Congress.

#### APPROPRIATIONS

Although a member of the Senate Committee on Education and Labor through 1948, Senator Ellender resigned that post in January of 1949 to become a member of the Senate Committee on Appropriations. This Committee holds the purse string on virtually all expenditures of the Federal Government, and is considered the most powerful unit in the Congress. Senator Ellender's responsibilities as a member of this Committee advanced steadily and he has been acknowledged by his colleagues as one of the hardest working Senators on the Appropriations Committee, and indeed in the entire Senate. As of January 1971, beginning the 92nd Congress, Senator Ellender assumed the Chairmanship of the Appropriations Committee.

Throughout his years of service on the Appropriations Committee, Senator Ellender has used his influence to cut Government expenditures wherever possible, without curtailing needed Government services. He has been particularly concerned with our country's Foreign Aid Program. Although he supported the original Marshall Plan, undertaken to rehabilitate our Western European allies after the Second World War, he became disillusioned by the direction our aid efforts have taken in recent years. His personal observations of our aid activities caused him to lead a fight in the Senate each year to curtail this multi-billion dollar program.

Shortly after being assigned to the Appropriations Committee, Senator Ellender volunteered to make a personal inspection of our aid operations throughout the world and to report his findings to the Committee and to the Senate. This was to be the first of many such inspection tours taken by Senator Ellender on behalf of the Appropriations Committee. Later his investigative activities were broadened to cover our Embassies and Consulates, as well as our military missions all over the world. These expanded activities have taken him seven times around the world by air, and to all countries except Albania. The information and data gathered by him have proved very valuable to the Committee, to the Senate, and to the various executive agencies active overseas. After each personal examination of the work undertaken by our Government in every foreign country, the Senator has submitted an evaluation of the program. Since his observations are made at the working level, as well as at the Washington level, and because they are based on a "common sense" approach, his recommendations have resulted in substantial savings to our Government. Also, from his position as a ranking Democrat, he has been able to see many of his suggestions carried to completion. His exhaustive, detailed reports on his inspection tours have been and still are in wide use by members of Congress, agency personnel and students all over the world.

Senator Ellender serves as a member of all of the Subcommittees of the Appropriations Committee. His areas of long-time interest have been Agriculture, Public Works and Defense. He currently serves as Chairman of the powerful Defense Subcommittee which has oversight over all of the national defense programs of the United States. He also serves as an Ex-Officio member of the Agriculture Appropriations Subcommittee as a means of

continuing his long term interest in this field.

#### PUBLIC WORKS

For fifteen years, Senator Ellender served as Chairman of the Subcommittee on Public Works of the Senate Committee on Appropriations, and it was here that he exerted some of his greatest influence for the nation's welfare. The Senator has retained his position as ranking member of the Public Works Subcommittee.

The Subcommittee has under its jurisdiction virtually all Government expenditures dealing with flood control, power development, reclamation, Tennessee Valley Authority, Atomic Energy, and rivers and harbors improvements. During his tenure as Subcommittee Chairman, he devoted himself unstintingly to the task of allocating available funds according to the needs of each section of the nation. He actively campaigned to see that the Government received a dollar's value for every dollar spent, while at the same time attempting to ensure that no worthwhile or needed project was neglected. On many occasions, the Senator expressed the hope that in a few years time, no area of the nation would ever again be subject to the ravages of a major flood. The development of the Mississippi River Valley, and the Columbia Basin—to mention but two—have been of primary concern to him, and he bent every effort to make certain that the necessary improvements along our nation's greatest waterways were undertaken and pressed to completion as quickly as available funds would allow.

Senator Ellender was instrumental in promoting navigation on many of our rivers, and in harnessing our streams for the production of electric power from falling water. He strongly believes that water and land resources belong to all the people and that they should be developed for the benefit of all the people; that we of this generation are but trustees of those resources, and that we must protect and preserve them for generations yet unborn.

#### AGRICULTURE

Senator Ellender has been a member of the Senate Committee on Agriculture and Forestry, without interruption, since he entered Congress in 1937. He served as Chairman during the 82nd Congress (1951-52), and as ranking Democratic member during the 83rd Congress (1953-54). He became Chairman again when the Democrats regained control in the 84th Congress in 1955, and he has served in that capacity ever since, until January, 1971, the 92nd Congress, when he gave up his Chairmanship to assume the Chairmanship of the Appropriations Committee.

From the beginning of his tenure in the Senate, he has been very active in the Agriculture Committee's deliberations. In 1937, he traveled throughout the country as a member of the special Senate Agriculture Subcommittee which held "grass roots" hearings in all the major farm areas of the United States. Subsequently, he assisted in drafting and enacting the Agricultural Adjustment Act of 1938, which still stands as the basis of our present farm price support programs.

As Chairman, Senator Ellender played a major role in the development and enactment of all legislation affecting agriculture. He was in the forefront in developing a prosperous, strong and efficient agriculture, which led him to sponsor and support legislation covering the entire agricultural field.

He initiated and supported legislation to expand programs designed to conserve our land, forest and water resources. He was instrumental in developing and enacting the multiple use concept as applied to our national forest lands. He fostered and supported legislation for the creation of small watersheds designed to assist in flood prevention, in promoting recreational facilities,

and in providing water for industrial and municipal uses.

Senator Ellender promoted expanded programs of agricultural research into the development of new and improved varieties of agricultural commodities, as well as more efficient production. He, likewise, proposed and supported increased funds for forestry research and marketing research, looking toward the development of additional uses for agricultural commodities.

His concern and desire were to provide consumers with nutritious and wholesome foods in abundance. To that end, he advocated effective and realistic pest control programs, meat and poultry inspection, and other regulatory measures.

Senator Ellender promoted and participated in the enactment of other laws, including the Sugar Act and subsequent revisions, the Rural electrification Program, Soil Conservation, the School Lunch Act (which he co-authored with the late Senator Russell of Georgia), the School Milk Programs, and the Food for Peace Program. In 1964, he guided to passage the Food Stamp Program, which he feels is an improvement over former methods of handling and distributing surplus agricultural commodities to the needy. Senator Ellender sponsored and guided passage of the Food and Agriculture Act of 1965. This measure was one of the most far-reaching bills affecting agriculture passed in many years.

Senator Ellender's efforts as a member of the Committee on Agriculture and Forestry reflect his philosophy in respect to agricultural policy—that is, that the government's function is to work for the benefit of both farmer and consumer within the framework of a free enterprise system.

#### ADDITIONAL LEGISLATIVE ACTIVITIES

In addition to his vital and continuing interest in the conservation of our nation's two most important resources—land and water—Senator Ellender has been very active in originating and promoting much of the social legislation which has meant so much to the American people. The Senator has expressed his legislative philosophy as follows: The function of Government is to stimulate and maintain a fair and competitive atmosphere, permitting no group and no element to gain a stronghold on another. Senator Ellender believes that our citizens should be provided with economic opportunity according to their skill, equal educational opportunity according to their ability, and adequate housing and hospitalization at prices people can afford to pay. Under these conditions, he contends, we will never need to fear the inroads of socialism, communism, or any other foreign ideology.

Toward making that goal a reality, Senator Ellender has supported and fostered legislation designed to make these basic needs available to all people. He has always been insistent, however, that social legislation be in the form of a cooperative effort between the Federal Government and the State and local units of government. Likewise, he has always felt, and still feels, that the administration of all programs should be at the local level.

In the field of education, and while a member of the Senate Committee on Labor and Public Welfare, Senator Ellender joined with the late Senator Robert Taft of Ohio in drafting and sponsoring the Education Finance Act of 1949. This bill became the first program of aid to primary and secondary education to pass the Senate in the twentieth century. Although it failed passage in the House, many of its provisions have been incorporated in subsequent legislation.

In the late 1940's, Senator Ellender toured the country in an effort to build support for the Housing Act of 1949, which forms the basis of many of our nation's most important housing programs. He was joined in the sponsorship of this housing program by the

late Senators Taft of Ohio and Wagner of New York.

Louisiana's Senior Senator was a co-sponsor of the Hill-Burton legislation, designed to foster the construction of hospitals throughout the United States, through a cooperative effort among Federal, State and local authorities. This legislative effort has become one of the most successful government programs, designed to aid the people directly.

Senator Ellender was prominent in the enactment of the first Fair Labor Standards Act during the second administration of President Franklin D. Roosevelt. This initial minimum-wage law was directly aimed at abolishing sweat shops and raising the standard of living of industrial employees, and those working in service industries. Later, however, he opposed revisions of the Act to provide substantial increases in the minimum wage, contending that such matters should be left for collective bargaining between labor and management. He was instrumental in maintaining exemptions for certain industries and agricultural workers, where application of the minimum-wage and overtime provisions would have been disastrous to those segments of the economy, because of the nature of their operations.

The Labor-Management Relations Act of 1947, better known as the Taft-Hartley Act, has many earmarks of his work in the field of labor relations. Many of its provisions were incorporated as a direct result of his efforts and he has always supported its operation, attempting to maintain a balance between the forces of labor and business. He firmly believes that labor and management should have the tools necessary to settle their differences around the bargaining table, free from government interference.

Mr. ELLENDER. Mr. President, I hardly know what to say after hearing all these wonderful tributes about my work in the Senate.

Of course, all that work which has been spoken about here was not done alone. I had a great deal of cooperation given me on the part of many fine Senators whom I have known during the past 35 years.

I am very much overwhelmed by these sentiments expressed here.

I wish to say, without fear of contradiction, that today, at 81, I feel as well physically as I did 40 years ago. So far as my mental capacity is concerned, I am still able to spot a misplaced decimal point from across the room. Whatever abilities I have will continue to be exercised on behalf of our taxpayers, and in the furtherance of policies I believe to be wise for the Nation as a whole.

Mr. President, as I was sitting in the Presiding Officer's chair, listening to these tributes, I was reminded of a story.

It seems that Sister Mary was present at the funeral of her husband. She was sitting not far from the coffin. The minister arose and began to extol the virtues of the deceased. He said that the deceased was a good churchgoer, that he was kind to children, and that he was a very fine husband.

Whereupon, Sister Mary got up and looked in the coffin. The minister continued to extol the virtues of the deceased, saying that he was a fine man, always kind to his neighbors, helping them out whenever he could; that he rarely drank, and possessed many other fine qualities.

Whereupon, Sister Mary left her place again and took another look in the coffin.

Finally, the tributes ended. Later, the minister walked over to console her. Before he left he said to her, "Sister Mary, while I was speaking I noticed your getting up to take a look in the coffin every so often. Why did you do that?"

She turned to the preacher and said, "Well, you said so many good things about that husband of mine, I had to keep making sure that we had the right man."

Mr. President, I appreciate more than I can say all the fine things that have been said about me this morning.

I hope to continue to be a faithful servant to the Senate, and to my State and Nation.

Mr. MANSFIELD. Mr. President, there will be no question about the recognition accorded today by the Senate to our distinguished President pro tempore, the Senior Senator from Louisiana (Mr. ELLENDER).

What has been said about him has been said from the heart. What has been said has been said out of friendship, because to us in this body the distinguished Senator from Louisiana is the deserving recipient of the warmth and the affection of the entire membership, just as he is and has been the recipient of the warmth and the friendship, the trust and the confidence of the people of Louisiana and the Nation.

Mr. President, on behalf of the distinguished minority leader (Mr. SCOTT) and myself, I ask unanimous consent that the RECORD be held open for 10 days, and then that the remarks in praise of our distinguished President pro tempore be printed as a Senate document.

The PRESIDENT pro tempore. The Chair hears no objection, and it is so ordered.

#### PROPOSED WHITE HOUSE OFFICE OF DRUG CONTROL

Mr. RIBICOFF. Mr. President, this statement is being made on behalf of the distinguished Senator from Maine (Mr. MUSKIE) and myself.

No problem is more serious or frustrating in this country than the problem of drug abuse. For 3 months, our Subcommittees of the Government Operations Committee have jointly been considering proposals to coordinate the Federal drug control and treatment effort through a White House Office of Drug Control.

A major question is what functions this office is to have. The administration's proposal is to exclude completely from the concerns of the White House office law enforcement policy and questions involving international traffic in drugs. The administration argues that these matters are better handled by the Department of Defense, the Justice Department, and other agencies.

Letters to me recently have cast great doubt on this position. In response to questioning by Senator MUSKIE concerning the involvement of officials of Southeast Asian countries in narcotics trafficking, Attorney General Mitchell told the subcommittees on July 7 that—

The fact of the matter is that there has been involvement by government officials in some of these countries . . .

And he added that our Government had "identified some of them." He further stated that "programs and initiatives" had been taken to remedy these situations.

The Attorney General offered to provide the facts supporting these statements at an executive session of our subcommittees. Because of the importance of this question, we also invited the Secretaries of State and Defense and the Director of the CIA to discuss this problem with us. The implications for treatment programs for servicemen and veterans in Southeast Asia and the United States were serious enough to merit detailed consideration.

The administration's responses to our invitations have been troubling and lead us to conclude that many of the activities of the Department of Defense and the Justice Department in the narcotics field must be among the matters considered by any White House office.

Secretary Laird has informed me that the Department of Defense has "no personnel qualified to testify in regard to the problem of international drug traffic." Drug abuse is certainly one of the major problems facing the Armed Forces in Vietnam. Yet the Department apparently had no personnel able to tell us where these drugs come from and how they are transported into Vietnam and sold to American servicemen. This is certainly the kind of situation that a White House office should be able to look into.

Then last week, Deputy Attorney General Kleindienst refuted the Attorney General's earlier comments by writing:

We do not have any specific evidence which links any high official in the Southeast Asian countries with the narcotic traffic there.

The Justice Department either has the information to back up the Attorney General's statements or it does not. If it does, we believe the Attorney General has an obligation to come before the committee and share the information with us, as he promised. If the Department does not have the information, the Attorney General should explain his earlier statements to our subcommittees and the public.

In either event, it is clear that no meaningful program of drug control can exclude from the consideration of the White House the problems of law enforcement and the international trafficking in drugs. The bill to be reported out by our subcommittees should reflect this fact.

I ask unanimous consent to have the exchange of correspondence with the Defense Department and the Department of Justice included at this point in the RECORD.

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

SUBCOMMITTEE INVITATION TO EXECUTIVE SESSION  
(Identical letters sent to above mentioned departments and agency)

JULY 9, 1971.

HON. JOHN N. MITCHELL,  
Department of Justice,  
Washington, D.C.

DEAR MR. ATTORNEY GENERAL: At the July 7 joint hearings of the Subcommittees on Intergovernmental Relations and Executive Reorganization and Government Research,

you stated that you believe an executive session of the two subcommittees would be the appropriate vehicle for discussion of the complicity of top Laotian, Thai and Vietnamese officials in the drug traffic in Southeast Asia.

Certainly, as the President has indicated in his recent message to Congress, our Nation can have no greater priority than stamping out drug traffic both here at home and among our servicemen in Southeast Asia.

The alleged participation of officials in the governments of our allies in Southeast Asia in the heroin traffic that is infesting American troops in South Vietnam is a matter of the greatest concern. It is imperative that the members of the two subcommittees considering the President's new drug legislation know what part officials of allied governments are playing in the drug traffic and what steps our government is taking and can take to stop that illegal activity.

For that reason, we are requesting that you, along with Secretary of State Rogers, Defense Secretary Laird, and CIA Director Helms, appear before our two subcommittees in executive session at the earliest possible date to discuss this critical situation. Thank you for your co-operation.

Sincerely,

ABRAHAM RIBICOFF,  
Chairman, Subcommittee on Executive Reorganization and Government Research.

EDMUND S. MUSKIE,  
Chairman, Subcommittee on Intergovernmental Relations.

#### DEFENSE DEPARTMENT RESPONSE

JULY 23, 1971.

HON. ABRAHAM RIBICOFF,  
Chairman, Subcommittee on Executive Reorganization and Government Research, Committee on Government Operations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The Secretary of Defense has asked me to respond to your letter of July 9, requesting his appearance before your Subcommittee to testify with respect to foreign drug traffic.

This is to advise you that there are no personnel in the Department of Defense qualified to testify in regard to the problem of international drug traffic and we will, therefore, be unable to provide a witness as you have requested.

By separate letter Senator Muskie has been advised of the foregoing.

Sincerely,

RADY A. JOHNSON,  
Assistant to the Secretary for Legislative Affairs.

#### JUSTICE DEPARTMENT RESPONSE

SEPTEMBER 13, 1971.

HON. ABRAHAM A. RIBICOFF,  
Chairman, Subcommittee on Executive Reorganization and Government Research, Committee on Government Operations, U.S. Senate, Washington D.C.

DEAR SENATOR: This is in reference to your letter of July 19, 1971, inviting the Attorney General to appear, along with Secretary of State Rogers, Defense Secretary Laird, and CIA Director Helms, before an executive session of the Subcommittee on Executive Reorganization and Government Research and the Subcommittee on Intergovernmental Relations to discuss the complicity of top Laotian, Thai and Vietnamese officials in the drug traffic in Southeast Asia.

The delay in the response to this invitation was occasioned by our efforts to canvass the various sources of information to determine what pertinent facts are available.

Certainly, allegations of complicity on the part of some public officials have come to our attention. At the same time, however, we do not have any specific evidence which links any high official in the Southeast Asian countries with the narcotic traffic there. Thus, we do not feel that it would be appropriate

to testify. Further, even a closed session on the subject could fan unfounded rumors and cause possible international repercussions.

You are correct in your assessment of the problem of drug traffic among our servicemen as being most urgent. The ready supply of heroin in Vietnam is a very real problem.

The United States Government has taken a very active role in encouraging the South Vietnamese Government to reduce the supply of heroin. Moreover, the United States military is responding to this problem, not only in Vietnam, but on a worldwide basis. It is taking decisive actions to identify servicemen who are using heroin, to detoxify those dependent on heroin, and to offer further rehabilitation to those who need additional assistance.

Let me express our appreciation for the prompt attention which you have given the Administration's important proposal to establish the Special Action Office for Drug Abuse Prevention.

Sincerely,

RICHARD G. KLEINDIENST,  
Deputy Attorney General.

#### COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

##### REPORT ON OVEROBLIGATION OF AN APPROPRIATION

A letter from the Deputy Director, Office of Management and Budget, Executive Office of the President, reporting, pursuant to law, that the appropriation to the Department of Justice for "Fees and expenses of witnesses" for the fiscal year 1971 had been apportioned on a basis which indicates the necessity for a supplemental estimate of appropriation; to the Committee on Appropriations.

##### REPORT OF FEDERAL DEPOSIT INSURANCE CORPORATION

A letter from the Chairman, Federal Deposit Insurance Corporation, transmitting, pursuant to law, a report of that Corporation, for the calendar year 1970 (with an accompanying report); to the Committee on Banking, Housing, and Urban Affairs.

##### REPORT OF U.S. INFORMATION AGENCY

A letter from the Director, U.S. Information Agency, transmitting, pursuant to law, a report of that Agency, for the fiscal year 1971 (with an accompanying report); to the Committee on Government Operations.

##### REPORT ON RECLASSIFICATION OF CERTAIN LANDS

A letter from the Assistant Secretary of the Interior, reporting, pursuant to law, the reclassification of certain lands of the Fort Shaw Irrigation District, Sun River project, Montana; to the Committee on Interior and Insular Affairs.

##### REPORT ON THE NEW TERM OF SUPREME COURT

A letter from the Chief Justice, Supreme Court of the United States, reporting, for the information of the Senate, that the Court will open the October 1971 term on October 4, 1971, and will continue until June 5, 1972, or until all matters before the Court are disposed of; ordered to lie on the table.

#### REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CANNON (for Mr. MAGNUSON), from the Committee on Commerce (with the approval of the Committee on Finance), with amendments:

S. 1437. A bill to amend the Airport and Airway Development and Revenue Acts of 1970 to further clarify the intent of Congress

as to priorities for airway modernization and airport development, and for other purposes (Rept. No. 92-378).

#### 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. MCGEE (for himself, Mr. BAYH, Mr. BURDICK, Mr. CHILES, Mr. EAGLETON, Mr. HARTKE, Mr. HUMPHREY, Mr. JACKSON, Mr. MCGOVERN, Mr. MONDALE, Mr. MOSS, Mr. MUSKIE, Mr. RIBICOFF, and Mr. WILLIAMS):

S. 2574. A bill to amend title 13, United States Code, to establish within the Bureau of the Census a National Voter Registration Administration for the purpose of administering a voter registration program through the mail. Referred to the Committee on Post Office and Civil Service.

By Mr. RIBICOFF:

S. 2575. A bill for the relief of William John West. Referred to the Committee on the Judiciary.

By Mr. HUMPHREY:

S. 2576. A bill to make permanent the temporary provision for disregarding income of old-age, survivors, and disability insurance and railroad retirement recipients in determining their need for public assistance, and to reflect in such provision the social security benefit increases enacted in March 1971. Referred to the Committee on Finance.

By Mr. INOUE:

S. 2577. A bill to amend the International Travel Act of 1961 to provide for Federal regulation of the travel agency industry. Referred to the Committee on Commerce.

By Mr. BYRD of West Virginia (for Mr. HARRIS):

S. 2578. A bill to provide for civilian medical care for dependent parents of uniformed services personnel, and for other purposes. Referred to the Committee on Armed Services.

By Mr. BYRD of West Virginia (for Mr. HARRIS):

S. 2579. A bill to protect ocean mammals from being pursued, harassed, or killed, and for other purposes. Referred to the Committee on Commerce.

By Mr. BYRD of West Virginia (for Mr. HARRIS):

S. 2580. A bill for the relief of George S. Smith. Referred to the Committee on the Judiciary.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MCGEE (for himself, Mr. BAYH, Mr. BURDICK, Mr. CHILES, Mr. EAGLETON, Mr. GAMBRELL, Mr. HARTKE, Mr. HUMPHREY, Mr. JACKSON, Mr. MCGOVERN, Mr. MONDALE, Mr. MOSS, Mr. MUSKIE, Mr. RIBICOFF, and Mr. WILLIAMS):

S. 2574. A bill to amend title 13, United States Code, to establish within the Bureau of the Census a National Voter Registration Administration for the purpose of administering a voter registration program through the mail. Referred to the Committee on Post Office and Civil Service.

Mr. MCGEE. Mr. President, I introduce for appropriate reference a bill to amend title 13, United States Code, to establish a National Voter Registration Administration in the Bureau of the Census and to provide a national registra-

tion system applicable to Federal elections.

Recently, during the consideration of the campaign financing bill, two amendments were introduced by the distinguished Senator from Minnesota, Mr. HUMPHREY, and the distinguished Senator from Massachusetts, Mr. KENNEDY, to amend that bill to establish a national voter registration system. Subsequently, those amendments were withdrawn and referred to the Committee on Post Office and Civil Service which has jurisdiction over legislation relating to the census, and I assured my colleagues that hearings would be conducted in the near future. There was already pending before our committee a voter registration bill introduced by the distinguished Senator from Hawaii, Mr. INOUE.

On October 5 and 6 the committee will initiate hearings on the bill which I introduce today, as well as the legislation pending before our committee. These bills contain a variety of provisions designed to insure greater participation by the American people in the election process. The history of this Nation is filled with examples of the gradual elimination—by law, by court decisions, and by constitutional amendments—of restrictions upon the right to vote. Our Founding Fathers, foresighted though they were, did not envision that the average man, and certainly no woman, who owned no property and who was not an individual of some standing in the community would play a very active role in the political life of this Nation. But over the years the reservation of Government to the elite has given way to the influence of Government for everybody. Property requirements for voting disappeared after the Civil War; universal manhood suffrage became universal suffrage after the First World War; the white primary fell after the Second World War; the poll tax as a qualification for voting was ruled unconstitutional by the Supreme Court in the early 1960's and eliminated from all States by the 24th amendment; and the guarantee of political participation in the civil rights and voting rights laws enacted in recent years have by law virtually eliminated the last vestige of antidemocratic characteristics of American Government.

The Voting Rights Act of 1970 reduced the residency qualifications for voting for the President and Vice President to 30 days regardless of the residency requirements for participation in State and local elections.

Despite these landmark achievements, less than 60 percent of qualified voters in the United States actually register and vote. In other democratic nations in the free world the percentage of participation is much higher. Certainly there is an irreducible minimum of citizens who do not participate in elections—those who are apolitical; those who would not vote for any of "those rascals;" and those who simply do not want to play a role in the political life of our society. But there are many more who do not register and vote because it is difficult for them to do so. Election laws and procedures vary throughout the Nation. In some States an individual must personally appear in the office of

the registrar of the county to be eligible to vote. In some States he must register for each election. In some States he must register considerably in advance of the election, a requirement that obviously is a disadvantage to those who put things off or who do not, as most citizens do not, think about November elections in the spring of the year. The 1970 voting rights amendments resolved this problem insofar as the presidential election is concerned. But the Congress has the power, and I believe should exercise its power, to go a step further and secure maximum participation in all Federal elections by applying a 30-day residence requirement across the board.

The bill which I introduce today is designed to simplify registration procedures and to encourage maximum participation by doing two things. First, it establishes within the Bureau of the Census a National Voter Registration Administration designed to coordinate registration activities for Federal elections and to cooperate with State and local officials to improve and modernize registration procedures on a voluntary basis.

Second, it would provide for a distribution system of postcard-size registration forms to be delivered to all postal patrons and made available in all post offices in the United States. The cards would be filled out by the qualified citizen and voluntarily returned through the postal system to the registrar in each county to be placed on the rolls of registered voters. If the individual were not qualified to vote in State and local elections, he would nonetheless be qualified to vote in Federal elections. Finally, as an inducement to State governments to modernize voter qualifications and to encourage a maximum degree of participation, my bill offers economic incentives to State governments who now bear the full cost of registration. If State governments are willing to accept Federal criteria as to the form of registration and the residence qualifications applicable to Federal elections for their own State and local elections, a significant portion of the cost of registration will be paid by the Federal Government.

Mr. President, I ask unanimous consent that the bill which I introduce today 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. 2574

A bill to amend title 13, United States Code, to establish within the Bureau of the Census a National Voter Registration Administration for the purpose of administering a voter registration program through the mail

*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 "National Voter Registration Act".*

SEC. 2. (a) Title 13, United States Code, is amended by adding at the end thereof the following new chapter:

#### "CHAPTER 9—NATIONAL VOTER REGISTRATION ADMINISTRATION

"Sec.

"301. Definitions.

"302. Establishment.

"303. Duties.

"304. Registration form.

"305. Distribution.

"306. Registration through the National Voter Registration Program.

"307. Grants and other assistance.

"308. Regulations.

"309. Penalties."

"§ 301. Definitions.

As used in this chapter, the term—

"(1) 'Administration' means the National Voter Registration Administration;

"(2) 'State' means each of the United States and the District of Columbia;

"(3) 'Federal Officer' means President, Vice President, Senator, Representative, or Delegate to the Congress;

"(4) 'Federal election' means a primary, general, or special election held for the nomination or election of Federal officers, and includes a primary held for the expression of a preference for the nomination of persons for election to the office of President and Vice President and an election held for the selection of delegates to a national nominating convention or to a caucus held for the selection of delegates to such a convention; and

"(5) 'State and local election' means a primary, general or special election held for the nomination or election of officers of the government of any State or political subdivision thereof.

"§ 302 ESTABLISHMENT.

"(a) There is established within the Bureau of the Census a National Voter Registration Administration for the purpose of administering the national voter registration program set forth in this chapter.

"(b) The Administration shall be under the supervision and control of an Administrator and two Assistant Administrators who shall be appointed by the President by and with the advice and consent of the Senate. No more than two of the administrators shall be members of the same political party.

"(c) The Administrator shall be compensated at the rate paid GS-18 under the General Schedule in section 5332 of title 5, United States Code. The Assistant Administrators shall be compensated at the maximum rate paid GS-17 under the General Schedule in such section.

"§ 303. DUTIES.

"The Administration shall—

"(1) establish and operate a national voter registration program in accordance with the provisions of this chapter;

"(2) collect, compile, and publish information concerning voter registration, voter participation, and election results;

"(3) compile, study, and publish copies and analyses of the various State registration and voting laws;

"(4) inform, cooperate with, and (upon request) advise State and local registration and election official concerning registration under the provisions of this chapter; and

"(5) advise the President and the Congress with respect to voter registration and participation in elections throughout the United States, and make such recommendations, including recommendations for additional legislation, as it deems appropriate for measures designed to increase voter registration and participation in elections and improve the election process.

"§ 304. REGISTRATION FORM.

"(a) The Administration shall prepare and distribute registration forms for use by individuals wishing to register to vote in accordance with the provisions of this chapter.

"(b) Registration forms shall be designed for use in a particular State and shall contain information concerning the requirements of the law of that State with respect to registration to vote in State elections and concerning the dates of Federal elections to be held in that State. Each registration form shall contain a statement of the penalty applicable to false or fraudulent registration through use of the form.

"(c) (1) Each registration form shall contain appropriate places for the designation of the registrant's name, address (including zip code), party affiliation (unless party affiliation is secret by State law), date of birth, and whether he is a citizen of the United States. Each form shall also provide a means for the registrant to indicate which of the following two statements is applicable to him (unless the State in which the form is to be used has no durational residency qualification for registration):

"(A) a statement to the effect that the registrant, as of the date of the first Federal election in which he wishes to vote, will have been a legal resident of the State and the locality in which he wishes to vote for the periods of time specified by State or other law as a qualification for voting in a State or local election held on such date; and

"(B) a statement to the effect that the registrant, as of the date of the first Federal election in which he wishes to vote, will have been a legal resident of the State in which he wishes to vote for at least 30 days but not for a period long enough to satisfy the requirements of State or other law for registration to vote in a State or local election held on such date.

"(2) If the State has no durational residency requirement, or a requirement of residency for not more than 30 days prior to the date of an election, the statements required by this subsection shall be appropriately modified.

"(d) Registration forms for each State shall be promulgated and distributed for use during each year in which a Federal election is held. In areas in which the Administration deems that it be appropriate, the forms may be printed in a language other than English. The registration forms shall contain only the information authorized in subsections (b) and (c).

#### "§ 305. DISTRIBUTION.

"(a) The Administration shall distribute the registration form through the mail to each postal address in each election jurisdiction in the United States in which a voter registration system exists and on each military base located in the United States.

"(b) The Administration shall enter into arrangements with the United States Postal Service so that supplies of such forms shall also be available free of charge in each post office, and shall make such other arrangements as it deems appropriate for the distribution of such forms. The registration forms shall be pre-addressed for mailing to the appropriate State or local voter registration office and shall be mailed free of all postage, including air mail. The Administration shall reimburse the Postal Service for the cost of such mail.

#### 306. REGISTRATION

#### "§ 306. REGISTRATION THROUGH THE NATIONAL VOTER REGISTRATION PROGRAM

"(a) Except as provided in this section, nothing in this chapter shall affect or alter the imposition by any State of a residency requirement as a condition of registering to vote or voting in that State. No individual may be registered to vote in any election in a State under the provisions of this chapter unless his registration form is received by the appropriate registration agency on or before the date, if any, on which registration for voting in that election is last closed under law.

"(b) Any individual who is a citizen of the United States, who is eighteen years of age or older (or who will attain such age on or before the date of the next Federal election held in the congressional district or State in which he registers), who is not disqualified from voting under State law by reason of conviction of a crime or mental incompetence, and who is registered under this chapter shall be eligible to vote in Federal elections held in the congressional district or State in which he is registered under this chapter. No other requirement or qualification shall be imposed by any State or polit-

ical subdivision thereof on the right of such individual to vote in such election.

"(c) Each State or local agency which is responsible for voter registration shall notify the Administration, in such manner and at such intervals as the Administration may determine, of each registration form received under this chapter. Whenever an individual who is eligible only to vote for Federal officers upon his registration under this chapter has been so registered in a State for a period of time sufficient to satisfy the residency requirements for voting in State and local elections in that State, the Administration shall—

"(1) notify the individual that he may be eligible to vote in State and local elections held in that State; and

"(2) notify the appropriate registration agency that such individual has apparently satisfied the residency requirements for voting in State and local elections held in that State and request that the agency register that individual to vote in such elections and notify the individual of his registration.

#### "§ 307. GRANTS AND OTHER ASSISTANCE.

"(a) The Administration shall reimburse State and local agencies for the cost of processing registration forms under this chapter.

"(b) In order to encourage the expansion of voter registration lists and in order to improve the frequency of voter participation in all elections, the Administration is authorized to make the following grants to States:

"(1) Any State which accepts registration forms received under this chapter as registration to vote in State and local elections shall be eligible for a grant from the Administration in an amount not to exceed 15 percent of the total amount reimbursed to voter registration agencies in that State for the cost of processing registration forms under this chapter during the first 12 months in which registration forms are available under this chapter in that State. Grants may be made under this paragraph without regard to whether the State waives any durational residency requirements it may have for voting in State and local elections.

"(2) Any State which reduces its residency requirement for voting in State and local elections to a period of not more than 30 days prior to the date of any such election shall be eligible for a grant from the Administration in an amount not to exceed 50 percent of the total amount reimbursed to voter registration agencies in that State for the cost of processing registration forms received under this chapter during the first 12 months in which registration forms are available under this chapter in that State.

#### "§ 308. REGULATIONS.

"The Administrator is authorized to prescribe such regulations as may be necessary to carry out the provisions of this chapter.

#### "§ 309. PENALTIES.

"(a) The provisions of section 11(c) of the Voting Rights Act of 1965 shall apply to false registration under this chapter and other fraudulent acts and conspiracies in connection with this chapter. The provisions of section 1001 of title 18 are made applicable to voter registration forms promulgated under this chapter.

"(b) Whenever the Attorney General has reason to believe that a State or political subdivision is denying or attempting to deny to any person the right to vote in any election in violation of this chapter, he may institute for the United States, or in the name of the United States, an action in a district court of the United States, in accordance with sections 1391 through 1393 of title 28 for a restraining order, a preliminary or permanent injunction, or such other order as he deems appropriate. An action under this section shall be heard and determined by a court of three judges in accordance with the provisions of section 2282 of title 28 and any appeal shall be to the Supreme Court.

"(c) Any person who deprives, or attempts to deprive, any other person of any right secured by section 306 of this title shall be fined not more than \$5,000, or imprisoned not more than five years, or both."

(b) The table of chapters of title 13, United States Code, is amended by adding at the end thereof the following:

"9. National Voter Registration Administration . . . . . 301"

SEC. 3. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

By Mr. HUMPHREY:

S. 2576. A bill to make permanent the temporary provision for disregarding income of old-age, survivors, and disability insurance and railroad retirement recipients in determining their need for public assistance, and to reflect in such provision the social security benefit increases enacted in March 1971. Referred to the Committee on Finance.

#### SOCIAL SECURITY "PASS THROUGH" FOR OLD-AGE ASSISTANCE RECIPIENTS

Mr. HUMPHREY. Mr. President, I am today introducing legislation that would enable those older Americans receiving social security and old-age assistance to obtain the full benefits of any increase in the cash minimums of these programs.

This bill is designed to close a loophole in the 1971 social security increase that mandated a dollar-for-dollar reduction in old-age assistance payments in the event that the recipient was also a social security beneficiary. In the past, Congress has required that the State pass on at least part of any social security increase to old-age recipients. However, in the 1971 social security 10-percent increase, this "pass through" provision was not included.

Mr. President, the social security program has been the mainstay of our national income maintenance system for over 40 years. Social security now covers 27.4 million persons, and annual benefits of about \$38 billion are paid to recipients. The proposed 1971 social security amendments will add another \$2.1 billion in total benefit payments.

However, with the recent increases in the cost of living, with increasing food cost, transportation cost, and tax increases, many of our older Americans have found that they cannot live on social security benefits alone. Some of the senior citizens do have savings accumulated from a lifetime of work that enables them to pay their current expenses. Others, though, find that they must apply for and receive public assistance payments.

It only seems fair, therefore, that, whenever a social security increase is enacted by the Congress, the full benefits of that increase should be passed on to all recipients.

Mr. President, there are over 2.08 million recipients of old-age assistance in the United States. These recipients receive about \$77.25 per month. In my own State of Minnesota, there are 19,300 old-age assistance recipients, and they receive about \$76.80 per month.

Under provisions of the recently enacted 10-percent increase, these 19,300 Minnesota recipients would normally expect an increase in their total monthly payments. However, if they were also receiving public assistance as a supplement

to their income, they would not retain this net increase because their assistance benefits would be cut by the amount of their social security increase.

This bill would mandate that all States guarantee old-age recipients at least some of the increase in social security benefits. More specifically, at least \$6.40 per month in added income—the amount of the minimum 10-percent increase in social security—would be guaranteed to all recipients.

This legislation would apply equally to social security and railroad retirement beneficiaries.

A companion measure to this bill is sponsored in the House of Representatives by Representative DONALD FRASER.

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

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

S. 2576

A bill to make permanent the temporary provision for disregarding income of old-age, survivors, and disability insurance and railroad retirement recipients in determining their need for public assistance, and to reflect in such provision the social security benefit increases enacted in March 1971

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1007 of the School Security Amendments of 1969, as amended by section 2 (b) of the Public Law 91-306 and by Public Law 91-669, is amended to read as follows:

"Sec. 1007. In addition to the requirements imposed by law as a condition of approval of a State plan to provide aid to individuals under title I, X, XIV, or XVI of the Social Security Act, there is hereby imposed the requirement (and the plan shall be deemed to require) that, in the case of any individual found eligible (as a result of the requirement imposed by this section or otherwise) for aid for any month after May 1971 who also receives in such month—

"(1) a monthly insurance benefit under title II of such Act, the sum of the aid received by him for such month, plus the monthly insurance benefit received by him in such month, shall not be less than the higher of—

"(A) the sum of the aid which would have been received by him for such month under the State plan as in effect for March 1970, plus the lesser of—

"(i) the monthly insurance benefit which was or would have been received by him in March 1970 without regard to the other provisions of this title, plus \$10.40, or

"(ii) the monthly insurance benefit which was or would have been received by him in March 1970, taking into account the provisions of this title, or

"(B) the aid which would have been received by him for such month under the State plan as in effect for May 1971, plus the lesser of—

"(i) the monthly insurance benefit which was or would have been received by him in May 1971 without regard to the provisions of title II of the Act of March 17, 1971 (Public Law 92-5), plus \$6.40, or

"(ii) the monthly insurance benefit which was or would have been received by him in May 1971, taking into account the provisions of title II of such Act, whether the requirement of this paragraph is satisfied by disregarding a portion of such individual's monthly insurance benefit or otherwise; or

"(2) a monthly payment of annuity or pension under the Railroad Retirement Act of 1937 or the Railroad Retirement Act of

1935, the sum of the aid received by him in such month, plus the monthly payment of such annuity or pension received by him in such month (not including any part of such annuity or pension which is disregarded under section 1006 of this Act or under section 201(g) of the Act of March 17, 1971), shall not be less than the higher of—

"(A) the aid which would have been received by him for such month under the State plan as in effect for March 1970, plus the lesser of—

"(i) the monthly payment of annuity or pension which was or would have been received by him in March 1970 without regard to the provisions of any Act enacted after May 30, 1970, and before December 31, 1970, which provides general increases in the amount of such monthly payment of annuity or pension, plus \$10.40, or

"(ii) the monthly payment of annuity or pension which was or would have been received by him in March 1970, taking into account the provisions of such Act (if any), or

"(B) the aid which would have been received by him for such month under the State plan as in effect for May 1971, plus the lesser of—

"(i) the monthly payment of annuity or pension which was or would have been received by him in May 1971 without regard to the provisions of any Act enacted during 1971 which provides general increases in the amount of such monthly payment of annuity or pension, plus \$6.40, or

"(ii) the monthly payment of annuity or pension which was or would have been received by him in May 1971, taking into account the provisions of such Act (if any), whether the requirement of this paragraph is satisfied by disregarding a portion of such individual's monthly payment of annuity or pension, or otherwise."

By Mr. INOUE:

S. 2577. A bill to amend the International Travel Act of 1961 to provide for Federal regulation of the travel agency industry. Referred to the Committee on Commerce.

Mr. INOUE. Mr. President, Americans are traveling at home and abroad in ever increasing numbers, and every indication is that this trend will continue to accelerate. Travel has become a multi-billion-dollar industry.

The overwhelming percentage of travel agents in the United States are responsible businessmen and women who perform very efficiently and provide a valuable service to many millions of Americans. There are, in fact, more than 6,000 conference-approved travel agencies in the United States. Last year they sold more than \$5 billion in domestic and international travel and travel-related services.

Unfortunately however, there is an increasing number of—for want of a better term—"fly-by-night operators" who are primarily responsible for the recent charter strandings of students in Europe and other inconveniences to the traveling public.

It is my understanding that most of the individuals who have victimized the public do not hold themselves out as travel agents, nor do they function in the customary fashion of travel agents. More often than not, they act as a medium for assembling groups rather than as the agent for a carrier.

Although these four consolidators are perhaps the major problem affecting the travel business, within the last few years, there has also been an accelerating

pace of failures of tour wholesalers and individual travel agencies. In some cases these travel agencies may suffer from the general economic decline. In other cases, however, it is clear that the injuries are self-induced by questionable financial practices, overcommitments, and poor administration.

In both cases, however, the public is the ultimate loser, and the public's confidence in legitimate travel agents is undermined.

Presently there is no single Government agency which has jurisdiction over all the activities in which travel agents and tour consolidators engage. Some States do regulate their activities and there is a substantial increase among various States to impose licensing on travel agents.

If, indeed, some form of licensing or registration of travel agents and others engaged directly or indirectly in the business of travel is needed to protect the American public from the abuses I have mentioned, then it would seem to me regulation might more properly and effectively be done at the Federal level in view of the interstate and foreign nature of the industry.

Mr. President, to meet the problems which I have just discussed, I am introducing today for appropriate reference a bill that would establish a system to regulate those involved in the travel agency business. I would like to emphasize that this bill includes flight consolidators since it is in this area that the most serious abuses occur.

This bill would establish a Bureau of Travel Agents Registration headed by a Director of Travel Agents Registration within the Department of Transportation to review the qualifications of individuals desiring to engage in the travel agency business. The Director and his board would be empowered to issue a registration certificate to those agents who met certain minimum requirements. No agent would be permitted to operate a travel agency business without having first received a certificate under the procedures provided in the bill.

The Director would have the additional power to promulgate such regulations as are necessary to carry out the purposes under this title. In extending this regulatory authority to the Director, the bill provides him with far-reaching powers to halt the abuses some agents themselves will inflict on themselves by shoddy administration and risky financial practices that endanger their very existence.

Mr. President, the question of whether this legislation, or, indeed, any Federal legislation, is necessary to safeguard traveling Americans must be resolved, and resolved promptly. I would hope that early hearings will be held on the bill I am introducing today so that the various agencies of Government charged with regulating the travel industry and the industry itself will come forward and tell us just what has gone wrong and what, if anything, the Congress can do. The American public deserves no less.

By Mr. BYRD of West Virginia  
(for Mr. HARRIS):

S. 2578. A bill to provide for civilian medical care for dependent parents of

uniformed services personnel, and for other purposes. Referred to the Committee on Armed Services.

Mr. BYRD of West Virginia. Mr. President, at the request of the distinguished Senator from Oklahoma (Mr. HARRIS), I introduce a bill on his behalf. I ask unanimous consent that there be printed in the RECORD a statement on the bill by the distinguished Senator from Oklahoma.

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

Mr. HARRIS. Mr. President, I send to the desk for appropriate reference a bill to provide for civilian medical care for dependent parents of uniformed services personnel.

Presently Federal law excludes dependent parents as eligible beneficiaries for civilian medical care, in that the applicable sections of the statute, 10 U.S.C. 1071-1087, specifically designate spouses and children. Dependent parents are, however, eligible to receive space-available care in uniformed services facilities. To receive this care they must be, or must have been at the time of the member's death, dependent on the uniformed service member for more than one-half of their support and must reside in a dwelling provided or maintained by the member.

That intent is frustrated, however, when dependent parents are excluded from care in civilian facilities. The plight of one of my own constituents sheds light on his problem.

A specialist 5 making \$359 a month, she is the sole source of support for her mother. Since June 1967 the Army has recognized the woman's mother as her official dependent.

Because the mother has a terminal lung disease and a heart condition, she has been in and out of hospitals from 1967 until March 1971. Under current Army regulations the mother receives a cash dependent allowance and is permitted to receive treatment in any military hospital in the world.

Unfortunately, the nearest military facility is 110 miles away from this woman and her mother. In July of 1971 the mother had a cardiac arrest with respiratory complications and was hospitalized for 8 weeks. The hospital bill, with doctors' fees included, came to \$12,000. Because the medical facilities were not run by the military, my constituent, making \$359 a month, was informed that she would have to pay the bill in full.

What this case demonstrates is that it is simply not possible for dependent parents to receive care in a military facility. Any number of reasons can prevent their getting that care. There might not be space available in the nearby military facility, there might not be such a facility within reasonable distance, or emergency care might be needed, in which case civilian care might be all that is available.

Many service personnel thus find themselves in the untenable position of having to pay their dependent parents' medical costs, which in many cases prove to be exorbitant. This is a situation that can and should be easily remedied by making dependent parents of uniformed services personnel eligible for civilian medical care. S. 2578 would do that. I urge approval by the Senate.

By Mr. BYRD of West Virginia  
(for Mr. HARRIS):

S. 2579. A bill to protect ocean mammals from being pursued, harassed, or killed, and for other purposes. Referred to the Committee on Commerce.

Mr. BYRD of West Virginia. Mr. President, at the request of the distinguished Senator from Oklahoma (Mr. HARRIS), I introduce a bill on his behalf and ask unanimous consent to have printed in the

RECORD a statement by him and the text of the bill.

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

Mr. HARRIS. Mr. President, my office and those with whom I have spoken confirm that since the introduction of S. 1315 last March most of us have received from our constituents tens of thousands of letters asking us to pass a strong bill which primarily would do three things: (1) ban the imports of all products from any of these ocean mammals into this country thereby drying up much of the incentives for foreign governments to allow their people to kill these mammals, (2) a complete prohibition on our own citizens from the taking or killing of any of the ocean mammals and (3) a directive to our Government through our State Department to start negotiating immediately with foreign governments for international treaties which would completely protect these ocean mammals from slaughter or extinction.

The American public is now looking again at the Senate on this issue as our own Commerce Committee starts hearings on this bill on October 8. In many respects the world's attention is also focused in the Congress because if we fail to take strong action and weaken this bill, other nations will say that we really don't mean to protect the ocean mammals of the world—that all we have done is placate our people while allowing continued exploitation of certain species of these animals by commercial interests or by some unscrupulous sports hunters.

This is an historic piece of legislation. In the history of the world only two international actions concerning ocean mammals have ever been taken. One is the North Atlantic Fur Seal Treaty of 1911; the other is the International Whaling Commission. This legislation, encompassing every known ocean mammal, would stop needless and inhumane slaughter of these animals and it would say to the world and to our fellow citizens and most of all to our children that they do not need to worry about having to go to a museum to look at the bones of a sperm whale sitting along side a dinosaur to know what such a mammal looks like. . . . By our actions in the Congress this year, our children will know that the sperm whale and every other species of ocean mammal swim and play in the world's oceans where God in his infinite wisdom put them.

When I decided to introduce this bill and to ask those of you who joined me in co-sponsoring this legislation I was seriously tempted to make it two bills:

(1) a bill encompassing all ocean mammals except for the Alaskan fur seal and (2) a bill dealing with our Alaskan fur seal treaty and the Pribilof Islands and the Aleut Indians and all of the problems inherent therein. I decided, however, against that separation and I introduced the bill all in one knowing full well that that part of this bill concerning the Alaskan fur seal would draw the most criticism because it contained the most problems. And in fact the main criticism has centered on the charge that if we abrogate the North Atlantic Fur Seal Convention with Japan, Russia, and Canada, then those countries and others might return to pelagic sealing. The opposition has also argued that by "proper management" and "harvesting" we have done a better job to preserve herds and to make them healthier and give them more stable populations, but during the House hearings the Commerce Department admitted that if there were no market for the seals' pelts there "would be no reason to kill them."

Today I reintroduce my bill with an amendment that calls for more effort in the area of seeking world-wide treaties, but also an amendment which would not allow our current treaty to expire unless our Government could negotiate a more protective arrangement. This amendment directs the State De-

partment to do this, but failing, this present treaty shall remain in tact until it shall be renewed.

I think many of the arguments made in the hearing in the House of Representatives advocating the continuation of "management" and "harvesting" do not take into consideration basic moral precepts. We have to ask people who want to manage or harvest ocean mammal species what they really have in mind and the answer always comes back the taking for fun or profit of a certain number of animals a year. This is all there is to it. There is no altruism involved. People who are hired to manage the Alaskan fur seal do so for the purpose of taking thousands of seals a year for profits from their fur coats. I may be old fashioned but I think a seal skin fur looks a lot better on the seal than on someone walking down Fifth Avenue.

Our Commerce Committee starts its hearings on October 8. At this time only one day has been scheduled. I am today asking Chairman Magnuson and Subcommittee Chairman Hart to see if they could find another day or two so that all sides of this issue can be heard to the fullest. Our Government through our Departments of Commerce, State and Interior are vocally opposed to this bill and yet I am convinced it is not a partisan issue. President Nixon said we must make peace with nature. He has appointed such outstanding people in the field of environment such as Dr. Lee Talbot, Russell Train and others who are working for the good of our environment and all who live within it. I am convinced that some of the good people in Commerce and Interior would like to see this bill passed. I am convinced that there are those who fear that if we pass this legislation their jobs will be jeopardized. I am also certain that there are those in the Department of State who are timid about tampering with old treaties and afraid to seek new ones because they fear America's position in the world is not strong enough for us to exercise moral leadership in this field. I say that the Senate and the House can strengthen the hands of our negotiators in the State Department by giving them this legislation so that they can say to the world instead of "if you will, I will" . . . they can say to the world "we have quit killing ocean mammals, will you join us?" By drying up the economic incentive by banning the imports of the products of these mammals into the U.S., such as products from the baby seals killed in Canada by hundreds of thousands, we give a double incentive of foreign governments to join us in an act of moral courage and decency.

Finally, just a word about the native Aleut population, some of whom are employed in the summer months to kill those Alaskan fur seals to death on the Pribilof Islands. We must seek new and different jobs for the Aleuts so that they will not have to be involved in this killing. Perhaps the words of my part-Comanche ten-year old daughter, Laura, who testified at the House hearings for this bill can sum up best of all our feelings in regards to the Aleuts. She said, "As a Comanche Indian, I would not like to put the Aleuts out of business but people do not need sealskin coats. They can just as well use other materials. And I hope you will help the Aleuts get started in other jobs."

Finally, I ask Senators to join me now and through the hearings in our Commerce Committee and through the subsequent debate on this Floor to hold out for this strong bill. There can be many rationales as to why we should exempt this industry or that group from this bill or why we should think of moratoria and continued management and commissions to study the numbers of the mammals involved. But none of these separately or collectively suffice.

Our oceans are already the worst enemies of these mammals. They are becoming polluted and they are causing the deaths of thousands of these animals without a single

blow or shot being fired. It is a race against time. We know that the only way to have and protect ocean mammals is simply to stop killing them; and know that, Mr. President, there can be no other alternative but to pass simple, straight-forward, unambiguous legislation which will do just that.

S. 2579

A bill to protect ocean mammals from being pursued, harassed, or killed, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following Act may be cited as the "Ocean Mammal Protection Act of 1971".

#### TITLE I—FINDINGS AND DECLARATIONS OF POLICY

##### FINDINGS

SEC. 101. The Congress finds that ocean mammals are being ruthlessly pursued, harassed, and killed, both at sea and no land by hunters of many nations of the world.

The Congress further finds that many ocean mammals will become rare, if not extinct, unless steps are taken to stop their slaughter.

##### DECLARATIONS OF POLICY

SEC. 102. (a) It is hereby declared to be the public policy of the United States to protect all ocean mammals from harassment or slaughter.

(b) It is hereby declared to be the further public policy of the United States that negotiations should be undertaken with foreign governments and through interested international organizations with a view to obtaining a worldwide ban on the further slaughter of ocean mammals.

#### TITLE II—GENERAL PROHIBITIONS

##### DEFINITIONS

SEC. 201. For the purposes of this title—

(a) "ocean mammals" means all seal, whale, walrus, manatee or sea cow, sea otter, sea lion, polar bear, porpoise, and dolphin;

(b) "person" includes individual, partnership, corporation, association, and Federal and State agencies; and

(c) the terms "take" or "taking" or "taken" mean to harass, pursue, hunt, shoot, dynamite, capture, collect, kill, or attempt to harass, pursue, hunt, shoot, dynamite, capture, collect, or kill.

##### PROHIBITIONS

SEC. 202. (a) It is unlawful, except as provided in section 203 of this title or in title III, for any person or vessel subject to the jurisdiction of the United States to engage in the taking of ocean mammals either on the high seas or on lands or waters under the jurisdiction of the United States, or to use any port or harbor or other place under the jurisdiction of the United States for any purpose connected in any way with such taking, or for any person to transport, import, offer for sale, or possess at any port or place or on any vessel, subject to the jurisdiction of the United States, ocean mammals or the parts of ocean mammals taken after the enactment of this Act, including but not limited to, raw, dressed, or dyed fur or skins.

(b) The possession of ocean mammals or any part thereof by any person contrary to the provisions of this Act shall constitute prima facie evidence that ocean mammal or part thereof was taken, purchased, sold, or transported in violation of the provisions of this Act or the regulations issued thereunder.

##### EXCEPTIONS FOR INDIANS, ALEUTS, AND ESKIMOS

SEC. 203. (a) Indians, Aleuts, and Eskimos who dwell on the coasts of the North Pacific or Arctic Oceans are permitted to take ocean mammals (except polar bears) for their own use but not for sale: *Provided, however,* That such taking must be done in

accordance with customary traditions and as an adjunct of the native culture.

(b) The authority contained in this section shall not apply to Indians, Aleuts, and Eskimos who are employed by any person under the provisions of the Fur Seal Act of 1966 or title III of this Act for the purpose of taking ocean mammals, or who are under contract or agreement to deliver the skins to any person.

##### EXCEPTIONS FOR MEDICAL AND SCIENTIFIC RESEARCH AND FOR MUNICIPAL AND/OR OTHER NONPROFIT ZOOS

SEC. 204. (a) Nothing herein shall be considered to be a prohibition against municipal and/or other nonprofit zoos from obtaining written consent from the Secretary of the Interior to humanely capture a representative number of the ocean mammals herein defined for replacement for deceased or otherwise ailing members of these species in these zoos.

(b) Further, nothing herein shall be construed to be a prohibition against the humane capture of a select number of these species of ocean mammals for certificate scientific and/or medical research.

(c) Regulations shall be promulgated by the Secretary of Interior for the purposes of subsections (a) and (b) above as to who shall be granted permission and for what purposes. Further, methods of capture, supervision, and transportation shall be subjects of said regulations by the Secretary.

##### FORFEITURE

SEC. 205 (a) Every vessel subject to the jurisdiction of the United States that is employed in any manner in connection with a violation of the provisions of this title, including its tackle, apparel, furniture, appurtenances, cargo and stores shall be subject to forfeiture and all ocean mammals or parts thereof taken or retained in violation of this title or the monetary value thereof shall be forfeited.

(b) All provisions of law relating to the seizure, summary, and judicial forfeiture, and condemnation of a vessel, including its tackle, apparel, furniture, appurtenances, cargo, and stores for violation of the customs laws, the disposition of such vessel, including its tackle, apparel, furniture, appurtenances, cargo, and stores, or the proceeds from the sale thereof and remission of mitigation of such forfeitures shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this title, insofar as such provisions of law are applicable and not inconsistent with the provisions of this title.

##### ENFORCEMENT

SEC. 206 (a) Enforcement of the provisions of this title is the joint responsibility of the Secretaries of State, Treasury, Interior, Commerce, and Transportation. In addition, the Secretary of Interior may designate officers and employees of the States of the United States to enforce the provisions of this Act, which relates to persons or vessels subject to the jurisdiction of the United States. When so designated, such officers and employees are authorized to function as Federal law enforcement agents for these purposes, but they shall not be held and considered as employees of the United States for the purposes of any laws administered by the Civil Service Commission.

(b) The judges of the United States district courts and the United States commissioners may, within their respective jurisdictions, upon proper oath or affirmation, showing probable cause, issue such warrants or other process, including warrants or other process issued in admiralty proceedings in Federal district courts, as may be required for enforcement of this title and any regulations issued thereunder.

(c) Any person authorized to carry out enforcement activities hereunder shall have the power to execute any warrant or process is-

sued by any officer or court of competent jurisdiction for the enforcement of this title.

(d) Such person so authorized shall have the power—

(1) with or without warrant or other process, to arrest any person committing in his presence or view a violation of this title or the regulations issued thereunder; and

(2) with a warrant or other process or without a warrant, if he has reasonable cause to believe that a vessel subject to the jurisdiction of the United States or any person on board is in violation of any provision of this title or the regulations issued thereunder, to search such vessel and to arrest such person.

(e) Such person so authorized may seize any vessel subject to the jurisdiction of the United States, together with its tackle, apparel, furniture, appurtenances, cargo, and stores, used or employed contrary to the provisions of this title or the regulations issued hereunder or which it reasonably appears has been used or employed contrary to the provisions of this title or the regulations issued hereunder.

(f) Such person so authorized may seize, whenever and wherever found, all ocean mammals or parts thereof taken or retained in violation of this title or the regulations issued thereunder and shall dispose of them in accordance with such regulations.

SEC. 207. The Secretaries of State, Treasury, Interior, Commerce, and Transportation are authorized to issue regulations to carry out the provisions of this title.

SEC. 208. Any person violating the provisions of this title or the regulations issued thereunder shall on the first offense be fined not more than \$5,000 or imprisoned not more than one year, or both; on conviction of second and subsequent offenses, the violator shall be fined not more than \$10,000 or jailed for not less than one nor more than three years, or both.

SEC. 208. Title III (Protection of Sea Otters on the High Seas) of Public Law 89-702 is hereby repealed.

#### TITLE III—TREATIES AND CONVENTIONS

##### NEGOTIATIONS FOR PROTECTIVE TREATIES

SEC. 301. It is the sense of Congress that the Secretary of State should immediately initiate worldwide negotiations for the purpose of obtaining an international agreement or agreements for the protection of all ocean mammals as enumerated in section 201(a).

##### TO OUTLAW KILLING

SEC. 302. Such treaties or conventions should seek to outlaw all killing of these mammals for any reason.

##### REPORT BY SECRETARY OF STATE

SEC. 303. The Secretary should report in full his efforts under this title twelve months from the date of enactment of this bill.

#### TITLE IV—NORTH PACIFIC FUR SEALS

##### TERMINATION OF NORTH PACIFIC FUR SEAL CONVENTION

SEC. 401. It is the sense of the Congress that the North Pacific Fur Seal Convention, signed on February 9, 1957, should not be continued after its current termination date in 1976.

Further, it is the sense of the Congress that the Secretary of State should immediately initiate negotiations with the parties to the convention and any other concerned States for the purpose of obtaining an international agreement or agreements to ban all killing of North Pacific fur seals whether at sea or on land.

Such a treaty would take the place of the present convention and would take effect immediately upon its signing.

##### INTERIM ARRANGEMENTS

SEC. 402. And until such treaty can be successfully negotiated, no further North Pacific fur seals shall be killed to fill the United

States "quota" (70 per centum) under the terms of the North Pacific Fur Seal Convention; all skins or parts thereof the Alaskan fur seal shall be banned from import into the United States or in interstate commerce between the States; any agreement under section 104 of the Fur Seal Act of 1966 for the processing of skins in any State other than Alaska shall be terminated.

(b) To honor our treaty provisions, between the enactment of this Act and the expiration of the North Pacific Fur Seal Convention, Japan and Canada shall be given the option of taking the average dollar value (over the last five years) of the 15 per centum of the kill to which they are entitled or to take nine thousand skins each, to be shipped directly from the Pribilof Islands to those countries. If Japan or Canada elects to take the skins, the killing in the Pribilofs shall be done in the most humane manner and as close to the shore as possible. Further, to the extent practicable, such killings shall first be of old or crippled bachelor seals and second of old or crippled female seals; no seal under one year of age shall be killed.

#### RENEWAL OF PRESENT CONVENTION

SEC. 403. If such treaty cannot be successfully negotiated prior to the expiration date of the existing North Pacific Fur Seal Convention, nothing herein shall preclude the renegotiation and renewal of said present convention, and in fact, to preclude the possibility of a return to pelagic sealing, such present convention should be renewed on or before its expiration date.

#### HUMANE METHODS

SEC. 404. If the only recourse is to renew the convention as stipulated in section 403, every effort shall be made to see that those seals killed under the provisions of this Act shall be killed by the most modern, rapid, and humane methods of rendering the seals unconscious.

#### REPORT OF SECRETARY

SEC. 405. The Secretary of Commerce shall report his findings and efforts under section 404 to the Congress within six months of the application of section 404.

#### ESTABLISHMENT OF PRIBILOF SEAL ROOKERY

SEC. 406. The Pribilof Islands shall be designated a National Seal Rookery Preserve and Bird Sanctuary under the Department of Interior; and the native Aleuts shall be trained and employed for any jobs to be created thereunder.

#### PRIBILOF ISLANDS COMMISSION

SEC. 407. The President, with the advice and consent of the Senate, shall appoint a Commission to help in the transfer of the Pribilof Islands from a place of killing into a preserve, to help promote tourism, and to develop an economy on the island for the Aleuts to take the place of their participation in the slaughter of the seals.

The Commission shall be comprised of a number of Pribilof Aleut natives, and it shall include the Secretaries or their designates from the Departments of State, Treasury, Commerce, the Administrator of the Small Business Administration, the Governor of Alaska, and two independent scientists in the fields of ocean biology and ecology.

#### REPEALER

SEC. 408. Such provisions of the Fur Seal Act of 1966 which are inconsistent herewith are hereby repealed.

#### ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

##### S. 1645

At the request of Mr. CHURCH, the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 1645, to amend title II of the Social Security Act to increase benefits thereunder, to provide a mini-

mum monthly benefit of \$120 for workers who have 20 or more years of coverage and to provide for future cost-of-living increases in benefits payable under such title; and to amend such act so as to add thereto a new title XX under which aged individuals will be assured a minimum annual income sufficient to remove them from poverty.

##### S. 1957

Mr. BYRD of West Virginia, Mr. President, at the request of the Senator from Oklahoma (Mr. HARRIS) I ask unanimous consent that at the next printing of S. 1957, a bill to amend the Internal Revenue Code of 1954 to provide for the valuation of a decedent's interest in a closely held business for estate tax purposes, that my colleague from Nebraska (Mr. CURTIS) be added as a cosponsor.

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

##### S. 2348

At the request of Mr. INOUYE, the Senator from New Hampshire (Mr. McINTYRE) was added as a cosponsor of S. 2348, to increase the penalties for crimes of violence in the District of Columbia.

##### S. 2368

At the request of Mr. FANNIN, the Senator from North Carolina (Mr. ERVIN) was added as a cosponsor of S. 2368, to amend the National Labor Relations Act so as to prohibit the levying by labor organizations of fines against employees for exercising rights under such act or for certain other activities.

##### S. 2512

At the request of Mr. GURNEY, the Senator from South Carolina (Mr. THURMOND), the Senator from Oregon (Mr. PACKWOOD), and the Senator from Alaska (Mr. STEVENS) were added as cosponsors of S. 2512, to amend the Social Security Act to provide increases in benefits, to improve computation methods, and to raise the earnings base under the old-age, survivors, and disability insurance system, to make improvements in the medicare, medicaid, and maternal and child health programs with emphasis upon improvements in the operating effectiveness of such programs, and for other purposes.

At the request of Mr. GURNEY, the Senator from Kentucky (Mr. COOPER) was added as a cosponsor of S. 2512, supra.

##### S. 2530

At the request of Mr. GURNEY, the Senator from Tennessee (Mr. BROCK) and the Senator from Pennsylvania (Mr. SCHWEIKER) were added as cosponsors of S. 2530 to protect the right of privacy of persons by authorizing private suits when unsolicited obscene material is sent through the mails.

##### S. 2542

At the request of Mr. BIBLE, the Senator from Arizona (Mr. FANNIN) was added as a cosponsor of S. 2542, to establish a system for the development of mineral resources on public lands of the United States.

#### SENATE JOINT RESOLUTION 157

At the request of Mr. TALMADGE, the Senator from Alabama (Mr. ALLEN), the Senator from Florida (Mr. CHILES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Oklahoma

(Mr. BELLMON), and the Senator from Michigan (Mr. HART) were added as cosponsors of Senate Joint Resolution 157, to assure that every needy schoolchild will receive a free or reduced price lunch as required by section 9 of the National School Lunch Act.

#### NOTICE OF LABOR SUBCOMMITTEE HEARING ON EQUAL EMPLOYMENT OPPORTUNITIES ENFORCEMENT ACT OF 1971

Mr. WILLIAMS, Mr. President, as chairman of the Labor Subcommittee of the Committee on Labor and Public Welfare, I have scheduled hearings on S. 2515 and H.R. 1746, equal employment opportunities enforcement, at 2 p.m., Monday, October 4, and Wednesday, October 6, in Room 4232 of the New Senate Office Building.

At these hearings we will receive testimony from officials of the Equal Employment Opportunity Commission, Department of Justice, Department of Labor, and the U.S. Civil Service Commission concerning the proposed amendments of title VII of the Civil Rights Act, which would make substantial changes in the Federal equal employment opportunity structure. In addition, we will be hearing witnesses and receiving testimony for the record from the Leadership Conference on Civil Rights, Common Cause, American Retail Federation, and others who wish to express views on this legislation.

#### ADDITIONAL STATEMENTS

##### EXCISE TAX REPEAL SHOULD INCLUDE SMALL TRUCKS

Mr. CHURCH, Mr. President, the Nixon administration has proposed the repeal of the excise tax on automobiles. I had assumed, as I am sure many other farm State Senators had, that this proposal would include the repeal of the excise tax on small trucks. Unfortunately, I am informed that this is not the case.

Mr. President, in a State such as Idaho, many families have a truck as a second car. For many small farmers, a pickup truck may serve as the family's only car. In addition, the use of pickup trucks as recreational vehicles is extremely important. For the President's program to exclude small trucks from the excise tax repeal discriminates against an agricultural State like Idaho.

I have received several letters from the people of my State expressing their concern. I share that concern with them. It is my hope that the Senate will give this matter its close attention.

I will support efforts to extend the excise tax repeal to this class of vehicle. I can see no reason to deny people who must buy a pickup the tax benefit given those who can afford to buy a Cadillac. I can see no reason why farmers and ranchers should not have the same tax treatment as other automobile owners.

Inasmuch as setting a test between work and pleasure uses would put impossible burdens on both the taxpayer and tax collector, it is my feeling that we could simply change the legislation to provide that pickup truck type vehicles

in the 1-ton class or below should receive the benefits of the excise tax repeal.

#### BUCKEYE, ARIZ., LICKS SALT WATER PROBLEM

Mr. FANNIN. Mr. President, in frontier days, when there was a need for community improvement, the people banded together to get the job done. They could not yell for help and sit back to wait for the Federal Government to come to their aid.

That spirit still lives.

The town of Buckeye, Ariz., had a serious problem just a decade ago. The Buckeye drinking water had an unsavory reputation that was well deserved. It had a mineral content that was hard on water pipes, hard on appliances, and even tougher on humans.

But the people of Buckeye decided to do something about it. They explored the possibilities of using the latest in technology to rehabilitate their town water supply.

It was a wonderful example of private enterprise joining with the determination of people to solve their own problems.

Nine years ago a new plant went into operation in Buckeye to convert the municipal water supply into a product that was fit for humans and much easier on household equipment such as washing machines and evaporative coolers.

This experiment has been a great success, another pioneer triumph. Now other communities are exploring the possibility of using the same program.

On Thursday the Christian Science Monitor carried a story on Buckeye's battle with salt water. It is an inspiring story that may be of value to other communities that have a similar problem. I ask unanimous consent that the article be printed in the RECORD.

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

#### UNITED STATES AIDS DESALINATION: HOW AN ARIZONA TOWN LICKS SALT WATER SNAG

PHOENIX, ARIZ.—What's good for Buckeye, Ariz., might well do for six other Arizona communities as well as towns in Colorado, Montana, and New Mexico.

At least the U.S. Office of Saline Water thinks so, and it has allocated \$50,000 to study the feasibility of putting desalination plants in a number of communities. The OSW is negotiating similar agreements in Iowa, the Dakotas, and Kansas.

Buckeye, a small town 35 miles west of Phoenix, nine years ago began a pioneer experiment with desalination of brackish water. Buckeye's own manager, George Hamner, is consultant for the new projects in Arizona. He says the system used there—electrodialysis—has had "no operation problems. It does what it's supposed to do—takes out over 75 percent of the minerals and brings the water down to the 500 parts per million that the U.S. Public Health Service regards as acceptable.

#### RATE OBJECTIONS STILLED

But the people of any other community that undertakes to upgrade brackish water will have to count on paying rates they probably will regard as steep—at least in the beginning.

Before electrodialysis Buckeye users were paying \$3 per 1,000 gallons for the first 5,000 gallons, and the average bill was \$5 a month. A rate expert was employed to calculate what

the charges should be if an electrodialysis plant were installed. He arrived at \$4.40 for each 1,000 of the first 5,000 gallons. Many in Buckeye objected. But the objections stopped when it was shown that each consumer had a "hidden cost" of around \$10 a month under the old system. Nearly every family bought bottled drinking water from Phoenix; they had to buy extra soap and detergents to get their clothes and dishes clean; they paid heavily for repair of corroded pipes.

#### THE \$305,000 BOND ISSUE

Buckeye's citizens were struggling to improve the quality of water that averaged 2,200 parts per million in salt, magnesium, and other undesirable contaminants.

A proposed 25-year, \$305,000 bond issue was approved by a vote of more than 2 to 1 and sold at 4.452 percent interest. In September, 1962, the Buckeye plant went into operation. An expert earlier had predicted a washing and other general purposes.

In summer, attachments were added to recirculate the water used in hundreds of evaporative coolers, rather than let it run out on lawns.

Water income did not meet costs, and a rate raise to \$6 per 1,000 gallons for the first 5,000 brought some grumbling. But that soon faded.

Buckeye probably has the highest water-rate schedule in Arizona now, but it is not much more than what several Arizona towns of similar size pay for untreated water. If anybody complains, he is silenced by old-timers who remember "what we used to put up with."

#### 650,000-GALLON CAPACITY

Plant capacity is 650,000 gallons a day. In summer the system delivers up to 500,000 gallons daily, but in winter this drops to around 200,000.

Actual cost of purifying 1,000 gallons is 63 cents, of which 25½ cents goes for bond interest and installations. There is additional outlay for pumping, maintenance or extension of the distribution system, reading about 660 meters, collections, and incidentals.

The electrodialysis equipment gives surprisingly little trouble. It is tended by just one man, who is not a high-paid technician but, in fact, was once a barber. He spends eight hours a day actually on the job, but an alarm rings in his home if anything goes wrong.

The process is almost 100 percent automatic. It must be started manually but shuts down automatically when the 300,000-gallon reserve tank is full.

#### TECHNICALITIES EXPLAINED

Although any fairly good mechanic can run the plant, only a scientist can understand how electrodialysis works. One expert has explained that "the dissolved salts are split into charged particles, called ions, which can be collected on oppositely charged electrodes. The water molecules are not affected as they have no charge.

"Special membranes between the salt water and the electrodes trap the salt ions and keep them from reentering the solution. These membranes come in very thin sheets, only a few thousandths of an inch thick. They are made in either positive or negative potentials, so that pairs of them may be used to screen out the ions under a direct current impulse."

From each 1,000 gallons of "raw" water, 15 pounds of white mineral is removed.

#### FEW AREAS AS BRINY

There are no Arizona settlements with water as highly mineralized as that coming from Buckeye's subterranean "sea of brine." But most would like to have water less salty than what they now get.

Moreover, limited water supplies could hamper future growth in some cases. In some places there are reserves of brackish water

that could relieve any shortage if it could only be treated at reasonable cost.

It falls on Arizona's State Water Commission to select the half-dozen towns that are to be investigated, both as to need and as to possibilities for enhancement of both quality and quantity of available water. Selections must be approved by the Office of Saline Water.

Both agencies are likely to rely greatly on the Buckeye experience, both in choosing the towns and in deciding which is the best course for each to pursue.

#### INTERVIEW OF SENATOR MCGOVERN

Mr. CRANSTON. Mr. President, on Friday, September 10, the Los Angeles periodical Heritage published a thoughtful and wide-ranging interview with the Senator from South Dakota (Mr. McGOVERN) that I believe Senators will find of interest. I ask unanimous consent that the interview be printed in the RECORD.

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

#### IF PRESIDENT—MCGOVERN WOULD VISIT ISRAEL—HE'D USE U.N. VETO TO COUNTER "GANGUP"

(By Herb Brin)

Senator George S. McGovern of South Dakota, a leading candidate in the Democratic Party for President of the United States, this week voiced dramatic support for the State of Israel in her struggle to survive a power gangup by hostile forces.

McGovern, who was one of the sternest critics of the American policy of involvement in Southeast Asia, said that if he were President and the United Nations was being used as a power base for Soviet and Arab Bloc gangup attacks against Israel—"I would use the veto."

Further, if elected President: "I will go to Israel"—in the interest of peace.

McGovern noted, in the interview which took place in the Century Plaza Hotel, that there was a vast difference—"between day and night"—when contrasting Vietnam with the situation of Israel's survival.

He made this pledge: "If I were President of the United States, I would take whatever steps necessary to insure the survival and to insure the freedom of Israel—no matter what the State Department recommended."

Sen. McGovern underscored a sharp awareness of the fact that very often State Department officials take action in directions which do not reflect the wishes of the Presidency.

"I think that the President of the United States has to make the final decisions on foreign policy matters," he noted.

The senator gave President Nixon credit "on one or two occasions for stepping in and reversing what seemed to be the State Department line, adding:

"There seems to be a Nixon line that was somewhat more dependable as far as Israel is concerned—and then there was a Rogers-Sisco-State Department line which seemed to be moving off in another direction."

McGovern lashed at the so-called Rogers Plan for settlement of the Mideast crisis. He said:

"I think the great weakness in Rogers approach, the one mistake he made of overriding significance, is when he attempted to spell out the boundary settlements in advance; when he said, for example, at a time when negotiations were just in the offing, that Israel ought to return to the prewar boundaries, except for insubstantial changes.

"I thought that was a mistake, because the implication of that is that the United States can somehow impose a boundary settlement, whereas our role ought to be to get the principal parties together."

McGovern called the Rogers tactic "a little bit heavy-handed on his part in attempting to impose a settlement in advance of negotiations."

Asked by Heritage whether the United States should use the veto in the UN by Arab Bloc and Soviet forces against Israel, Sen. McGovern declared:

"Absolutely. We were the country that insisted on the veto being made a part of the UN charter. We have used it sparingly, but if there are circumstances where we saw our vital interests being jeopardized, such as this may very well be, I think we ought not to hesitate to use it."

McGovern voiced continued support for America's Sixth and Seventh Fleets—in the Mediterranean and the Pacific—and said he would support the sale of vital aircraft to Israel without the "unjustified time lag" that troubled Israel in the past.

He then told Heritage it would never happen again, as in the Eisenhower-Dulles handling of the Sinai crisis in 1956, that Jewish leaders would be kept cooling their heels in the hallways of Washington with doors closed to their pleas for assistance to Israel.

"I can tell you that no one with a humane, legitimate appeal would have difficulty getting through to me if I were President of the United States," he promised. "I would surround myself with people who understood that."

Finally, this newspaper suggested that no President of the United States had ever visited Israel. Would McGovern, as President, visit Israel?

"Ike said that he would go to Korea (in the interest of peace), and I'll go to Israel!"

Instead of going before the election campaign next year—"I'll go afterward."

A certain editor suggested he'd like to go along. One never knows!

#### POINTS OF VIEW—IN COUNTERPOINT: MCGOVERN WOULD VISIT ISRAEL

(Following is full text of the interview with Senator George S. McGovern, Democrat, of South Dakota, a leading candidate for President of the United States.)

The interview in the Century Plaza Hotel was conducted by Herb Brin. Present were Jewish community leaders Ed Sanders and Marvin Shapiro, as well as Mr. McGovern's Press Assistant, Frank Mankiewicz.)

Question: Senator McGovern, I was very happy to carry your banner in 1968 at the Democratic convention in Chicago. Will I be happy to carry your banner this time in Miami?

McGovern: I think you will. I'm glad you carried it in 1968, as there were not so many then. I feel very good about the '68 effort. I have always been glad I tried it.

Question: Assuming you are President of the United States, what about the role of the President versus the State Department in the matter of decision-making?

McGovern: Well, I think that the President of the United States has to make the final decisions on foreign policy matters. I would view the State Department as an important advisory body, of course. They are a source of information and advice and counsel, but I think the great Presidents in the past have made their own decisions on crucial foreign policy questions.

Let me just say with reference to the Middle East that on that issue, if I were President of the United States, I would take whatever steps necessary to insure the survival and to insure the freedom of Israel, no matter what the State Department recommended.

I think we have a historic and unique relationship there that must be preserved.

I think it is in our interest to stand with the Democratic government which Israel is—a government that has the confidence and respect of its own people, and one that I ad-

miere very much. And I think that our commitment there has to be firm.

I would say this: I would be equally adamant in opposing the kind of advice that I think has come from the State Department and Joint Chiefs with regard to Southeast Asia.

I think that President Johnson, President Kennedy and President Nixon have all been in error in involving American troops in that part of the world under the conditions under which they entered.

They went there really in effect to back a government that never had the respect and confidence of its own people, and in that instance would like to think if I had been President of the United States I would have resisted that advice.

As a matter of fact, as United States Senator I spoke out against it from 1963 on. I cite these two illustrations because I think they are indicative of all the kind of independence the President of the United States has to represent when he is getting conflicting advice from his advisors and from the State Department.

Question: Yet, sometimes the State Department can exercise a role beyond the power of the Executive, and that's historic in the United States system. How would you confront that?

McGovern: Well, I know that I worked with President Kennedy in 1961 and 1962, and he was always frustrated by two things:

Number 1, the tendency of the bureaucracy, especially in the State Department, to swallow proposals that he thought were dynamic and creative, especially with reference to his Alliance for Progress efforts in Latin America.

He was always frustrated that the wheels turned so slowly in the State Department.

I also think that the point you make about the State Department engaging in actions on its own is true. I think some things have been done, especially in Southeast Asia, and I suppose arrangements are sometimes made in the Middle East where the State Department is dealing with oil questions that do not represent the policy of the President.

I'll even give Nixon credit on one or two occasions for stepping in and reversing what seemed to be the State Department line.

There seemed to be a Nixon line that was somewhat more dependable as far as Israel is concerned—and then there was a Rogers-Sisco-State Department line which seemed to be moving off in another direction.

Question: May I interrupt? Would you say that the Rogers plan has any validity now in face of the new developments in the Middle East, considering Sadat's federation with Libya and Syria?

McGovern: I think the great weakness in Roger's approach, the one mistake he made of overriding significance, is when he attempted to spell out the boundary settlements in advance; when he said, for example, at a time when negotiations were just in the offing, that Israel ought to return to the prewar boundaries, except for insubstantial changes.

I thought that was a mistake, because the implication of that is that the United States can somehow impose a boundary settlement, whereas our role ought to be to get the principal parties together, namely, the Arab governments and the government of Israel and to abide by whatever negotiated settlement is worked out.

But my criticism of Rogers has been what seems to me to have a little bit heavy-handed on his part in attempting to impose a settlement in advance of negotiations.

Question: Could you spell out, Senator, the difference between your Vietnam and the Middle East policies. I walked with you on the Vietnam issue. I wouldn't underestimate that for a minute. But with reference to strength for the Middle East, how do you stand on that?

McGovern: I think the difference between Vietnam and Israel is the difference between night and day. In Vietnam, we never had a government in Saigon that had the respect of its own people—not once since we have been there, going clear back to our assistance to the French from 1950 on.

From 1950 to 1954, and ever since then, we have been backing more or less puppet regimes that were able to stay in power because we were there, and they were regimes that in a sense we imposed against the indigenous political forces operating in the country.

Now in Israel you have essentially almost the reverse situation. You have a government with the overwhelming backing of its own people. There is no civil war in Israel, not one group of Israelis fighting against another, which is essentially what you have in Vietnam—one group of dissident Vietnamese trying to dump the group that we are holding in power.

What you have in the Middle East are threatening and hostile Arab states that heretofore have not been willing to recognize Israel's right to survive, and are now armed and encouraged by the Soviet Union.

Given that situation, it seems to me that our course is clear.

We have not been asked to bail out Israel with American troops. They have demonstrated their willingness to fight for their own country.

They have asked for the right to purchase aircraft and military equipment, and they have demonstrated to us that they stand for the same ideals that we do, that they are a humane and democratic society, and are asking only for the right to survive in freedom.

And that's the kind of country, if I were President, I would take whatever steps were necessary to see that it survived.

I can't anticipate every move that would be involved, but I would do whatever I felt was necessary to make absolutely certain that the security and survival of Israel was insured.

Question: One thought is very crucial here. We are going to have an international hullabaloo at the United Nations. I believe that the Jordanian resolution comes up at the United Nations, and Egypt and the total Arab block and the Soviet Union are going to come up with all kinds of efforts to force Israel out of the areas which were won in the '67 war. A resolution on Jerusalem is keyed to the whole thing. The question: As President of the United States, in a situation such as the impending gangup, would you use a veto in the UN under those circumstances?

McGovern: Absolutely. We were the country that insisted on the veto being made part of the UN charter. We have used it very sparingly, but if there are circumstances where we saw our vital interests being jeopardized, such as this may very well be, I think we ought not to hesitate to use it.

Now I have got to tell you that I don't know what's going to happen at the United Nations. I haven't followed it as closely as you have, and I don't know exactly what the pattern is that is shaping up there for next week. But I think the way you described it, it is an area where we might very well use the veto.

Question: Then this is a confrontation of two forces—the Soviet block in the Middle East and American interests. What about the Sixth Fleet? As President of the United States, would you sustain the Sixth Fleet in the area?

McGovern: Yes, I would. I am against some of our military spending. I think we can make substantial reductions in American military forces both in personnel and in weaponry, but I would sustain both the Sixth and Seventh Fleets.

I think it is in our interests to remain a Pacific power and to remain a power in the Mediterranean, and the real backbone of our power in the Mediterranean is the Sixth Fleet,

which I would keep at whatever strength is necessary to maintain our security interests there.

The areas where I think cuts can be made militarily is on such things as the antiballistic missile system and the B-1 bomber and the MERVing of our missile system.

I think we have made a great mistake at the time the SALT talks were shaping up, that we went ahead on the MERV system and the ABM and the very costly sophisticated new weapons systems, but I have never suggested at any time that we reduce the power of the Sixth Fleet or the Seventh Fleet.

I think they are very important to our security interests.

Question: With reference to security interests, would you say that the sale to Israel of vital planes and sophisticated countermeasures to Soviet missiles in the Middle East is in the interests of the United States?

McGovern: Yes.

Question: Do you have any comments on the fact that a massive effort must be made each time by Israel merely to buy planes and without economic assistance over a long period of time? Israel's a little country, and it is doing something quite unique. It is standing up against a giant.

McGovern: In each case I have been among those Senators that well in advance of the decision by the President to make aircraft available has urged him to do it.

There was a letter signed some time ago by seven senators, in which Senator Cranston of California and I took the lead.

Months ahead of the actual decision to sell aircraft, and as senators who had been critical of our involvement in Vietnam, we wanted to make sure that our criticism of Vietnam was not used by the Administration as an excuse to go slow on the sale of jet aircraft to Israel.

And we signed the first letter, I think, at that time that went to the White House. Some months later there was a larger letter circulated by Senators Symington and Ribicoff and others which was signed, as I remember, by 79 members of the Senate urging the same course.

And the aircraft were made available.

I do think there has been an unjustified time lag in two or three instances in making aircraft available to Israel, particularly since they were willing to pay for it.

It struck me as an odd thing that we were more willing to make unlimited supplies available to Saigon that were all on a gift basis and where we even have to train them how to use them and to fire them.

We were more willing to do that than to make aircraft sales to Israel.

Question: How do you account for that?

McGovern: Well, I think it's partly a fallout from Vietnam. I think this is one of the regrettable things about our involvement in Southeast Asia.

We have been so burned there that our political leadership is reluctant to do anything anywhere in the world without great caution again.

It's an unfair result.

We ought to have the judgment to be able to discriminate between differences, but I suspect that that has something to do with it.

Also, the Administration, I suppose, is trying to keep some appearance of objectivity in the Middle East and maintain what little influence we have with the Arab countries, and I think we have to do that.

They may have made mistakes in the way they proceeded, but I don't think even the most ardent advocate of a pro-Israel stance for the United States would want us to cut off influence in the Arab States.

We are going to have to deal with those countries, and so some caution is doubtless justified in responding to Israeli requests for equipment. But I think it has been an excessive caution at times.

Question: There are one or two smaller thoughts. As President of the United States, would it be possible to approach you with an urgent plea from within the heart of a people? I remember in the Eisenhower Administration how many times our people had to cool their heels out in the hallways before they could even get to see John Foster Dulles. This, at the time of the '56 Sinal campaign.

McGovern: That would never happen if I were in the White House. Some of my critics say that one of my faults is that I am too decent and too open to compassion.

Brin: I can testify to the compassion; I don't think to compassionate.

McGovern: I can tell you that no one with a humane, legitimate appeal would have difficulty getting through to me if I were President of the United States. And I would surround myself with people who understood that.

I think that if I become President, you are going to be delighted with the man I appoint to advise me on matters relating to the Middle East, and that he will be accessible to you and other people who want to talk with him.

Question: Do you have a general windup comment on your position toward the Middle East because this story will go nationally to all the other Jewish newspapers.

McGovern: Let me just summarize, then, what I have tried to say here.

First of all, I think the United States has a unique responsibility and commitment to the people of Israel.

We played an important role in helping to bring the State of Israel into existence as an independent country.

We have cooperated with her closely from the very beginning.

Israel for her part remains the only democracy in the Middle East. They have performed a miracle on the economic and social development side in the Middle East, which has won the admiration, I think, of every American who has visited that part of the world.

They have demonstrated a brand of patriotism that I think commands the respect of all Americans, and that they are willing to fight—and fight hard—for their own country.

They don't depend on the troops of foreign countries to defend themselves.

They have ask from us only necessary military equipment to sustain their own defense, and my position as President of the United States would be that I would continue to provide that aid in whatever amount and in whatever form is necessary to insure the independence and survival of Israel.

Now I think we are right in urging the Government of Israel and the Arab States to enter into negotiations.

I think the Jarring mission, while it has been frustrating and slow and disappointing has been worthwhile.

At some point it's my own conviction that if a settlement is to be arrived at that is lasting, those negotiations will have to move to face-to-face discussions between Israel and the Arab governments.

Neither the United States nor any other outside power can impose a solution, and we ought not to try.

We ought not to try to dictate the boundary settlement or the outline of those negotiations.

Our function is simply to use our good offices and our influence to encourage the negotiating process to proceed.

And meanwhile making certain that the military balance doesn't shift against Israel while negotiations are in prospect.

Question: May I ask one parenthetical question? Do you plan to visit Israel after you are President? You would be the first President to visit Israel as President. There has never been a President who has visited Israel.

McGovern: I didn't know that.

Brin: This is the center of all our faiths.

This is where it all began as a religious holy land.

McGovern: Well, maybe I will do that. Instead of going before the campaign, I will go afterward.

Brin: Now we have a promise.

McGovern: Ike said he would go to Korea, and I'll go to Israel!

Brin: And I'll go with you, if they will let me on the plane. Thank you very much.

#### FORCED BUSING OF CHILDREN

Mr. BROCK. Mr. President, the American people continue to be deeply disturbed by the situation brought on by the forced busing of children to achieve racial balance. I believe our meeting with the administration indicates that the President is very much aware of this situation and that he will continue his efforts to secure some relief.

I have confidence that if my proposed constitutional amendment, Senate Joint Resolution 112, is enacted, relief will be secured.

I ask unanimous consent that an article regarding the meeting and also the text of Senate Joint Resolution 112 be printed in the RECORD.

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

[From the Washington Post, Sept. 23, 1971]

#### SENATORS BAKER AND BROCK FIGHT BUSING ORDER

(By Ken W. Clawson)

Tennessee's two Republican senators yesterday asked the government to intervene against a court-imposed plan that requires daily busing of more than half of Nashville's 98,000 school children.

Sens. Howard Baker and William Brock called school busing to achieve racial balance "intolerable" and an "unconscionable burden" on localities. They asked Attorney General John N. Mitchell and Eliot Richardson, Secretary of Health, Education and Welfare, to intervene in Nashville's appeal of its busing order with the U.S. Circuit Court of Appeals in Cincinnati.

Sources familiar with the Tennessee situation said both senators, and especially Baker, who must run for re-election next year, are under increasing pressure from urban centers in the state.

The mayors of Nashville, Memphis and Chattanooga—all Democrats—accompanied the senators to a red carpet meeting with Mitchell, Richardson, presidential aides John Ehrlichman, Leonard Garment and Ed Morgan at the Justice Department.

In addition to requesting court intervention to roll back a busing plan as the Nixon administration has done in a previous case in Austin, Tex., the Tennesseans said they offered an alternative, that of supporting a constitutional amendment that would prohibit assigning students to schools on a racial basis. Richardson said last week that he would not favor such an amendment.

Sen. Brock said he wanted a neighborhood school concept as advocated by President Nixon. He said Mr. Nixon opposes massive busing, most people favor neighborhood schools and Congress has also indicated it is antibusing. "But the courts continue to violate the will of all . . . it is frustrating to all Americans," Brock said.

While the senators said they hoped for "early and forceful action," they indicated that beyond sympathy, they did not receive any commitments from Mitchell, Richardson or Ehrlichman.

Nashville Mayor Beverly Briley said that already this school year \$300,000 of the school

budget has been spent for protection of pupils and property. He said the city is losing \$15,000 a day in state aid because of the drop-outs, especially among whites who oppose being bused all over the metropolitan area.

Briley, a longtime mayor, won by only about 10,000 votes earlier this month in a campaign against a politically unknown Wallace whose only issue was opposition to busing.

Baker has received additional criticism in the Nashville case because U.S. District Judge L. Clure Morton, who ordered the busing plan, was recommended by Baker.

Baker said yesterday that he originally thought Judge Morton's conservative credentials might jeopardize his confirmation by the Senate. After ordering the Nashville busing plan—50,000 out of 98,000 pupils—Baker said he often wonders what might have occurred if he had recommended a liberal.

#### BOSTON ABANDONS TWO-WAY BUSING PLAN

BOSTON, September 22.—The Boston School Committee has voted 3-2 to abandon a controversial plan to bus some black pupils to predominantly white neighborhoods and whites to a new school in a black neighborhood.

The plan had been defied by the parents—both black and white—of about half the pupils involved. The decision to scrap the plan, announced at a public meeting Tuesday night, was applauded by most of the 400 parents present.

#### S. J. RES. 112

Joint resolution proposing an amendment to the Constitution of the United States relating to open admissions to public schools.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, to be valid only if ratified by the legislatures of three-fourths of the several States within seven years after the date of final passage of this joint resolution:

#### "ARTICLE —

"SECTION 1. No public school student shall, because of his race, creed, or color, be assigned to or required to attend a particular school.

"SEC. 2. The Congress shall have the power to enforce this article by appropriate legislation."

#### TESTIMONY OF ARNOLD A. SALTZMAN BEFORE THE JOINT ECONOMIC COMMITTEE ON THE NEW ECONOMIC PROGRAM

Mr. PROXMIRE. Mr. President, the Joint Economic Committee has just completed several weeks of hearings on the President's new economic program. Among the most interesting and constructive testimony we received was that from Mr. Arnold A. Saltzman who is president of the Seagrave Corp. in New York.

Mr. Saltzman has a distinguished background as a businessman, first of all, and as a man who is experienced in the area of price controls and regulations having had actual firsthand dealings with previous programs.

His major point was the need for this country to move into the area of broadly based, comprehensive economic planning, a field we have not pursued with great diligence.

I commend his most thoughtful and constructive testimony both to the Senate and the country. It typifies the high

level of competence and expertise we have received in our hearings.

I ask unanimous consent that Mr. Saltzman's testimony be printed in the RECORD.

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

#### STATEMENT BY ARNOLD SALTZMAN

The freeze at home and the steps taken to achieve devaluation of the dollar abroad have brought a sudden sense of euphoria to the Administration and a feeling of hope to many Americans. Whether this hope is to be justified will depend not on what has been done but rather what long overdue remedies may now come into being. The overall price freeze and the steps taken with regard to our trading competitors—who are also our principal allies—is similar to grabbing the coat tails of someone about to jump off a building. Neither you nor he can maintain your positions permanently and moreover you had better fix what was in his head that made him need to jump in the first place.

We now have an opportunity—which may not soon come again—to face up to our social and political, not merely economic issues—to attack not only the virus of inflation and the gradual erosion of our preeminence among industrially developed nations, but also to address ourselves to the burden of unemployment bearing down on millions of our people—most cruelly on the unorganized unskilled poor, the young and the black. While doing these things, we must simultaneously remake our cities because unless we do so now we can expect intensified social conflict, crime, drug abuse and economic blight at a terrible cost in money and human values across our entire nation.

We do not have only money problems, we have people problems. The man out of work does not read the quotations of dollar devaluation versus the Deutsch mark. The careful economic calculations that might be made must again and again be altered by the needs of people. The most often used and least practiced phrase of late is "we must reassess our priorities." Unless they are reassessed in the light of the reasonable aspirations of all our citizens, no "economic game plan" can work in this democratic society. This is more true today than at any time in recent history. Rich, poor, old young, black, white, business, labor—all have been torn by the multiple problems of war, recession, race and our physically oppressive environment.

The plans that we must make now, while aimed at the economic aberration of price inflation and economic stagnation living side by side in the U.S. today, can and should simultaneously relate to a better life for our people.

Even the unsophisticated among us realize that the economic machine is not managed well if we use unemployment as an acceptable device to curb inflation with a resultant 30 billion dollars of budgetary deficit—and then it doesn't work. We would be far better off with a 30 billion dollar budgetary deficit resulting from things we might have done—like 30 billion dollars worth of new housing—than the deficit of omission. Also, before getting too overjoyed about possibly seeing a dollar devalued by 15% versus our foreign competitors, let us remember that it means that each of us here must work 15% more hours for everything we wish to buy from them. While this may be a necessary course today, our economic well being in the world community will again be outstanding when the reverse is true.

And so we recognize that this is the time of our trial, this is the time to produce something better than what we have had—business, labor, consumers, all are ready for change. The present wage price freeze is only an exclamation point to accentuate the need. In and of itself, it cannot succeed.

Price control efforts during our previous

two wars, and in both efforts I participated in policy-making activities, highlighted the inadequacy of General Maximum Price Regulations as well as the unsatisfactory results which flowed from having separate Agencies dealing with Prices, Labor, Wages, and Production Controls. England did far better in World War II by having all economic planning and controls in one body.

The Freeze Regulations—now in effect—perpetuate inequities, leave unregulated items which contribute largely to price inflation such as interest rates, and certain farm commodities, permit wide areas of legal avoidance, encourage inefficiency by putting a premium on job hopping as well as product proliferation, and are accompanied by incredible enforcement problems.

To eliminate controls after 90 days would produce greater problems than existed on August 15th, as well as losing an opportunity to get healthy—it is unthinkable.

There is a course I would recommend, but before suggesting it, let me add one last parenthetical observation to these previously expressed in clarification of my proposal.

The United States, before granting AID to any underdeveloped nation, has insisted on seeing long and short range plans for the economic and social programs of the potential recipients plus the ability of such nation to be able to continue such planning functions. Virtually every nation in the world has formalized long range planning activities except the United States. Our present inadequacies relate in large measure to such lack of advance planning on an overall national economic basis.

Therefore, I propose the formation of an Economic Development Board which shall take regulatory action during periods of economic imbalance and also perform economic planning functions on an ongoing basis, which plans it will periodically recommend to Congress, the President, and to the Nation at large. Such Board shall be a permanent fixture and shall be required to act in accordance with objectives that Congress shall legislate in broad terms aimed at an expanding economy, relatively free from price inflation, with high priority objectives in housing, transportation, health, education, as may be indicated. The use of subsidies should be considered if required to achieve special objectives and price stabilization.

It would be a mistake to try today to lay down specific controls or actions that the EDB should take since flexibility in dealing with our economic problems is essential. Prices, wages, interest rates, rents, even material allocations on a fluctuating basis, are all tools with which to do a job.

And on the international scene the issues are even more complicated and the planning for international economic recovery should be consolidated with domestic planning which relates the dollars available to business to invest abroad versus what is invested at home.

The EDB shall be composed of members drawn from various segments of Society but appointed by the President. They shall also be served by an Advisory Council to the EDB, whose recommendations are not binding, which shall be nominated by Labor, Business Agriculture and Consumer groups.

Gentlemen, I believe that we cannot look backward to the philosophies of Adam Smith or the Maginot Line security of Cold War international economic and political positions. For some years the American people have been out ahead of their government in their feeling that changing times required bold new attitudes and approaches to our domestic and foreign problems.

In March of 1969 I wrote and Senator Proxmire read into your Congressional Record what I felt was apropos then and even more so today.

"The business corporate entity that survives and prospers through the 1970's and beyond will be the one that leans with, and not against, the winds of change which con-

time to blow across the world. Our world has changed more dramatically in the sixty-eight years of the twentieth century than in all the preceding nineteen centuries since the birth of Christ. No business organization that fails to welcome change can have a future."

And quoting Alfred North Whitehead:

"A race preserves its vigor so long as it harbors a real contrast between what has been and what may be; and so long as it is nerved by vigor to adventures beyond the safeties of the past. Without the ability and the courage to depart from the snug harbor of status quo, nations and companies tend to decay."

If today you will legislate with courage in this crisis, looking to capitalize on our opportunities and not only to correct our mistakes, I believe that Big Business and Big Labor will follow you. It is essential that the purchasing power of our people be upgraded not downgraded, that their standard of living improve. Such expanding wealth for our citizens is the only real security for American Business.

The President has stated that he is "looking over the scene and keeping his options open." I hope you will recommend measures for permanent improvement not temporary expediency and thus provide an "option" of such long range potential benefit that both he and the American people will be pleased to implement.

Words like "tomorrow" and the "future" necessarily must guide the planning of today. The problems of today represent the turbulence from yesterday's unmanaged future. Only the future can be managed; not much can be done about the present.

#### NATIONAL LEGAL SERVICES CORPORATION: AN ANALYSIS OF LEGISLATIVE ALTERNATIVES

Mr. CRANSTON. Mr. President, on September 9, 1971, the Senate by an overwhelming vote approved S. 2007, the proposed Economic Opportunity Amendments of 1971, a most important part of which would establish a National Legal Services Corporation outside of governmental structure and control. I was privileged to join with Senators MONDALE and TAFT as a principal author of these provisions and believe strongly that this new title IX of the Economic Opportunity Act establishing such an independent corporation would provide a vibrant, responsible national program for resolving the grievances of the poor through established judicial and administrative processes.

A constituent and friend of mine from Los Angeles, Samuel C. Palmer III, has made an important contribution to the dialog within the organized bar regarding the structure and responsibility of such a new, independent national legal services corporation. In the July-August issue of the *Journal of the State Bar of California*—volume 46, No. 4—this year, Mr. Palmer contributed a scholarly and comprehensive analysis of the two basic legislative alternatives for the establishment of such a corporation: S. 1305, the bipartisan bill in which I joined with Senator MONDALE, Senator TAFT, and other Senators; and S. 1769, the administration's proposal introduced by the Senator from Kentucky (Mr. Cook)—H.R. 8163 in the other body.

Although I do not agree with all of the points and conclusions in Mr. Palmer's article, and wish to point out that his analysis was based on the original ver-

sion of S. 1305 and, therefore, does not take account of modifications made when that bill's provisions were incorporated into S. 2007, Mr. Palmer's piece does strongly support the principles and the basic approach embodied in the provisions of the bipartisan bill now approved by the Senate.

Mr. President, for the information of the Senate and the public and to add to the rational and enlightened deliberation on this vitally important new framework for providing legal services to the poor, I ask unanimous consent that the article entitled "A National Legal Services Corporation: The Legal Profession's Responsibility," written by Samuel C. Palmer III, be printed in the RECORD.

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

#### A NATIONAL LEGAL SERVICES CORPORATION: THE LEGAL PROFESSION'S RESPONSIBILITY (By Samuel C. Palmer III)

Under consideration in Congress are two similar bills calling for the transfer of the legal services programs for the poor from OEO to a new and presumably autonomous independent non-profit national legal services corporation.<sup>1</sup>

The current approach to legal services programs began in 1964 with the funding by the Ford Foundation of several neighborhood law offices on the Eastern Seaboard. In 1965, President Lyndon B. Johnson initiated a "War Against Poverty." In that year the ABA, through its House of Delegates, unanimously endorsed and gave the President's Poverty Program its full support. The use of Federal funds gave the poor access to our court system and has assisted the indigent in breaking the poverty-cycle.<sup>2</sup>

Serious and multiple conflicts arose soon after the legal services programs began, over legal judgments made by line lawyers, with a breadth ranging from Washington to local advisory councils, including the use of the gubernatorial veto.<sup>3</sup> To put it simply, politics had entered the neighborhood law office.

Recognizing these problems, William T. Gossett, president of the ABA, in 1969 suggested to Cabinet officials of the Administration that an independent agency, foundation, or quasi-public corporation might provide the best solution for administering legal services to the poor.<sup>4</sup> Additionally in 1969, president-elect of the ABA, Bernard G. Segal, also urged the establishment of a separate entity for this purpose in testimony before Congress.<sup>5</sup> Perhaps, the most dramatic call for the formation of a non-profit corporation to administer legal services for the poor has come from Jacob D. Fuchsberg, who has suggested that the proposed and pending legislation will be a "legal service Magna Carta for the indigent."<sup>6</sup>

President Nixon, in a statement on May 5, 1971 to the Congress endorsed a transfer of responsibility to a national legal services corporation and stated its major objectives:

"First, the corporation itself be structured and financed so that it will be assured of independence; second, that the lawyers in the program have full freedom to protect the best interests of their clients in keeping with the Canons of Ethics and the high standards of the legal profession; and third, that the Nation be encouraged to continue giving the program the support it needs in order to become a permanent and vital part of the American system of justice."<sup>7</sup>

Hence, the President had fully endorsed the notion of a non-profit corporation, and on May 5 Rep. Quile of Minnesota introduced HR 8163. Earlier, and on March 19, Senator Mondale of Minnesota introduced similar

legislation. Both bills fell within the general and sensible criteria laid down by the President.

Structurally the major components of both pieces of legislation are similar.<sup>8</sup> Both call for an amendment to the Economic Opportunity Act of 1964, specifically Sections 901-909, inclusive. Technically, the Mondale Bill, S 1305, would add new sections, 910-913, inclusive; whereas the so-called Quile bill would repeal § 222(a)(3) of the Economic Opportunity Act eliminating responsibility of legal services programs which are funded by OEO through Community Action Programs.

Both bills call for the creation of a non-profit, non-membership corporation, incorporated under the District of Columbia Non-profit Corporation Act,<sup>9</sup> which would be autonomous and independent of political control. Additionally, both bills provide that attorneys working for the Corporation under the Act, shall be independent to carry out their professional responsibility.<sup>10</sup> Both bills seek, generally, to insulate the Board of Directors from the debilitating stresses and strains of partisan politics. It is apparent that the Congressional consensus supporting both bills recognizes that politics should play no part in a law office.

I think the real point of departure between the Quile and the Mondale bills is found, in a very general sense, in the way both legislators and their co-sponsors try to come to grips with the problem of authorizing the birth of an entity which potentially could, through class actions, bite the hand that feeds it. Every sensible or responsible lawyer can empathize with this sort of Congressional dilemma.

The first major variance between Mondale and Quile is in the composition of the Board of Directors. Under the Mondale bill, the Board would be composed of nineteen members, five of which would be appointed by the President from the public-at-large, with the advice and consent of the Senate, and one would be appointed by the Chief Justice of the Supreme Court.<sup>11</sup> Seven Board members would come from legal organizations by virtue of their holding the following offices: the president and president-elect of the American Bar Association; the president of the National Legal Aid and Defenders Association; the American Association of Law Schools; the American Trial Lawyers Association; and the National Bar Association.<sup>12</sup> The balance of the Mondale Board would be selected by the Project Attorneys Advisory Council and the Clients Advisory Council, both to be appointed under enabling legislation in the bill.<sup>13</sup>

#### TWO DEFICIENCIES

From a lawyers viewpoint, there are two deficiencies with the Mondale Board, once the general criteria of independence and competence is accepted. To require legislatively, the Chief Justice to appoint a Board member, would be to require him to perform a non-judicial act or function which may be well outside the scope of his Constitutional power.<sup>14</sup> Secondly, I think that to permit three representatives to sit on the Board who are selected by the Project Attorneys Council is to invite potential conflicts of interest, assuming the Project Attorneys Council appoints project attorneys to the Board, who, in turn, administer programs or work funded by the Corporation. This latter problem could be corrected, if the bill provided that no Project Attorneys Council designee was eligible to become a Board member while employed by a grantee of the Corporation.

On the other hand, under the Quile bill, all eleven members are to be appointed to the Board by the President. A majority of the appointees would be members of the Bar of the Court of a highest jurisdiction and no more than six would be appointed from one political party.<sup>15</sup> The Quile bill does not set down guidelines for a required profile of prospective Board members. Again, accepting the criteria of independence and com-

Footnotes at end of article.

petence, I think it may be expecting too much of any President to appoint truly independent individuals as Board members of a national law office. A Chief Executive of lesser stature or without legal training might resort to patronage, instead of merit and thereby frustrate what could promise to be a new era in the administration of Justice.

With respect to the second variance, criminal representation, the Mondale bill is silent; whereas, the Quile bill specifically provides "no funds made available by the corporation . . . may be used (1) to provide legal services with respect to any criminal proceedings (including any extraordinary writs, such as habeas corpus and coram nobis designed to challenge a criminal proceeding)."<sup>28</sup>

This passage can present an ethical problem. Under EC 2-31, an attorney is obligated to complete legal work undertaken for a client.<sup>27</sup> Yet, criminal cases may arise from the same facts and issues underlying a civil action and the client's best interests could well require representation by one attorney in all proceedings. Professionally, it would be difficult, if not impossible, to explain to a welfare client why the attorney representing him in civil matters must abandon him at the jailhouse door, merely because criminal charges have arisen out of a welfare matter, in the context of a welfare indictment.

This ethical problem could be avoided by specifying that priority be given to civil matters, but that the Board be allowed flexibility in criminal matters, consistent with the Canons of Ethics and Ethical Considerations of the Code of Professional Responsibility of the ABA.

With respect to the third major difference, the Mondale Bill is pretty much silent about restraints upon representing clients before legislative bodies and upon activities and client representation which have political import. The only reference found in S 1305, is in § 907(a) which specifies that the "Corporation may not contribute to or support any political party or candidate for elective office." Surely, this is a broad and understandable limitation.

The Quile bill, on the other hand, carefully prescribes activities of attorneys funded through the Corporation from undertaking legislative advocacy and political activities on their own time.

Section 905(a)(6) of the Quile bill provides that legal services attorneys refrain from all representation in the influencing or defeating the passage of any legislation, unless asked by the respective legislative body.

As both the President and the Quile bill affirm, it is the purpose of legal services programs to provide to the poor that access to the legal institutions of this country which men with means may purchase.<sup>15</sup> The law providing legal services to the poor clearly conceives that poverty lawyers have all the rights and responsibilities, as well as the duties and obligations imposed by the Code of Professional Responsibility on all attorneys.

Those Ethical Considerations set forth in the Code hold that "each member of our society is entitled to seek any lawful objective through legally permissible means . . ." and admonish attorneys to "participate in proposing and supporting legislation and programs to improve the system."<sup>20</sup> Furthermore, EC 8-2 states, ". . . if a lawyer believes that the existence or absence of a rule of law, substantive or procedural, causes or contributes to an unjust result, he should endeavor by lawful means to obtain appropriate changes in the law."<sup>21</sup> Effective access to the entire legal system must include the ability to influence legislation through advocacy. In the past, legislative advocacy by legal service attorneys has been responsible for beneficial revisions for the disadvantaged in the areas of housing, education, employment, welfare, health and consumer law.<sup>22</sup> From my

Frankfurtian viewpoint, legislative advocacy and legislative change is clearly preferable to juridical legislation. Our courts are sufficiently jammed.

The contention that the expenditure of public funds for legislative advocacy is improper does not make much sense. It has been an historically accepted activity for governmental entities, and publicly funded legislative advocacy for the poor can be no less proper.<sup>23</sup> What is good for the goose must be good for the gander.

Furthermore, the U.S. Supreme Court has consistently held that educational and lobbying activities, as well as litigation, fall within the ambit of freedom of expression and association, protected by the First and Fourteenth Amendments.<sup>24</sup>

Section 905(a)(7) of the Quile bill provides that full-time attorneys employed by legal services programs refrain from "any partisan political activity associated with a candidate for a public or party office or an issue specifically identified with a national or state political party."<sup>25</sup> These restrictions on both the company time and private time of the attorneys in the program would go much further than the constitution restrictions of the Hatch act.<sup>26</sup>

Furthermore, the language of the bill forbidding association by an attorney, on legal services time, with a candidate for office or issue identified with a political party, *supra*, is so sweeping as to violate the constitutional proscription against vagueness and overbreadth. (See *Thornhill v. State of Alabama* (1940) 310 U.S. 88, 60 S.Ct. 736.) Yet, this type of action, which would be perfectly proper, indeed ethically mandated to a private practitioner, would result in disciplinary action if done by a legal services attorney.<sup>27</sup>

Moreover, one does not have to be creative to conceive of a governor whose ox was gored, deliberately making an issue "political," and thereby quashing redress of claims of the poor. Going one step further, legal services lawyers would be precluded from acquainting and advising persons of their legal rights to commence or further prosecute a suit, if the issue were "identified" with a political party. This, of course, clearly, runs counter to *NAACP v. Button*,<sup>28</sup> the entire Code of Professional Responsibility and President Nixon's mandate.<sup>29</sup>

Section 904(b)(3) of the Quile bill, which would empower the Corporation to "represent the collective interests of the eligible clients . . . before agencies with a view to identifying and resolving issues which might otherwise result in multiple litigation arising out of the administration of the agencies' programs," introduces a serious conflict of interest between the Corporation's presumed mission of promoting legal advocacy on behalf of the poor and a new role as negotiator or intervenor before federal agencies to head off or preclude "multiple litigation." The vagaries of this passage are immense, and suggest a governmental defense of lack of ripeness or estoppel. Further, the section could create a serious problem, in terms of meeting statute of limitation commitments and the timely exercise of rights of appeal.

Finally, Section 904(b)(3), *supra*, raises the distinct possibility of conflict of interest between Corporation and grantee. A corporation which has an operational mission to stop litigation by "identifying and resolving issues which might otherwise result in multiple litigation arising out of the administration of the agencies' programs. . . ." might have a chilling effect on grantees with respect to bringing required litigation.<sup>30</sup> The Corporation should not be placed in such a posture that it must choose between pursuing the joint and conflicting objectives of promoting complete and effective legal advocacy as well as heading off multiple litigation.

#### ETHICAL PROBLEMS

Even more serious ethical problems are raised by another provision in the Quile pro-

posal, Section 905(a)(8), which directs the Corporation to establish "a system for review of appeals . . . to prevent the taking of frivolous and duplicative appeals." The insertion of a reviewing authority between the attorney and his client with respect to the vital decision of whether an appeal should be filed constitutes just that sort of "erosion" of the lawyer's independent professional judgment which is condemned in the Code of Professional Responsibility.<sup>31</sup> Disciplinary Rule 5-107(b) insists that a lawyer "shall not permit a person who . . . pays him to render legal services for another to direct or regulate his professional judgment in rendering such services" and the Code of Professional Responsibility 5-24 requires that a "lawyer shall not accept employment from . . . a legal aid organization . . . unless the board sets only broad policies and there is no interference in the relationship of the lawyer and the individual client he serves."<sup>32</sup> The system of review specified in the Quile bill denies a legal services client the right guaranteed to him under the Code "to make decisions" which "are binding on his lawyer."<sup>33</sup> Moreover, submission of this kind of fragile issue to a reviewing body almost necessarily will require the attorney to reveal privileged information to third parties in direct contravention of the Code.<sup>34</sup>

The success, independence and professional accountability of the Corporation and its programs hinge ultimately, in my judgment, on the delicate attorney-client relationship, the hushed disclosures by a client about a possible claim or defense, the unfettered ability of a lawyer to determine whether the client has a triable issue of fact or law, and the power to select the forum. This really is the ultimate test and anything that detracts from it should be culled out of the proposed legislation.

Furthermore, I can see a real risk down the road in the development of a "Poverty Establishment."<sup>35</sup> Funding, hiring and firing, I should think must be based upon professionalism and an analytical and low-key evaluation of the needs and claim patterns in a particular locale, and not upon political pressures to fund programs or hire personnel.

Lastly, and perhaps most important, it seems to me that both the Quile and Mondale bills miss a fundamental opportunity. Neither bill, in a public-policy pronouncement, declares by legislation a right for each citizen to have counsel in civil proceedings.<sup>36</sup> Considering, in our times, the nature of adversary proceedings, the considerable forces that can be mustered by the well-bankrolled client, including a governmental entity and the inherent complexity of legal proceedings, a bill creating a national legal services corporation requires this sort of commitment, if our profession and Congress are to face squarely their obligations in the equal administration of justice.

Consider Deuteronomy's charge to judges embodied in the Canons of Judicial Ethics of the American Bar Association.<sup>37</sup>

"And I charge you judges at that time, saying . . .

"Ye shall not respect persons in judgment; but ye shall hear the small as well as the great; ye shall not be afraid of the face of man; . . ."

When this charge is read together with Canon 1 and EC 1-1, Code of Professional Responsibility, which provides, "A basic tenet of the professional responsibility of lawyers is that every person in our society should have ready access to the independent professional services of a lawyer of integrity and competence . . ." surely it follows then that congressional policy should give, legislatively, a funded right to counsel to each citizen consistent with our professional responsibilities.

The notion of a constitutional, as opposed to a legislative, right to counsel in civil cases, has been put forward by some persuasive language in cases and in some recent articles.<sup>38</sup>

Footnotes at end of article.

Consider *Truax v. Corrigan* (1921) 257 US 312, 42 S.Ct. 124, in which the Supreme Court stated (pages 334-335):

"... all persons should be equally entitled to pursue their happiness and acquire and enjoy property; that they should have like access to the courts of the country for the protection of their persons and property, the prevention and redress of wrongs, and the enforcement of contracts; that no impediment should be interposed to the pursuits of any one except as applied to the same pursuits by others under like circumstances; that no greater burdens should be laid upon one than are laid upon others in the same calling and condition..." (italics added).

More recently, in *Williams v. Shaeffer* (1967) 385 U.S. 1037, 87 S.Ct. 772, Justice William O. Douglas, in a dissenting opinion stated (p. 1039):

"We have recognized that the promise of equal justice for all would be an empty phrase for the poor, if the ability to obtain judicial relief were made to turn on the length of a person's purse. It is true that these cases have dealt with criminal proceedings. But the Equal Protection Clause of the Fourteenth Amendment is not limited to criminal prosecutions. Its protections extend as well to civil matters." (Italics added)

Jerome J. Shestak probably puts the constitutional right to counsel theory the best, when he states:<sup>20</sup>

"History tells us that a nation's progress to social justice is often painful; it is painful today. Part of our progress must be the realization that access to legal services must be more than an expectation; it must be a right. Learned Hand once observed that if democracy is to survive, it must observe one principal commandment; *Thou Shalt Not Ration Justice*. That commandment is what the right to legal services is all about." (Italics added)

For those in our profession who think either the legislative right or constitutional right to counsel approach accelerate the evolutionary cycle a bit too much, this statement from the National Commission on the Cause and Prevention of Violence in its progress report in January, 1969, should provide food for thought:

"Making legal services widely available to the poor can in fact be an important part of the strategy of public order, for if the disadvantaged have little or no affirmative access to the courts, they may resort to other, more violent solutions of their problems."

The real key, it seems to me, is not so much the particular philosophical bent of each of us who practices law, but rather for each of us, after recognizing the need for counsel for the indigent, to participate as best we can in the congressional debate and dialogue, to the end that a national legal services corporation and the programs implemented under it, will be independent and free from politics, and that the availability, quality, and competence of counsel will no longer be related to the size of a fee. The practice of law, when all is said and done, is quite a reward in itself.

#### FOOTNOTES

<sup>1</sup> On March 19, 1971, S 1305 was introduced by Senator Mondale, for himself and for Senators Brooke, Cranston, Jackson, Taft, Anderson, Bayh, Harris, Hart, Hughes, Humphrey, Inouye, Magnuson, McGee, McGovern, Moss, Muskie, Nelson, Pearson, Stevenson and Tunney. On March 18, 1971, Representative Meeds and Steiger, together with 23 other Representatives introduced the same legislation in the House of Representatives. HR 8163 was introduced in the House of Representatives by Rep. Qule together with Reps. Ford, Erlenborn, Dellenback and Poff on behalf of the Administration on May 5, 1971.

<sup>2</sup> *Goldberg v. Kelly* (1970) 397 U.S. 254, 90 S.Ct. 1011, (hearing is now required before terminating welfare benefits of poor); *Brown v. Southall Realty* (1968) 237 A.2d 834 (if

there are violations of housing code, the rental contract is illegal and owner cannot now collect rent); *Eduards v. Habib* (D.C. Cir. 1968) 397 F.2d 687, cert. denied 393 U.S. 1016, 89 S.Ct. 618 (landlord cannot evict tenants for reporting violations of housing code to housing authorities). From some recent unreported poverty cases in California, see, for example, *Blair v. Pitchess* (1971) 2d Civil No. 36364, California Supreme Court, (suit to declare unconstitutional California's claim and delivery statute empowering sheriff to repossess property without hearing); *Amezquita v. Cal-Roper* (1970) Superior Court, Los Angeles, No. 971 714, (Class action to enjoin consumer fraud in door-to-door water softener sales); *Davis v. Kenneth Chevrolet* (1970) Superior Court, Los Angeles, No. 998 821, (suit to challenge the right of a finance company to repossess an automobile without notice and hearing); *Torres v. World Savings and Loan* (1970) Los Angeles Superior Court, No. 974 183 (suit to Challenge "late charge" provisions in notes secured by trust deeds on home mortgages); *Ball v. Tobeler* (1970) Los Angeles Superior Court, No. 992 182, (suit by low income tenant for speedy repair of hazardous apartments and to permit withholding of rent until the hazards are corrected); *Luna v. Housing Authority* (1970) Los Angeles Superior Court No. 969 666, (suit to enjoin Housing Authority from charging welfare recipients higher rents than persons not on welfare and account for and refund past overcharges); *Charles v. Unemployment Compensation Appeals Board* (1970) Los Angeles Superior Court No. 975 842, (suit to compel payment of unemployment benefits against the Department of Unemployment Compensation after court and referee orders holding the client eligible).

<sup>3</sup> For a comprehensive analysis see "Corporation for Legal Services—A Proposal," a Report of the Committee on Rights to Legal Services, Section of Individual Rights and Responsibilities, ABA, January 8, 1971.

<sup>4</sup> Testimony of Edward Wright, President of the ABA, on May 11, 1971 before the Senate Subcommittee on Employment, Manpower and Poverty of the Senate Committee on Labor and Public Welfare.

<sup>5</sup> Testimony of Edward Wright, President of the ABA, on May 11, 1971, before the Senate Subcommittee on Employment, Manpower and Poverty of the Senate Committee on Labor and Public Welfare.

<sup>6</sup> Testimony of Jacob D. Fuchsberg, former President of the American Trial Lawyers Association before Senate Subcommittee on Employment, Manpower and Poverty of the Senate Committee on Labor and Manpower on May 11, 1971.

<sup>7</sup> Message to Congress, President Richard M. Nixon, May 5, 1971.

<sup>8</sup> S 1305 and HR 8163.

<sup>9</sup> "District of Columbia Nonprofit Corporation Act," 29 D.C.A. § 1001, et seq. District of Columbia Code.

<sup>10</sup> Section 901(4) in S 1305 and § 905(a) (1) of HR 8163.

<sup>11</sup> Section 904(a) (1) of S 1305.

<sup>12</sup> Section 904(a) (2) of S 1305.

<sup>13</sup> Section 904(a) (3) and § 905 (a) and (b) of S 1305.

<sup>14</sup> See: *United Steel Workers v. United States* (1959) 361 U.S. 39, 43, 80 S.Ct. 1, 4; *Ullman v. United States* (1956) 350 U.S. 422, 426, 434, 76 St.Ct. 497, 499 and 504, rehearing denied 351 U.S. 928, 76 S.Ct. 777; *I.C.C. v. Brimson* (1894) 154 U.S. 447, 468-469, 14 S.Ct. 1125 1130.

<sup>15</sup> Section 902(a) of H.R. 8163.

<sup>16</sup> Section 905(b) (1) of H.R. 8163.

<sup>17</sup> Canon 2, Ethical Consideration 2-31 Code of Professional Responsibility.

<sup>18</sup> See: Message to Congress, May 5, 1971, President Richard M. Nixon and § 901(a) of H.R. 8163.

<sup>19</sup> Canon 7, EC 7-1, Code of Professional Responsibility.

<sup>20</sup> Canon 8, EC 8-1, Code of Professional Responsibility.

<sup>21</sup> Canon 8, EC 8-2, Code of Professional Responsibility.

<sup>22</sup> See: Salsich, Peter W., *Reform Through Legislative Action: The Poor and The Law*, 13 St. Louis Law Journal 373 (1968-1969). See also: Pye and Cochran, *Legal Aid—Proposal*, 47 North Carolina Law Review 523 (1969).

<sup>23</sup> Public Agencies Represented by Legislative Advocates, as reported by Report of the Committee on Legislative Representation, Dated February 5, 1969, Published, Senate Journal, February 6, 1969, page 338, Alameda, County of; California Junior College Association; County Supervisors Association of California; East Bay Municipal Utility District; East Bay Regional Park District; Irrigation Districts Association of California; Los Angeles, City of; Los Angeles County, Board of Supervisors; Metropolitan Water District of Southern California; Orange County, Board of Supervisors; Redevelopment Agency of the City of Sacramento; The City of San Diego; San Francisco City and County; Santa Clara County, Board of Supervisors; San Diego County, Board of Supervisors; Southeast Recreation and Park District; City of South Lake Tahoe; City of Vernon; City of Inglewood; City of Seal Beach; County of Sacramento; and League of California Cities.

<sup>24</sup> *NAACP v. Button* (1963) 371 U.S. 415, 83 S.Ct. 328, 9 L.Ed.2d 405; *Brotherhood of Railroad Trainmen v. Virginia ex rel Virginia State Bar* (1964) 377 U.S. 1, 84 S.Ct. 1113, 12 L.Ed.2d 89; *United Mine Workers of Am., Dist. 12 v. Illinois State Bar Assn.* (1967) 389 U.S. 217, 88 S.Ct. 353, 19 L.Ed.2d 426. See Also: *Hackin v. Arizona* (1967) 389 U.S. 143, 143-152, 88 S.Ct. 325, 19 L.Ed.2d 347 (Douglas, J., dissenting); *Moore v. United States* (3d Cir. 1970) 432 F.2d 730.

<sup>25</sup> Section 905(a) (7) of HR 8163.

<sup>26</sup> The Hatch Act, Title 5 U.S.C.A. § 7324 (Pub.L. 89-554, Sept. 6, 1966, 80 Stat. 525.)

<sup>27</sup> Section 904(c) (2) of HR 8163.

<sup>28</sup> See: footnote 24, supra.

<sup>29</sup> Message to Congress, May 5, 1971, President Richard M. Nixon.

<sup>30</sup> See Generally: Canon 7, Code of Professional Responsibility.

<sup>31</sup> See: Canon 5, EC 5-1, Code of Professional Responsibility; Canon 5, EC 5-21, Code of Professional Responsibility; Canon 5, EC 5-23, Code of Professional Responsibility.

<sup>32</sup> Canon 5, EC 5-24, Code of Professional Responsibility [context added].

<sup>33</sup> See: Canon 7, EC 7-3, Code of Professional Responsibility and Canon 7, EC 7-4, Code of Professional Responsibility.

<sup>34</sup> See: Canon 4, EC 4-1, Code of Professional Responsibility and Canon 4, EC 4-2, Code of Professional Responsibility.

<sup>35</sup> i.e.: The National Tenant's Organization, The Citizens Advocate Center and the National Client's Council.

<sup>36</sup> A real problem might arise under the Equal Protection Clause of the Fourteenth Amendment, if a right to counsel in civil proceedings is assured only to the poor, unless broad and flexible criteria for eligibility standards, in which income is only one factor are adopted.

<sup>37</sup> Shestak, Jerome J., "The Right to Legal Services," *The Right of Americans: What They Are; What They Should Be* (Dorsen ed., Pamphlet, 1971); "The Continuing Expansion of the Right to Counsel"; Comment, 41 U. Colo. L.R. 473 (1969);

*Cf. Curran, Barbara, Unavailability of Lawyer's Services for Low Income Persons*, 4 Val. U.L.R. 308 (Sp '69).

<sup>38</sup> Jerome J. Shestak, a practicing lawyer in Philadelphia, is immediate past Chairman of the American Bar Association Section of Individual Rights and Responsibilities, a member of the National Advisory Committee to the Legal Services Program of the Office of Economic Opportunity, and a member of the Executive Committee of the National Legal Aid and Defender Association.

<sup>39</sup> Shestak, Jerome J., *The Right to Legal*

Services." *The Rights of Americans: What They Are; What They Should Be* (Dorsen ed., Pamphoon, 1971) at page 126.

NIKOLA PETKOV—BULGARIAN  
HERO

Mr. PROXMIRE. Mr. President, today is the 24th anniversary of the death of Nikola Petkov. Mr. Petkov was a leader of the Bulgarian National Agrarian Union in the days immediately following World War II.

His father, Dimiter Petkov, a Prime Minister of Bulgaria, was assassinated in 1907. And his brother Petko was murdered in 1924. Undeterred by these tragedies he continued his education, receiving his law degree in Paris. During the Nazi occupation of Bulgaria he was an underground leader and was imprisoned several times.

After the war Nikola Petkov and three other representatives of the Bulgarian National Agrarian Union formed a coalition government with Communists, Socialists, and other political groups. In the elections of 1945 and 1946, Mr. Petkov contested the attempts of the Communists to take sole control of the Bulgarian Government.

For this he was denounced as a so-called agent of Anglo-American capitalism. Arrested, tried, and convicted, he was executed early in the morning of September 23, 1947.

His death was a loss to Bulgaria and the free world. Yet his memory has not died. He is remembered as an advocate of the principles of freedom and democracy, and is an inspiration to many people.

SENATOR WINSTON L. PROUTY

Mr. BURDICK. Mr. President, the loss of Winston L. Prouty is a blow from which the Senate will not soon recover. It is a dual loss—that of both a Senator of consequence and of a man of personal brilliance and conviction.

Too few persons are given the privilege of favorably affecting the lives of millions of others, but Winston Prouty was not only given that privilege; he respected it and used it wisely. As the ranking Republican on the Education Subcommittee of the Committee on Labor and Public Welfare, he played a major part in forging legislation that has vastly expanded Federal support for education. As a member of the Committees on Commerce and the District of Columbia and of the Special Committee on the Aging, he was ever in the struggle for human rights and dignity. As a Member of the House of Representatives from 1950 to 1958, and as a Senator from 1959 until his death, he was constantly at work in the attempt to expand social security to cover those who had not yet met minimum participation requirements during their working years.

A man of independent spirit, he did and spoke as he thought was right and best for his country. He was one of the finest in the Senate, and I am deeply sorry that he is no longer with us.

ECONOMIC RECOVERY RESOLUTIONS  
SUBMITTED BY SENATOR  
HUMPHREY

Mr. HUMPHREY. Mr. President, on September 21, in a letter to Senate Majority Leader MIKE MANSFIELD, I urged that the Senate Democratic caucus endorse promptly a positive and equitable economic policy that will stimulate economic recovery and enable the Nation to move ahead on pressing domestic needs.

I submitted a 12-point resolution to Senator MANSFIELD, urging that the positions be included in the recommendations of the Democratic policy committee and adopted by the caucus.

My resolution proposed:

Development of a national economic policy with the cooperation and advanced consultation of labor, business, agriculture, consumers, government and the general public.

Legislation to immediately produce job opportunities.

The speeding up and making retroactive to January 1, 1971, of personal income tax exemptions scheduled for January of 1972 and 1973.

Delay of the social security tax increase scheduled for January 1972.

An increase in the minimum standard Federal income tax deduction for low-income persons.

Consideration of a range of alternative forms of corporate taxes.

An increase in social security retirement benefits by at least 10 percent.

Extension of unemployment compensation benefits for those unemployed who have exhausted eligibility.

Welfare reform legislation with the original effective date as passed by the House.

Prompt action on financial aid to cities and States.

Legislation to aid the development and revitalization of rural America.

Authority in any statutory provisions for a Wage, Price, and Profits Stabilization Board for regulation over dividends, profits and interest rates as well as wages, prices and rents.

I ask unanimous consent that the text of my resolution and my letter to the majority leader be printed in the RECORD.

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

SEPTEMBER 21, 1971.

HON. MIKE MANSFIELD,  
Majority Leader,  
U.S. Senate,  
Washington, D.C.

DEAR MIKE: In reference to my letter of August 25, in which I requested a meeting of the Senate Democratic Conference so that we may constructively consider and evaluate the economic proposals of the President, I am enclosing for the consideration of the Policy Committee a draft resolution.

I urge that these positions be included in the recommendations of the Policy Committee to the Conference.

I am certain that there will be other proposals made; however, I want you to have my thoughts on proposals that the Conference could adopt.

Sincerely,

HUBERT H. HUMPHREY.

RESOLUTIONS PROPOSED BY SENATOR  
HUMPHREY

Whereas the Democratic Majority in the Senate of the United States welcomes the too long delayed initiative of the Administration with respect to domestic economic policy and herein confirms its intention to act with dispatch on a positive economic program fair and equitable to all segments of our population; and

Whereas national economic policy must both stimulate economic recovery in an equitable manner and allow the United States to meet its pressing domestic needs;

Therefore be it resolved that the Caucus of the Senate Democrats believes that the following are in the public interest:

1. That national economic policy must be developed with the cooperation and advanced consultation of labor, business, agriculture, consumers, professions, and the general public. We urge the President to see that meaningful consultation occurs.

2. That the Senate Labor and Public Welfare Committee, Subcommittee on Employment, Manpower, and Poverty, and the Senate Committee on Banking, Housing and Urban Affairs should report legislation to the Senate directed towards manpower development and job creation. Such legislation could be public service employment, housing construction stimulus or other programs that immediately produce job opportunities.

3. That the Committee on Finance report to the Senate legislation which will speed up and make retroactive to January 1, 1971, tax exemptions scheduled for January 1972 and 1973.

4. That the Senate Committee on Finance report to the Senate legislation which will delay the projected Social Security tax increase scheduled for January, 1972.

5. That the Committee on Finance report to the Senate legislation which will increase the minimum standard deduction for low income persons.

6. That the Committee on Finance consider all alternative forms of corporate taxes including investment credit, removal of the accelerated depreciation, excess profits tax, alternative uses for the excise tax on automobiles, and other proposals that will stimulate immediate job opportunities.

7. That the Committee on Finance report to the Senate this session legislation that will increase the Social Security retirement benefits by at least 10 percent.

8. That the Committee on Finance report to the Senate legislation that will extend unemployment compensation benefits for those unemployed who have exhausted eligibility.

9. That the Committee on Finance report to the Senate this session welfare reform legislation with the original effective date as initiated and passed by the House of Representatives. The President's recommendation for a delay in the effective date of welfare reform is rejected by the Caucus. The request for a delay in the effective date should not be used as an excuse for delaying this long promised and badly needed reform.

10. That the appropriate Senate Committees will act promptly on financial aid to our cities and states considering among other proposals emergency aid to those cities that have lost revenue through excessive unemployment. The appropriate Senate Committees are requested to review again legislation that would provide financial assistance to cities and states, and the House of Representatives is urged to pass some form of financial assistance to these states and cities.

11. That the Committee on Agriculture, Subcommittee on Rural Development report legislation to the Senate that will aid in the development and revitalization of Rural America.

12. That the Senate Committee on Banking, Housing and Urban Affairs report such

legislation as may be necessary to make certain that any future statutory provisions for a Wage, Price, and Profits Stabilization Board are fair and equitable by including authority for regulations over dividends, profits, and interest rates as well as wages, prices, and rents.

#### PROJECT CANNIKIN CAN CAUSE QUAKES

Mr. PROXMIRE. Mr. President, one of the great environmental hazards of this year is the planned atomic detonation on Amchitka Island, known as Project Cannikin. The Atomic Energy Commission, in trying to defend this project, has attempted to minimize the possibility that this explosion will trigger a severe earthquake. Yet careful reading of AEC statements will show that there is a possibility of Cannikin causing an earthquake.

In a letter to me dated September 15, the AEC stated that Cannikin would not cause a large earthquake unless one was imminent. Yet in their final environmental statement the AEC stated that in this century there has been an earthquake of the magnitude of 7 or greater on the Richter scale every 5 or 10 years and there have been 10 times as many earthquakes of the magnitude of 6 in the same period. Thus in any given 2-week period there is one chance in a hundred that a severe earthquake will occur at Amchitka. Taking the entire Aleutian Island chain into consideration, the probability rises to 1 in 20.

It seems to me, Mr. President, that this is a higher probability than proponents of this project would have us believe. In light of this information President Nixon should use his authority to cancel Project Cannikin.

#### TO ESTABLISH EQUAL JUSTICE AND OPPORTUNITY

Mr. HUMPHREY. Mr. President, north, south, east, and west, the administration's performance in the field of civil rights has been hesitant and inadequate.

Recently, I called attention to these shortcomings and urged a more vigorous approach in a number of areas. I spelled out my concerns in a statement which I ask unanimous consent to have printed in the RECORD.

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

EQUAL JUSTICE AND OPPORTUNITY—SENATOR HUBERT H. HUMPHREY

The Nixon Administration has demonstrated a basic absence of policy toward establishing equal justice and opportunity for all Americans. It has failed to move forward and vigorously enforce the civil rights laws that are already on the statute books. Most regrettable of all, the President personally has failed to provide moral leadership and education on behalf of equal justice. When the Presidency fails to lead this struggle, America's conscience and resolve falter.

As one who was deeply involved in the struggle to enact our civil rights laws and to promote public support for equal justice, I have been profoundly disturbed by this failure to provide national leadership.

#### JOBS AND INCOME

Civil rights are meaningless without equal economic and job opportunity rights.

I am an original sponsor of major legislation, recently introduced in the Senate, to strengthen the Equal Employment Opportunity Commission by giving it the cease-and-desist enforcement powers that are essential to its work in ending discrimination in job hiring, advancement, and basic labor rights. The Administration has opposed this reform to give teeth to the E.E.O.C., preferring to follow a circuitous and delayed route to ending employment discrimination.

In fighting this slow path to economic justice, I also recently argued for an increase in EEOC operational funds, subsequently adopted by the Senate, on the basis of statistics showing a 25,000 case backlog and a waiting period of up to 2 years for final disposition of a discrimination complaint.

In addition to strongly supporting expanded Federal efforts to eliminate employment discrimination in the private sector, I have called upon the administration to establish forward-moving policies on equal opportunities in public service jobs, particularly through opening the higher Civil Service grades to qualified minority-group employees.

The bill I have sponsored to strengthen the E.E.O.C. also would extend the jurisdiction of this vitally important Federal agency to include Government employee complaints.

I firmly believe that with respect to both private business and government at all levels, there should be definite plans to end discrimination on the basis of race, national origin, sex, or religion in obtaining not only entry-level jobs, but also higher-level positions on the basis of acquired skills and capability.

There should also be a substantial expansion and improvement in Federal financial and technical assistance for the establishment of minority enterprises and community development corporations.

The goal of these Federal efforts should be the achievement of effective participation in the economic mainstream of America and the development of extensive self-help programs, by those who have traditionally been isolated by economic and racial discrimination.

Right now, we should greatly increase Federal funding to enable minority entrepreneurs to obtain loans at the full level of need. The record is clear that the most frequent cause of business failures is undercapitalization.

I believe there should also be established an advisory committee, both at the federal and at state and local levels, of competent people in the field of business management, who can work with and continuously advise a new enterpriser. And we should build upon present business executive volunteer programs connected with the Small Business Administration, by creating a permanent and expanded service that assigns a business consultant to each minority enterprise loan to provide first-hand management assistance. For years, such assistance has been provided to our farmers through county agents under the Department of Agriculture.

However, the present emergency confronting blacks as well as the Spanish-speaking, Indian, and other minority groups is the absence of job opportunities. Massive unemployment, ranging as high as 50 percent, exists in inner-city areas. A special study last March calculated the unemployment rate for black youth in poverty areas at 41.2 percent.

These facts constitute a crisis which must be met without delay. We must totally reorganize and greatly expand federally financed manpower programs to create real job opportunities, rather than continue with training which is unrelated to labor market needs. Nor can we continue with job training programs that only offer less than a half million jobs over the same period that nationwide unemployment has more than doubled to 5.5 million.

We must move immediately to create new labor markets for unemployed Americans and provide emergency assistance to their fami-

lies. The role of government is crucial here. That is why I denounced the President's veto of legislation enacted to accelerate public works programs across the Nation—providing facilities desperately needed by our towns and cities and offering hundreds of thousands of new job opportunities. That is why I have urged the Administration to implement immediately the Emergency Employment Act, providing over 200,000 public service jobs of great importance to our communities. And to meet such emergency needs, I have also been pressing for favorable Congressional action on my bill to extend the unemployment insurance program with full Federal financing.

#### THE RIGHT TO VOTE

We have seen the Justice Department sway back and forth in hesitating to exercise its clear responsibilities under the 1965 Voting Rights Act to assure that new State election laws and voter registration requirements do not result in a result of racial discrimination practices.

I have called upon the Attorney General to exercise his clear responsibility under the law to act on these State changes without delay.

But I also believe the Federal Government can do much more to protect every citizen's right to vote. A government that can find people to tax and to count for a census ought to be able to find people to register to vote. I believe that universal registration is absolutely essential to maintaining the strength of American democracy and to improving the responsiveness of government to the needs of our people.

#### FREEDOM OF RESIDENCE

I have been deeply disturbed by the long-delayed Presidential statement in June, 1971, on equal housing opportunity, which makes a false distinction between discrimination based on race and discrimination based on income levels.

As the Civil Rights Commission has pointed out, the harsh facts of housing economics suggest that racial integration cannot be achieved unless economic integration is also achieved.

We must establish governmental policies and programs that encourage the integration of good housing for lower and moderate-income families in new developments, and that provide incentives to communities to plan rationally and in a comprehensive manner for multiple forms of decent housing for all income levels through intelligent and productive land-use policies.

And we must insist that the Federal Government enforce the fair housing laws that it already has at hand, recognizing that no man's rights should be diminished or deferred by the color of his skin, particularly the right to raise his family in a decent community and social environment.

The central requirement that must be met, however, is the provision of an adequate supply of lower and moderate income housing. There has been a significant increase in total housing starts, but it remains far short of annual production requirements to meet the ten-year goal of 26 million units.

The major Federally subsidized rental housing and home ownership programs proposed by a Democratic Administration in 1968 and enacted by Congress should now be funded by Congress at the full level of authorizations. And the present Administration should release from impoundment the funds that have already been appropriated for low-income housing.

There must be no further delay in backing up Federal promises of decent housing for all Americans with a firm financial commitment to achieve this goal.

#### AN EQUAL CHANCE FOR A GOOD EDUCATION

I firmly believe in comprehensive and effective Federal policies to achieve equal opportunities for a quality education for all

our children and youth. The Nixon Administration gives every indication of moving in exactly the opposite direction.

Our black colleges continue to be denied a fair share of the Federal dollars for higher education already appropriated by Congress. Education relevant to the critical needs of American Indians remains seriously inadequate.

The Department of Health, Education, and Welfare, through the promulgation of school desegregation guidelines, has sought to improve educational opportunity. However, later statements by President Nixon have created a situation of total confusion regarding the rulings on school desegregation handed down by the Supreme Court. The President's statements have also added to the difficulties and problems which confront school boards and administrators in applying desegregation guidelines.

Our central commitment must be to assure for our children equal access to a quality education. The child who is forced to accept an inferior education is denied an equal opportunity in later life to obtain a good job and to exercise effectively his rights and responsibilities as a voter and citizen.

Parents, both black and white, have been rightly concerned that their children be able to obtain a good education in a school that is within a reasonable distance from home. And we know that full acceptance and participation in the life of the school are essential to a total learning experience for a child. The Supreme Court has recognized this important factor in holding that travel to school must not risk the health of the child or significantly impinge on the educational process.

It is under these guidelines that the employment of school busing should be placed. Busing has its only justification if it improves the quality of education and the equality of educational opportunity.

There can be no retreat from the effort to end the educational and cultural handicaps borne by black and Spanish-American children brought up in a segregated school atmosphere. But we must view busing as only one method, and certainly not always the best solution, for accomplishing the equitable desegregation of school districts. Wherever possible, we should make full use of other methods—such as school district rezoning, or careful location of new school buildings, or more selective approaches to desegregating respective classes in different schools—to promote a stable school situation for all children.

And it is essential that schools in areas of economic and social deprivation should be designed to compensate for the generations of neglect reflected in the critical needs of hundreds of thousands of children. To help these children realize their true potential, their schools must have the most qualified teachers and the most modern facilities.

We know full well that the child of the core city or the impoverished rural county is denied the educational advantages of the child of the wealthier suburb, under the common practice of basing local school budgets primarily on property taxes. This practice recently was ruled unconstitutional by the California Supreme Court, which held that property-tax school financing produces wide disparities in revenue per child between rich school districts and poor ones, thereby denying the equal protection of the laws.

It is imperative that there be adequate funding for the best possible education for all our children. This requires not only increased state aid, but also substantial Federal assistance, with the emphasis placed on correcting imbalances in local levels of financing per pupil.

For these reasons I have cosponsored and strongly urged the enactment in the present Congress of legislation to provide vital Federal financial assistance to encourage demon-

stration projects in the establishment of quality integrated schools and to provide special aid to help school children overcome the educational and cultural disadvantages of minority group isolation.

This special aid can include the improvement of curricula and instructional methods, remedial and guidance services, in-service teacher training and the employment of teachers' aides, the repair of school facilities, bilingual teaching for children whose dominant language is other than English, and special television programming that reaches the immediate living experiences and broadens horizons for children in minority group isolation situations.

I have also urged the enactment of legislation which I joined in sponsoring to greatly expand post-secondary educational opportunities, with special emphasis on young people from lower-income families. Under this major reform of Federal assistance to higher education, every student can obtain help solely on the basis of need, and the college of his choice will receive direct cost-of-instruction assistance. And by this method of assistance, private colleges now confronting serious financial problems will be given major assistance and incentives to provide a quality education.

I believe these vitally important legislative initiatives reflect the new directions that America should now be taking to assure free access to a quality education relevant to the needs of all our children and youth.

#### TOUGHER STANDARDS ADVOCATED FOR ADMISSION TO COLLEGE

Mr. FANNIN. Mr. President, I invite the attention of Senators to an editorial published in the Phoenix Gazette and reprinted in the Brewery Gulch Gazette, of Bisbee, Ariz. I ask unanimous consent that it be printed in the RECORD.

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

##### WELCOME THESIS

In a time when there is considerable pressure on colleges to lower standards for admission and graduation, it is heartening to hear a voice crying out for just the opposite conditions.

Dr. Hermann K. Bleibtreu, the new dean of the College of Liberal Arts at the University of Arizona, says he would like to see tougher admission and grading standards in his college. He believes this would result in fewer dropouts and a general scholastic and academic improvement.

In supporting his thesis, Dr. Bleibtreu says that the complexity of society today demands that people have an education, "simple-minded answers, and unsophisticated views, are disastrous for society." And the dean is not advocating that everyone become a white-collar worker; rather he says he's interested in the quality of people's lives—whether they become a plumber or an executive.

When Russia's sputnik thrust the United States into the Age of the Scientist, liberal arts colleges lived in the shadow of engineering schools. Universities trained those with scientific aptitudes into narrow specialties, and many of these men today discover they lack the flexibility to carve out new careers when their old jobs disappear.

By advocating tougher admission and grading standards, Bleibtreu is advocating competition—not only to get into college but to stay in. And it follows that if there is competition to get that seat at college, there must be competition in the lower echelons of education.

Bleibtreu's beliefs aren't going to set well with the educationists—those who believe that competition is harmful to children. But

if the new dean prevails, he might set education ahead 50 years.

Once it was that American business and industry sought liberal arts graduates and groomed them to fill the executive suites. They needed—and still do—people who can think and dream and plan.

Universities everywhere should heed Bleibtreu's philosophy.

#### THE NEED FOR INTERNAL REFORM

Mr. HARRIS. Mr. President, it is a sad irony that every great internal reform of this century has died on the battlefield abroad—Wilson's New Freedom, Roosevelt's New Deal, and Johnson's Great Society. The circumstances under which the United States entered war in each case differed, but the result was always the same. An opportunity for meaningful change at home passed by.

We are now ending our involvement in the last of these wars and it is now time for natural stocktaking. I believe an article published in Foreign Policy, fall 1971, offers a significant contribution in this regard.

The authors, Anthony Lake, and Roger Morris, discuss the human reality of "realpolitik." Their point is that in discussing foreign questions, our policymakers—indeed I would add those of most countries—ignore the human factor. Concern over "nations," "interests," "prestige," too often encourages an easy inattention to the real people whose lives diplomatic decisions may affect or end.

They call for a more "humanistic" foreign policy. They argue that such a policy would not necessarily always be more interventionist, isolationist or pacifist than our present policy but that it would definitely differ at least in this respect: It would consider the human costs and benefits as one of the "principal and legitimate" considerations of any decision.

I could not agree more. In fact, I would contend that it is imperative that we also give greater attention to the "human factor" in our domestic affairs. For if we do not, we will continue to display a lack of urgency in eliminating hunger in this country. We will continue to permit thousands of ordinary workers to die every year in unnecessary industrial accidents. We will move slowly to end the avoidable carnage on the highways. We will continue the scandalous treatment of the elderly. And we will fight inflation by putting men out of work instead of adopting other effective methods.

There are many reasons why I included idealism in foreign policy as one of the three tenets of what I call the New Populism. But one of the most important is this. Such a policy is not only right, it is also the only policy which is fully consistent with the kind of domestic program which I believe is imperative if we are to bring about meaningful political reform at home. I firmly believe that this Nation cannot adopt one set of values at home and another set with foreign governments. The human costs and benefits which Messrs. Lake, and Morris describe should in other words be one of the "principal and

legitimate" considerations of both our domestic and our foreign decisions.

In a firm consistency of moral and political purpose at home and abroad I believe we could gain the strength to reach worthy national goals. With such consistency I believe we could hope to maintain the continued support of the American people for a sustained program of political reform in both our domestic and our foreign policy.

The thoughtful article of Messrs. Lake and Morris will be of interest to all Senators. Therefore, I ask unanimous consent that it be printed in the RECORD.

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

THE HUMAN REALITY OF REALPOLITIK  
(By Anthony Lake and Roger Morris)

It would be easy, and somehow consoling, to see in the Pentagon Papers an unprecedented and singular tragedy of American foreign policy.

After all, the papers are unique. Not some distant historical still life, this is a rare look into contemporary government with live actors. The events appear exceptional, the men involved are distinctive in personality and setting. Then there are the peculiar intellectual failures of those particular years: the treatment of Vietnamese politics and nationalism like a production problem in some automated plant; the doctrine of counterinsurgency and the policies of over-involvement which is reflected and supported. Finally, Vietnam itself is a defiantly unique problem, destined for its own special and bloody slot in the history of Western misadventures in Asia.

Once the shock of our experience in Vietnam wears off, we might tell ourselves believe that all this is too extraordinary to be anything but an aberration. But the hard truth about the making of our Vietnam policy is that it was not really so unique at all. Leslie Gelb has well described how Vietnam was the product of conscious choice rather than high level inadvertence. The system within the executive branch worked.

Another equally shattering point is that our policy was not only the product of specific mistakes and the normal mechanical perversity of the system. It reflected a basic mental set—the way nearly all of us, in government and out, have been looking at international affairs and foreign policy.

Some readers of the Papers have professed shock that in all those words, in all these options weighed and calculations made, there was so little mention of the enormous human costs and consequences of the policy—either here at home or in Indochina. But such costs and consequences are far too rarely weighed formally in major foreign policy decisions.

The Papers reveal that human costs were almost invariably approached in terms of their effect on public opinion here, or in making tactical decisions (as in choosing bombing targets). They were not formally considered in making the strategic decisions which determined our course of action.

Whether in the State Department, the Defense Department or the White House, whether in Democratic or Republican administrations, this same dehumanized pattern of decision-making on all foreign policy issues has been evident. It is the way nations traditionally carry on their business in the world. Vietnam is only special for the United States in the sheer magnitude of wasted human suffering and the direct toll on our society.

ENTHUSIASM FOR ARCHITECTS

The issue, then, is not the men or the particular period of this tragedy. We cannot forget our own enthusiasm when the architects of our foreign policies in the last decade came in to dispel the malaise of the Eisen-

hower years. And even in retrospect they remain the epitome of what our society produces to manage its dealings with other nations. To blame the Presidents who heeded them is to dodge the harder question of why they (and to many of us at lower levels along with them) thought and acted as they did.

The answer to that question begins with a basic intellectual approach which views foreign policy as a lifeless, bloodless set of abstractions. A liberalism attempting to deal with intensely human problems at home abruptly but naturally shifts to abstract concepts when making decisions about events beyond the water's edge. "Nations," "interests," "influence," "prestige"—all are disembodied and dehumanized terms which encourages easy inattention to the real people whose lives our decisions affect or even end. This conceptual approach is shared in our school classrooms no less than in our bureaucrats' offices.

Then, too, there is the important influence of bureaucratic rules of behavior. The same bureaucracy which thinks of the world in abstract images, and which prizes at least the illusion of pragmatic decision-making, imposes a style of behavior on its members which precludes open and forceful concern with human issues. The men involved in making decisions on Vietnam in the early 1960's were aware of, and must have been privately concerned with, the human dimensions of their decisions. But such concern as they felt was not allowed to be included in their formal, written recommendations and analyses. It simply is not done.

This produces an all too vivid and tangible method and behavior. We remember, more clearly than we care to, the well carpeted stillness and isolation of those government offices where some of the Pentagon Papers were first written. The efficient staccato of the typewriter, the antiseptic whiteness of nicely margined memoranda, the affable, authoritative and always urbane men who wrote them—all of it is a spiritual as well as geographic world apart from piles of decomposing bodies in a ditch outside Hue or a village bombed in Laos, the burn ward of a children's hospital in Saigon, or even a cemetery or veteran's hospital here. It was possible in that isolated atmosphere, and perhaps psychologically necessary, to dull one's awareness of the direct link between those memoranda and the human sufferings with which they were concerned.

Reasonable, decent men around tables in those quiet, carpeted rooms simply cannot imply that the other fellow, who supports a "tougher" policy, is a heartless murderer. Subordinates do not wish to tell superiors that they will be acting immorally if they choose the "tougher" option. Policy—good, steady policy—is made by the "tough-minded." To talk of suffering is to lose "effectiveness," almost to lose one's grip. It is seen as a sign that one's "rational" arguments are weak. So the human factor has been consigned, in the big decisions, to the column of other considerations—regrettably inapplicable because, as we are told so often, we are living in a tough, immoral world.

The implied choice is posed between "people" and the "effectiveness" of a policy. The imagined consequences in those abstract terms—prestige, interests, credibility—are unfurlingly greater than the potential price people must pay.

This does not touch on the myriad of other influences that quarantine a decision from contact with the human consequences: the obsessive quality of bureaucratic infighting, the immersion in technical details, or the personal hesitations of men caught up in a career system.

THE HUMAN PRICE

How would a more humanistic foreign policy look? This obviously requires more study to see how specific policies would be affected. It would not necessarily always be

more interventionist or isolationist or pacifist. It would have one essential element: it would require weighing human costs and benefits as one of the principal and unashamedly legitimate considerations in any decision. This does not mean simply adding a section on "Human Factors" to National Security Council option papers, in the same way that there is occasionally a pro forma attachment on "Congressional Reaction." These considerations are not somehow external, separable from the substance of a decision. In reality, human beings are what foreign policy, no less than domestic policy decisions—and government itself—are all about. When men sit around a conference table in Washington, or draft options in their quiet offices, this reality must be no less in their minds than the abstract and often fuzzy notions of "national advantage" in which we are accustomed to deal. These abstractions can only have meaning when considered in human terms. Now, they seem to have some grotesque life of their own.

Weighing human considerations does not mean that human costs can be avoided. No policy-maker could freeze himself into automatic inaction whenever faced by a decision which would involve suffering or death.

But we must face the magnitude of the human costs involved in some exchange of short-run sacrifice for long-run advantage. And we must never overstate future fears in order to justify or minimize the horror already with us. For example, invoking the fear of nuclear war or Communist world domination cannot be used to justify the hideous casualties in Indochina unless a far better case can be made that Armageddon would have followed an American failure to fight in Vietnam.

In government today, the assumption is that these choices rarely need to be formally posed, if at all, until domestic political opposition (and public opinion, informed by media coverage of the human tragedies involved) is stimulated to hinder or stop a particular policy. Even then, the question is how long the government can afford politically to continue to pursue its course of action.

Thus the current administration believes that "interests" have amply justified the further death and suffering in Southeast Asia entailed in its plans for a slow and indefinite withdrawal from Vietnam. When the President evokes the "pitiful, helpless giant," he reflects what has been a national inability to see the other pitiable, helpless human side of the equation. There is a tragic and perverse high-mindedness in the continuing appeal to American men to die for intangible and often transient notions of international balances of power. In the end, such arguments are infinitely elastic. Since the methodology of thought is without humanistic restraints, there is no veto for human considerations anywhere along the way.

Yet marginal benefits of "interest" must yield at some point to human costs. That is the choice—the stopping point—we have never reached in Vietnam.

And so we face the prospect of a withdrawal which may substitute the dimly perceived horror of Laos-style bombing for the presence of American ground forces. We face the prospect of more soldiers, and many more innocent Asian civilians, dying to buy a "decent interval" which would partially preserve one notion of American prestige.

There are other examples outside Vietnam. This abstract approach accounts for raising the level of military aid to Latin American countries while economic aid and reforms for human welfare continue to languish. It also explains why we have sold civilian aircraft to Portugal and South Africa which will almost certainly be used to support their racial tyrannies. It was the reason why we could obscure to ourselves and others—and thus contribute to—the awful magnitude of suffering and death in Biafra after its collapse in the civil war with Nigeria. And we made

bloodless yet bloody calculations of "national interest" in deciding to keep supplying the arms to Pakistan which had been agreed upon before it undertook the savage repression in East Bengal.

We will be compounding the tragedy of Vietnam if we conclude that our policies there were wrong simply because they didn't work. It would be equally myopic to see in the Pentagon Papers only a tale of blunders and deception. A final, crucial lesson is that American foreign-policy-makers must find the courage to face—formally and explicitly—the human consequences of their decisions.

ANTHONY LAKE AND ROGER MORRIS

Both veterans of the State Department and the National Security Council staff of the Johnson and Nixon Administrations, Messrs. Lake and Morris are presently at work on a book that expands on the theme of their Foreign Policy article, joined by another ex-NSC staffer, William Watts. Mr. Morris now works for Senator Walter F. Mondale (D.-Minn.) and Mr. Lake is on the staff of Senator Edmund Muskie (D.-Maine).

### JUMPING TO SOLUTIONS

Mr. FANNIN. Mr. President, jumping to solutions appears to be one of the popular pastimes of our age. For every problem we have in the United States, someone has an instant cure.

It is easy to jump on the bandwagon. It is easy to advocate simplistic answers to complex problems.

Wise and honest men look before they leap. Unfortunately, today we have too much leaping with eyes closed.

I invite the attention of Senators to an editorial published in the Holbrook, Ariz., Tribune News of September 9. It offers some good advice: "Wait a Minute." I ask unanimous consent that it be printed in the RECORD:

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

#### WAIT A MINUTE

In just a relatively short time, support of the "environment" has taken the place of common sense in far too many cases, we believe.

Of course, everyone wants to keep our country a decent and healthy place to live. But it might be a little difficult to enjoy "the good life" if every power plant were shut down, for example.

Nearly every major basic industrial company, as well as agriculture, has felt the heavy hand of opposition from groups claiming to protect the environment.

Secretary of Commerce Maurice H. Stans wonders: "Isn't it about time someone said, 'Wait a Minute'." He notes that many areas are suffering from power shortages because of long delays in resolving problems relating to power plant sites. He also mentions the excessive zeal in banishing pesticides.

He raises the question: Isn't it about time to look "at the other side of the coin—at the great need and the tremendous benefits as well as the dangers?"

Mr. Stans asks that environmental problems be met with a balancing of values, a weighing of priorities and a measuring of costs against benefits lest we substitute one problem for an even greater one.

His advice is to "Wait a Minute" before jumping on an emotional bandwagon that threatens to cripple the nation's productive effort and the means by which we all live. This seems like a more sensible approach to us.

### SENATOR WINSTON L. PROUTY

Mr. BIBLE. Mr. President, it is with a deep sense of feeling for a capable colleague and a fine friend that I join in expressions honoring the memory and the service of the late distinguished junior Senator from Vermont, Winston L. Prouty.

It was my privilege to come to know Senator Prouty well under many circumstances as we worked together for 12 years on the Committee on the District of Columbia, an assignment that most Senators view as a chore not to be sought. But for him, I believe that service was basically something in keeping with a motivating guidepost that he demonstrated so often during his years in this body; namely, helping out others when and where help was needed.

Win Prouty came to the District Combody, namely, helping out others when I assumed its chairmanship. He became its ranking minority member in 1965. We had a warm working relationship. We left that committee for other assignments at the close of the 91st Congress in 1970.

His service on the District Committee was always marked by his deep interest in the welfare of the District's working men and women, its teachers, its firemen, and policemen. Great credit goes to him for helping to bring about the establishment of the Federal City College here in Washington and for his affirmative interest in bringing about meaningful court reform in the Nation's Capital City. Another of his great endeavors was to seek congressional approval for a professionally staffed commission to weigh the pros and cons of the best form of government for the city of Washington, where there are both benefits and burdens for its citizenry and its businessmen by reason of its role as the seat of our Federal Government.

As a lawyer myself, I recall so very well the preface Senator Prouty used so many times in executive sessions of the committee or in floor debate on knotty District matters. His words were: "Although I am not a lawyer and do not have that experience, I—" I can attest that those apparently apologetic words were always followed by the most incisive, organized, in-depth argument to support his point of view that it was my pleasure to have heard.

He had a fine mind and compassion, and his work and his personality were a great credit to himself and his native State which he served so well in both bodies of Congress.

To Mrs. Prouty and to his family, my wife and I extend our deepest sympathies.

### THE OUTMODDED PUBLIC WELFARE SYSTEM

Mr. HARRIS. Mr. President, one of the major priorities facing Congress and our country is to revamp our outmodded public welfare system. I am happy to note that the senior Senator from Minnesota (Mr. MONDALE) has provided an introduction to a new book that should

make an important contribution to bringing about a better understanding of the issues involved in welfare reform. The book entitled, "Freedom From Dependence: Welfare Reform as a Solution to Poverty", was written by Stanley Esterly and Glenn Esterly and published by Public Affairs Press, 419 New Jersey Ave. SE., Washington, D.C.

As the most up-to-date book on the Nation's welfare crisis, "Freedom From Dependence" outlines the faults of the present system, explores the limitations of antipoverty approaches that have failed in the past, discusses income maintenance within the context of the overall political economy, and analyzes President Nixon's proposed family assistance plan.

In his introduction to the book, Senator MONDALE notes:

For all of its shortcomings, President Nixon's Family Assistance Plan has opened the way, at long last, to a drastic overhaul of our foundering public welfare system. Why such an overhaul is imperative is set forth in this timely and insightful book.

As the authors point out, the disadvantaged poor need above all else a basic minimum income that they can count upon to relieve their deprivation and assure their clear right to a genuine sense of self-respect. An adequate income maintenance system is essential as part of any strategy to deal with poverty.

If we are to face up to our problems realistically, we must, of course, take into account the tragic facts about the plight of the millions of Americans who through no fault of their own, as the Esterlys show, have been shortchanged by our society and subjected to shameful treatment by a debasing welfare system.

In writing "Freedom From Dependence," the authors have performed an invaluable public service. They provide a comprehensive treatment of the fundamental considerations concerning income maintenance. At the same time abstruse technicalities are avoided, making the book useful for the layman as well as the scholar. The Esterlys shed a great deal of light on problems and issues that should be given thorough consideration by every American citizen.

### BOURKE BLAKEMORE HICKEN-LOOPER

Mr. FANNIN. Mr. President, a short time ago we lost a former colleague with whom I had the privilege of serving in the Senate for 4 years.

Bourke Blakemore Hickenlooper was a kind, considerate, cooperative public servant who earned his record of achievement by hard work, perseverance, and firmness when firmness was needed.

His roots were deep in his native Iowa, and he served the people of that State well as a lawyer, as a State legislator, as Lieutenant Governor, as Governor, and as Senator.

He came to the Senate in 1945 and played an important role in helping to shape national policies during a critical time in our history.

He promoted the peaceful uses of atomic energy, and he opposed proposals that the United States give atomic secrets to other nations.

He received many tributes during his career of public service, which began in

1934 in the State legislature and ended with his retirement from the U.S. Senate in 1969.

"Hick," as he liked to be called, will long be remembered for his accomplishments. We who knew him will also recall the experiences that we enjoyed with a down-to-earth person who was a fine, dedicated American.

#### PROPOSALS TO IMPROVE RELATIONS WITH CUBA

Mr. FULBRIGHT. Mr. President, although the administration has taken a negative attitude toward proposals to improve our relations with Cuba, there are many who feel that this would be a very sensible step.

Among those who have pointed out the wisdom of attempting to improve relations with Cuba is the Arkansas Democrat, one of my State's leading newspapers. The Democrat takes a very commonsense approach:

We think it's a good idea, however. After all, if we are going to make overtures to the Chinese on the other side of the world, we at least ought to do the same thing for another Communist country 90 miles off our coast. Cuba is like a worrisome wart that won't go away and that we can't even see to scratch.

The Democrat editorial points out the inconsistency and futility of the current policy. I ask unanimous consent that the editorial, entitled "Time To Test Cuba," be printed in the RECORD.

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

##### TIME TO TEST CUBA

Last week Sen. J. W. Fulbright and the Foreign Relations Committee gently prodded the Nixon administration about trying to improve relations with Cuba. There was no outward sign that the effort was getting anywhere, either from Mr. Nixon or Fidel Castro.

We think it's a good idea, however. After all, if we are going to make overtures to the Chinese on the other side of the world, we at least ought to do the same thing for another Communist country 90 miles off our coast. Cuba is like a worrisome wart that won't go away and that we can't even see to scratch.

Some progress is being made. Castro lately has been more cooperative on airplane hijackings, he let our volleyball team in to play last month and expressed hope that there could be more sports exchanges between the two countries and he has yet to condemn the upcoming talks between Chou En-lai and Mr. Nixon, which is really a surprise since he is a puppet on Moscow's string. But it's a string Moscow probably would like to cut. The Soviet Union has to spend about \$1 million a day to sustain the Cuban economy, which is in tatters as a result of droughts, swine disease, shortage of spare parts and the failure to harvest enough sugar. Castro might be ripe for some test thumps.

Already there is a movement, started by Venezuela, to end his banishment from the Organization of American States. And why not? Chile is a member and it has a socialist president. The U.S. privately admits that it doesn't think it has enough votes to keep Cuba out if a strong effort is made. If we didn't even try to oppose it—just as we are doing with Communist China and the UN—it could be a beginning of some kind of new relationship.

It's possible that the sudden and unexplained cancellation of the daily refugee flights by Cuba may be the start of something. He may have called them off because

they were draining his supply of professional and semi-skilled workers, but he also may have done it as a bargaining chip, knowing what a sucker we are for refugees. There is even a report that he cancelled the flights because he intends, as an economy-booster, to permit U.S. airlines to start regular flights and bring tourists back to Cuba.

Our government would have to okay this, of course. But why shouldn't it? It would be reassuring to have Americans going in and out of that country and looking around. Certainly the advantage would be on our side, because, as Senator Fulbright is fond of pointing out, this bankrupt country of 8 million persons can be a real threat to the United States in only one way: Keeping it isolated, which has been our approach until now.

Castro better have some kind of a plan, now that he's cut off the refugee flights. Almost 250,000 Cubans who didn't like him or socialism have fled to this country, but at least another 100,000 are signed up and waiting their turn to leave. This has been a good escape valve for him because it got rid of those who might make trouble for his government. Plugging it up might be his undoing.

#### MAJOR SPEECHES BY CHIEF JUSTICE BURGER

Mr. PEARSON. Mr. President, this fall, forensic students in high schools across the country will focus attention on the urgent and important problem of how to improve the administration of justice.

Specifically, student debaters will argue the intriguing proposition:

Resolved: That the Jury System in the United States Should Be Significantly Changed.

From the many letters I have received to date from students in Kansas, my guess would be that many students are already hard at work studying and preparing for the debate competition, and that they are anxious to study the issues in depth.

During the past 2 years, Chief Justice Warren Burger has distinguished himself as one of the Nation's most articulate and perceptive advocates of judicial reform. His State of the Judiciary address, first delivered in 1970, is destined to become a fixed institution of American Government; and henceforth I suspect that we will heed his advice and give more consideration to the impact of new statutes and new procedures on the operations of our courts.

One need not concur in every proposal advanced by Chief Justice Burger to recognize that his ideas deserve careful study. They are, of course, of special interest and relevance to this year's high school debaters.

In order to bring Chief Justice Burger's ideas and proposals together in one place for the assistance and convenience of all students of judicial administration, I ask unanimous consent that five of his major speeches be printed in the RECORD.

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

[From American Bar Association Journal, October 1970]

##### THE STATE OF THE JUDICIARY—1970

(By Chief Justice Burger)

(NOTE.—A unique event—the first State of the Judiciary address by a Chief Justice of the United States—occurred at the American

Bar Association's Annual Meeting in St. Louis in August. Chief Justice Burger's message, which appears here, was carried by all three of the major television and radio networks, providing the Chief Justice with an unparalleled opportunity to reach the American public.)

When President Segal and the Board of Governors of this Association invited me to discuss the problems of the federal courts with you, as leaders of the legal profession, my mind turned at once to one of the great statements on the problems of the administration of justice. That was Dean Roscoe Pound's famous speech to this Association at its meeting sixty-four years ago this summer. He said then that the work of the courts in the twentieth century could not be carried on with the methods and machinery of the nineteenth century.

If you will read Pound's speech, you will see at once that we did not heed his warning, and today, in the final third of this century, we are still trying to operate the courts with fundamentally the same basic methods, the same procedures and the same machinery he said were not good enough in 1906. In the supermarket age we are trying to operate the courts with crackerbarrel corner grocer methods and equipment—vintage 1900.

I would not be warranted in coming here today if I spent our very limited time reminding you what is good about our courts, or about the splendid and dedicated judges and others, most of whom are overworked to make the system function. I wish the public could know what the Association has accomplished first in the support of public defender programs and now more recently in providing free legal services for people long unrepresented in civil matters. My responsibility today, however, is to say to you frankly—even bluntly—what I think is wrong with our judicial machinery and what can and must be done to correct it in order to make the system of justice fulfill its high purpose.

##### CHANGES AND IMPROVEMENTS WILL REQUIRE GREAT EFFORT

The changes and improvements we need are long overdue. They will call for a very great effort and they may cost money; but if there are to be higher costs they will still be a small fraction, for example, of the \$200,000,000 cost of the C-5A airplane since the entire cost of the federal judicial system is \$128,000,000 annually. Military aircraft are obviously essential in this uncertain world, but surely adequate support for the judicial branch is also important.

Wall Street experts recently estimated that American citizens and businesses spend more than \$2,000,000,000 a year on private security and crime control. Aside from the ominous implications of such private policing in a free society, just think what \$2,000,000,000 could do for public programs to prevent crime and enforce law. That is where such support belongs.

More money and more judges alone are not the primary solution. Some of what is wrong is due to the failure to apply the techniques of modern business to the administration or management of the purely mechanical operation of the courts—of modern record keeping and systems planning for handling the movement of cases. Some is also due to antiquated, rigid procedures which not only permit delay but often encourage it.

I am confident that if additional costs arise in the process of making needed changes and improvements in the management of the judicial system, Congress will support the courts. But judges must demonstrate the needs clearly. Congress is harassed with demands for more appropriations for more and more new programs, each of which is labeled a high priority. We must first show Congress and the public that we are making the best possible use of what we already have and it is here that improved methods and skilled management techniques will count. These additions of equipment and personnel will cost

relatively little in relation to the whole budget.

You know that in this brief report I can do no more than touch highlights, and more detailed treatment of these problems must follow. I hope we can provoke debate—even controversy—to explore and test what I have to say. With increasing urgency every one of my distinguished predecessors from Chief Justices Taft and Hughes to Chief Justice Earl Warren have pressed these matters, but today I place this burden squarely on you, the leaders of the legal profession, in common with all judges. If the 144,000 lawyers you represent in 1,700 state and local bar associations will act promptly, you will prevent a grave deterioration in the work of the federal courts. And you should remember Justice Vanderbilt's warning that these tasks are "not for the shortwinded".

#### POPULATION GROWTH AND URBAN DEVELOPMENT

In the federal courts today the problem areas are essentially in large cities. Here we find in the judicial system no more than a reflection of the complexities created by population growth and the shift to large urban centers. The problems exist where the action is.

In Maine, for example, there is only one federal district judge and literally not enough for him to do. As a result he has, for fifteen years or more, accepted assignments to go to courts all over the country where help was desperately needed. Many judges in the less busy districts have done the same. It is in the large centers that both civil and criminal cases are unreasonably delayed, and it is there that the weaknesses of our judicial machinery show up.

How did this situation come about in the face of numerous additional judgeships added by Congress in the past thirty years?

When we look back, we can see three key factors:

*First*, the legal profession—lawyers and judges—did not act on Dean Pound's warnings to bring methods, machinery and personnel up to date.

*Second*, all the problems he warned about have become far more serious by the increase in population from 76,000,000 in 1900 to 205,000,000 in 1970, and the growth of great cities and increase in the volume of cases.

*Third*, entirely new kinds of cases have been added because of economic and social changes, new laws passed by Congress and decisions of the courts. All this represents the inevitability of change and progress.

In this twentieth century, wars, social upheaval and the inventiveness of man have altered individual lives and society. The automobile, for example, did more than change the courting habits of American youth—it paved the continent with concrete and blacktop; it created the most mobile society on earth with all its dislocations; it led people from rural areas to crowd the unprepared cities. The same automobile that altered our society also maimed and killed more persons than all our wars combined and brought into the courts thousands of injury and death cases which did not exist in 1900. Today automobile cases are the largest single category of civil cases.

All this ferment of wars, mobility of people, congestion in the cities and social changes produced dislocations and unrest that contributed to an enormous increase in the rate of crime. In a free society such as ours, these social and economic upheavals tend to wind up on the doorsteps of the courts. Some of this is because of new laws and decisions and some because of a tendency that is unique to America, to look to the courts to solve all problems.

From time to time Congress adds more judges, but the total judicial organization never quite keeps up with the case load. Two recent statutes alone added thousands of cases relating to commitment of narcotics addicts and the mentally ill. These additions came when civil rights cases, voting

cases and prisoner petitions were expanding by the thousands.

Meanwhile, criminal cases, once a stable figure in the federal courts, were increasing. Added to that the records show that in all federal district courts the time lapse in criminal cases from indictment to sentence has doubled.

To illustrate some of the changes, consider just a few figures: From 1940 to 1970:

Personal injury cases multiplied five times; Petitions from state prisoners seeking federal habeas corpus relief increased from eighty-nine to over 12,000;

During this period Congress increased the number of judges by 70 per cent, while the total number of cases filed in the federal district courts nearly doubled.

#### TIME REQUIRED FOR CRIMINAL TRIAL INCREASES

But the increase in volume of cases is not by any means the whole story. Experienced district judges note that the actual trial of a criminal case now takes twice as long as it did ten years ago because of the closer scrutiny we now demand as to such things as confessions, identification witnesses and evidence seized by the police before depriving any person of his freedom. These changes represent a deliberate commitment on our part—some by judicial decision and some by legislation—to values higher than pure efficiency when we are dealing with human liberty. The impact of all the new factors—and they are many and complex—has been felt in both state and federal courts.

The Criminal Justice Act of 1964 guaranteed a lawyer for criminal defendants—at public expense for the indigent—and along with it appeals at public expense. The Bail Reform Act of 1966 authorized liberal release before trial without the conventional bail bond. Each of these acts was an improvement on the existing system, but we can now see what was produced by their interaction in a period when crime was increasing at a startling rate. The impact was most noticeable in Washington, D.C., where federal courts handle all felony cases. Defendants, whether guilty or innocent, are human: They love freedom and hate punishment. With a lawyer provided to secure release without the need for a conventional bail bond, most defendants, except in capital cases, are released pending trial. We should not be surprised that a defendant on bail exerts a heavy pressure on his court-appointed lawyer to postpone the trial as long as possible so as to remain free. These postponements—and sometimes there are a dozen or more—consume the time of judges and court staffs as well as of lawyers. Cases are calendared and reset time after time while witnesses and jurors spend endless hours just waiting.

If trials were promptly held and swiftly completed, and if appeals were heard without delay, this would be less a problem, and perhaps debate over preventive detention would subside. But these two acts of Congress came in a period when other forces, including decisions of the courts, were making trials longer, appeals more frequent and retrials commonplace. We should not be surprised at delay when more and more defendants demand their undoubted constitutional right to trial by jury because we have provided them with lawyers and other needs at public expense; nor should we be surprised that most convicted persons seek a new trial when the appeal costs them nothing and when failure to take the appeal will cost them freedom. Being human, a defendant plays out the line which society has cast him.

Lawyers are competitive creatures and the adversary system encourages contention and often rewards delay; no lawyer wants to be called upon to defend the client's charge of incompetence for having failed to exploit all the procedural techniques which we have deliberately made available. Yet the most experienced defense lawyers know that the defendants' best interests may be served in

most cases by disposing of the case on a guilty plea without trial.

A new category of case was added when it was decided that claims of state prisoners testing the validity of a state conviction were to be measured by federal constitutional standards. As a result federal district courts were obliged to review over 12,000 state prisoner petitions last year, as compared with eighty-nine in 1940.

There is a solution for the large mass of state prisoner cases in federal courts—12,000 in the current year. If the states will develop adequate post-conviction procedures for their own state prisoners, this problem will largely disappear and eliminate a major source of tension and irritation in state-federal relations.

There is another factor. It is elementary, historically and statistically, that systems of courts—the number of judges, prosecutors and courtrooms—have been based on the premise that approximately 90 per cent of all defendants will plead guilty, leaving only 10 per cent, more or less, to be tried. That premise may no longer be a reliable yardstick of our needs. The consequence of what might seem on its face a small percentage change in the rate of guilty pleas can be tremendous. A reduction from 90 per cent to 80 per cent in guilty pleas requires the assignment of twice the judicial manpower and facilities—judges, court reporters, bailiffs, clerks, jurors and courtrooms. A reduction to 70 per cent trebles this demand.

This was graphically illustrated in Washington, D.C., where the guilty plea rate dropped to 65 per cent. As recently as 1950, three or four judges were able to handle all serious criminal cases. By 1968, twelve judges out of fifteen in active service were assigned to the criminal calendar and could barely keep up. Fortunately, few other federal districts experienced such a drastic change, but to have this occur in the National Capital, which ought to be a model for the nation and a show place for the world, was little short of disaster.

#### BEST DETERRENT IS SPEEDY TRIAL OF CRIMINAL CASES

Changes in the laws that are part of what we call the "revolution in criminal justice", which began as far back as the 1930s, have brought this about. Anyone who questions these changes must recognize that until the past two decades criminal justice was the neglected stepchild of the law.

There is a widespread public complaint reflected in the news media, in editorials and letters to the editor, that the present system of criminal justice does not alter criminal conduct. That is correct, so far as the crimes which trouble most Americans today are concerned. Whatever deterrent effect may have existed in the past has now virtually vanished as to such crimes.

If ever the law is to have genuine deterrent effect on the criminal conduct giving us immediate concern, we must make some drastic changes. The most simple and most obvious remedy is to give the courts the manpower and tools—including the prosecutors and defense lawyers—to try criminal cases within sixty days after indictment and then see what happens. I predict it would sharply reduce the crime rate.

Efficiency must never be the controlling test of criminal justice, but the work of the courts can be efficient without jeopardizing basic safeguards. Indeed the delays in trials are often one of the gravest threats to individual rights. Both the accused and the public are entitled to a prompt trial.

The addition of sixty-one new federal district judgeships by Congress within recent weeks is the result of efforts which began five years ago. Since it takes time to fill these important positions and new judges do not reach peak efficiency at once, their full impact will not be felt for a long time. We see, therefore, that the additional judges, needed in 1965, were not authorized until 1970. We

cannot solve our problems by meeting needs five or more years after they arise. The time to play for 1975 and 1980 needs is now, and I hope this can be accomplished, not simply by adding more judges but by the more efficient use of judicial manpower and greater productivity through improved methods, machinery, management and trained administrative personnel.

Meanwhile, not a week passes without speeches in Congress and elsewhere and editorials demanding new laws—to control pollution, for example, and new laws allowing class actions by consumers to protect the public from greedy and unscrupulous producers and sellers. No one can quarrel with the needs, nor can we forget that large numbers of people have been without the protection which only the lawyers and courts can give.

The difficulty lies in our tendency to meet new and legitimate demands with new laws which are passed without adequate consideration of the consequences in terms of case-loads. This is dramatically illustrated in the current budget of the Office of Economic Opportunity. Congress has granted that program \$58,000,000 for legal services. That \$58,000,000 is a sound commitment to an underprotected segment of our people whose rights have suffered because they could not afford a lawyer. Few things rankle in the human breast like a sense of injustice. Whether the problem is large to the person afflicted. We should applaud Congress for taking that step. But cases cannot always be settled by lawyers, and the burden thus falls on the courts. This allowance for Office of Economic Opportunity legal services is almost half of what is allowed for the operation of all the courts in the federal system. Here again we have an example of a sound program developed without adequate planning for its impact on the courts.

#### NOW WE MUST ESTABLISH PRIORITIES TO MOVE AHEAD

What this all adds up to is that for at least fifty years the federal court system has experienced the combination of steadily increasing burdens while suffering deferred maintenance of the total judicial machinery—and added to that, much of the machinery has long been obsolete. The foresight of Congress in creating the Federal Judicial Center for research and study of court problems two years ago is one of the few bright spots in the past thirty years.

Now we must make a choice of priorities. When we want to dance, we must provide the musicians, and the public may well be called upon to pay something more for the federal judicial system to increase its productivity. But neither costs nor the number of judges can be held down if the caseload is steadily enlarged.

To prepare for this report to you, I asked every federal judge for suggestions. The hundreds of replies reflected a note of frustration and even anguish at the daily management and administrative burdens that drained time and energy from their primary duty to dispose of cases. That was the common denominator and the common complaint. Federal judges are today in somewhat the position of members of Congress a generation ago, before the Reorganization Act which gave adequate staffs to the members and to the important committee work of the Congress.

The business of litigation is highly complex. To assemble all the necessary individuals is not as simple as TV shows depict. It actually involves the very difficult task of bringing together a judge, twenty-five or more prospective jurors, lawyers, witnesses, court reporters, bailiffs and others, at the same place at the same time without lost motion. The absence or tardiness of a single person will delay the entire process and waste untold time. Countless citizens serving as jurors have been irritated with the inefficiencies of the courts because they find

themselves watching TV in the jurors' lounge rather than hearing cases in court.

The management of busy courts calls for careful planning and definite systems and organization with supervision by trained administrator-managers. We have at least fifty-eight astronauts capable of flying to the moon, but not that many authentic court administrators available to serve all the courts in the state and federal systems. The federal courts need immediately a court executive or administrator for each of the eleven circuits and for every busy federal trial court with more than six or seven judges. We need them to serve as the "traffic managers", in a sense as hospitals have used administrators for forty years to relieve doctors and nurses of management duties. We are almost half a century behind the medical profession in this respect.

In basic principles, it is indeed essential that we maintain our links with the past and build carefully on those foundations because they are a result of thousands of years of human experience in the evolution of the law. There is great value in stability, predictability and continuity. But the procedures of the law ought to respond more swiftly—as hospitals and doctors, farmers and food distributors have changed their methods. Yet the major procedural change of this century was the development of the Federal Rules of Civil Procedure a generation ago. Except for those rules, Thomas Jefferson of Virginia, Alexander Hamilton of New York and John Adams of Massachusetts would need only a quick briefing on modern pleading and the pretrial procedures in order to step into a federal court today and do very well indeed. We see, therefore, that the judicial processes for resolving cases and controversies have remained essentially static for 200 years. This is not necessarily bad, but when courts are not able to keep up with their work, it suggests the need for a hard new look at our procedures.

If the picture I have been painting seems melancholy, I must in fairness touch on a few brighter sides—but sadly there are only a few.

In recent years the ferment stimulated by Roscoe Pound, Vanderbilt of New Jersey, Parker of North Carolina—to name only three now gone—has brought on widespread growth of judicial seminars, institutes and study centers that have contributed much, and we owe a great debt to my colleague, Justice Tom Clark, who has worked tirelessly on improvements in both state and federal courts.

Perhaps one of the most significant developments in a generation is the creation this year—under the leadership of this Association along with the American Judicature Society and the Institute of Judicial Administration—of the Institute for Court Management at the University of Denver. Here for the first time is a place where court administrators can be trained just as hospital administrators have long been trained in schools of business administration.

Sadly even these bright spots emphasize how painfully slow we are to supply what courts need. The price we are now paying and will pay is partly because judges have been too timid and the Bar has been too apathetic to make clear to the public and the Congress the needs of the courts. Apathy, more than opposition, has been the enemy, but I believe the days of apathy are past.

#### EIGHT MAJOR STEPS FOR FUTURE ACTION

As to the future I can do no more than emphasize that the federal court system is for a limited purpose, and lawyers, the Congress and the public must examine carefully each demand they make on that system. People speak glibly of putting all the problems of pollution, of crowded cities, of consumer class actions and others in the federal courts. Some of these problems are local, and we should look more to state courts familiar with local conditions.

Let me list some major steps for the future—steps to begin at once:

1. The friction in relations between state and federal courts presents serious problems in both the review of state prisoner petitions and other cases. I strongly urge that in each state there be created a state-federal judicial council to maintain continuing communication on all joint problems. Such a body could properly include a member of the highest state court, the chief judges of the larger state trial courts and the chief judges of the federal district courts. In some states such bodies have already been created on an informal basis.

2. State and federal judges should continue their co-operation with the American Bar Association to establish and maintain standards of conduct of lawyers and judges that will uphold public confidence in the integrity of the system we serve.

3. We should urgently consider a recommendation to Congress to create a judiciary council consisting of perhaps six members, one third appointed by each of the three branches of government, to act as a co-ordinating body whose function it would be to report to the Congress, the President and the Judicial Conference on a wide range of matters affecting the judicial branch. This council could (a) report to Congress the impact of proposed legislation likely to enlarge federal jurisdiction; (b) analyze and report to Congress on studies made by the Judicial Conference and the Federal Judicial Center as to increase or decrease in caseloads of particular federal districts; (c) study existing jurisdiction of federal courts with special attention to proper allocation of judicial functions as between state and federal courts (d) develop and submit to Congress a proposal for creating temporary judgeships to meet urgent needs as they arise. Some state legislatures authorize such appointments based on a formula of population and caseloads in order to adjust promptly to population changes in rapidly developing areas; (e) study whether there is a present need for three-judge district courts and whether there is a present need for federal courts to try automobile collision cases simply because of the coincidence that one driver, for example, lives in Kansas City, Kansas, and the other in Kansas City, Missouri; (f) continue study and examination of the structure of the federal circuits that are now based largely on historical accident and are unrelated to the demands of modern judicial administration and management.

4. The entire structure of the administration of bankruptcy and receivership matters should be studied to evaluate whether they could be more efficiently administered in some other way. Pending studies on this problem should be pressed to conclusion.

5. Over the years various statutes and decisions of courts have altered many aspects of criminal procedure. Meanwhile, some of the states have experimented with innovations and have developed new procedures to improve justice. Since Congress is now considering an entirely new federal criminal code, we should soon undertake a comprehensive re-examination of the structure of criminal procedure to establish adequate guidelines reflecting adjustment to the new code, judicial holdings and the experience of the states.

6. The system of criminal justice must be viewed as a process embracing every phase from crime prevention through the correctional system. We can no longer limit our responsibility to providing defense services for the judicial process, yet continue to be miserly with the needs of correctional institutions and probation and parole services.

7. The whole process of appeals must be re-examined. It is cumbersome and costly, encourages delay and takes too long. Some courts, notably the overworked Fifth Circuit, have developed procedures to screen out frivolous appeals. Finality at some point is

indispensable to any rational—and workable—judicial system.

8. We made a wise choice in guaranteeing a lawyer in every serious criminal case, but we must now make certain that lawyers are adequately trained and that the representation is on a high professional basis. It is professional representation we promise to give—nothing more—and always within accepted standards of conduct. This Association has now provided lawyers with comprehensive and authoritative standards, and it is up to the courts and the Bar of every state to make sure they are followed.

#### CONFIDENCE IN THE COURTS IS ESSENTIAL FOR SOCIETY

I have necessarily left some subjects untouched and others undeveloped, but I hope I have imparted a sense of urgency on the problems and needs of the courts. I hope also I have made my point that it is not simply a matter of more judges but primarily better management, better methods and trained administrative personnel.

A sense of confidence in the courts is essential to maintain the fabric of ordered liberty for a free people, and three things could destroy that confidence and do incalculable damage to society:

That people come to believe that inefficiency and delay will drain even a just judgment of its value;

That people who have long been exploited in the smaller transactions of daily life come to believe that courts cannot vindicate their legal rights from fraud and over-reaching;

That people come to believe the law—in the larger sense—cannot fulfill its primary function to protect them and their families in their homes, at their work and on the public streets.

I have great confidence in our basic system and its foundations, in the dedicated judges and others in the judicial system, and in the lawyers of America. Continuity with change is the genius of the American system, and both are essential to fulfill the promise of equal justice under law.

If we want to maintain these crucial values, we must make some changes in our methods, our procedure and our machinery, and I ask your help to make sure this is done.

#### REPORT ON THE STATE OF THE FEDERAL JUDICIARY

(Remarks of Warren E. Burger, Chief Justice of the United States, American Bar Association, New York, N.Y., July 5, 1971)

One year ago at the invitation of President Segal I undertook to report to you on problems of the federal courts as they appeared to me, and today I respond to President Wright's invitation to continue that discussion.

Last year's report covered a wide range of accumulated problems embracing developments in Federal Courts beginning with the turn of this century and the problems of deferred maintenance of the judicial machinery resulting from generations of neglect. Today I propose to present some specific current matters against the background of what was discussed in 1970.

Essentially the problems of the federal courts, in common with state courts, and indeed much of the entire fabric of our national life, are suffering from an accumulated neglect. This disrepair became an acute problem as the load increased, and we cannot ignore it any longer.

If the report to you in 1970 can be thought of primarily as a diagnosis of our ailments and a preliminary charting of a general course of treatment in very broad terms, today's report can be considered a diagnosis of specific problems and an examination of what has happened since August 1970.

I wish I could report to you that we have made great progress in the eleven months since the St. Louis meeting. We have made some, not enough, but some, and I will there-

fore again press on you matters which urgently demanded attention.

#### INSTITUTE OF COURT MANAGEMENT

Last year I emphasized that one of the basic weaknesses of the federal judicial organization was lack of system and management planning of our work, particularly in light of the enormous growth in case volume in recent years. I spoke of the desperate need for a new category of trained personnel—traffic managers in a sense—to speed up the process and improve its quality. I was then able to report to you that, largely under the leadership of this Association, the Institute for Court Management had been created and in the summer of 1970 had commenced its operations with a full-time, intensive six-months' training course for court administrators at the University of Denver. The first thirty-one formally trained court administrators in our history received their certificates last December. This year the Institute is training two overlapping groups.

#### COURT EXECUTIVES ACT

The very existence of this facility aided substantially in securing the passage by Congress of the Court Executives Act which authorizes an executive officer for each of the eleven Circuit Councils in the federal system. We knew in the summer of 1970 that it would be virtually impossible at that time to find eleven qualified persons to fill these positions, except by "raiding" such states as New Jersey, New York, California and Colorado where the pioneer work of developing court administrators began.

To ensure that only qualified persons would be appointed to these new positions, Congress wisely provided a Certification Board to prescribe definite standards and to certify those found qualified and eligible for appointment. As you know, the Circuit Councils are required by law to make appointments from the list certified by that statutory board.

Few important developments in judicial administration have moved so swiftly as this one, but the Circuits have yet to appoint the first Court Executive. To carry this totally new program into the federal courts will take time but by the end of 1971 I anticipate that all the various Circuits will have their Court Executives.

Actually the speed of enactment of this particular legislation has been remarkable and we now have a commitment to Congress to make this program show results. When it does I am confident further support from the Congress for other similar improvements will not be lacking. But we have the burden of proof and we must meet that burden.

#### ABA COMMITTEE ON STANDARDS OF JUDICIAL ADMINISTRATION

We are well aware that the creation of the new position of Court Executive for each of the eleven Circuits and the advent of the Institute to train people in court management will not, alone, solve our problems even under the most favorable circumstances. More than a generation has gone by and crushing new burdens have fallen on the courts since Chief Justice Vanderbilt and Judge Parker propounded The Standards of Judicial Administration in the 1930's. Judges and the Court Executives must now have new standards and guidelines to meet the new problems. For this reason the Association has created the Commission on Judicial Administration to review the so-called Vanderbilt Standards and to pursue the work begun a few years ago by the American Bar Foundation on the problems of speeding the work of the courts.

#### STATE-FEDERAL JUDICIAL COUNCILS

At St. Louis I urged that a State-Federal Judicial Council be created in each state to deal with all the sensitive problems of relationships between the two court systems. Here I am happy to report real progress. As

of today more than 40 states have created such councils by joint action of the state Chief Justices and the federal judges. The Conference of Chief Justices, and Chief Justice Calvert of Texas, its chairman, gave vigorous leadership to this development. Many of these Informal Councils have found that once the lines of communication were actively opened between state and federal judges, other important areas of common concern for improvement came to the surface.

#### NATIONAL CENTER FOR STATE COURTS

An important development emerged following the Williamsburg Conference on the Judiciary in March. There President Nixon strongly endorsed a proposal to create a National Center for State Courts to serve all the states much as the Federal Judicial Center was established to serve the federal courts. This was an idea whose period of gestation had run and the Williamsburg Conference resolved to proceed at once. A series of meetings sponsored by the Conference of Chief Justices, the ABA, The American Judicature Society, and the Institute of Judicial Administration has brought into existence the National Center for State Courts whose Articles of Incorporation were filed on June 15, 1971. When the new Center has demonstrated its value—as I am confident it will—the states should then be asked to assume at least part of its support.

I have felt an obligation to be concerned with problems of state courts as well as the federal courts because the problems of justice are indivisible and if we do not have strong and effective courts in both the state and federal systems, we have a failure of justice. The basic system of justice in this country is contained within the state and local courts of the fifty states, while federal courts were created under the Constitution as specialized and strictly limited courts, but time and lack of any consistent policy have brought into federal courts many purely local matters that do not belong in the federal system.

Because I believe profoundly that the state courts are the foundation of the entire system of justice, it becomes important in a period of increasing caseloads in all courts that state courts be strengthened in structure, organization and personnel so they can meet their proper share of the growing demands. Obviously it would be costly and impracticable to have fifty states create separate facilities to accomplish these objectives, and this is one of many reasons why a National Center for State Courts of the kind now being launched is indispensable. That Center can become a clearinghouse for information on problems common to all states, it can develop uniform standards where uniformity of action is desirable, and it can be a marketplace for the best ideas and best techniques to improve justice. It can also become a national forum for cooperation between the state and federal judicial systems.

#### JOINT JUDICIARY COUNCIL

At St. Louis I proposed that Congress, by statute, create a joint judiciary body with one-third of the members appointed by the President, one-third by the Congress, and one-third by the Judicial Branch. This would be a permanent working body but with advisory powers only. Representing all three branches, it would, I believe, establish a relationship of confidence with all the branches. Its continuing function would be to oversee the needs and problems of the federal court system and its jurisdiction. This function cannot be performed casually, sporadically or intermittently, and it cannot be performed by one branch of government acting alone. It must be an ongoing process so that the members of that body develop wide and expert knowledge and a basis for judgment on all the problems of the Courts. This Commission would draw on studies made

by the Committees on the Judiciary of both houses, by the Federal Judicial Center, the Department of Justice and private sources such as The Institute of Judicial Administration. This function is not now being performed in any coordinated or comprehensive way at present, and it cannot be performed except by a joint facility responsible primarily to Congress. It is imperative that some such device be created if we are not to continue the hit-or-miss process of expanding the burdens of federal courts heedless of their capacity to meet the burdens, and heedless of the overall soundness of particular legislation relating to the jurisdiction and operations of the federal courts.

But we cannot stand still while we are waiting for Congress to act. I hope, therefore, that the Association will consider creating some kind of a legislative implementation committee to present to the Congress such programs relating to federal courts as the Association considers worthy.

The broad ramifications of this proposed legislation cannot be adequately dealt with in a few minutes but I hope the Bar will study the matter and lend its support.

#### CORRECTIONS

If any phase of the administration of justice is more neglected than the operation of the courts, it is the correctional systems. Last year the Association created a Commission on Corrections and Correctional Facilities with a distinguished membership. That Commission has received private funding and now has an expert staff. Its Chairman is former Governor Richard Hughes of New Jersey who was a judge for 15 years and has first hand knowledge of the shortcomings of our penal institutions.

That Commission wisely decided to forego the conventional pattern of preparing reports but has instead moved into direct action programs. One of these will be concentrated in a few states and will seek to provide qualified volunteer caseworkers to assist the badly understaffed probation and parole offices in their important work. The program hopes to attract 1000 young lawyers to engage in this work after providing them with some basic training in counseling for those released on probation or parole. This is much like programs used for several centuries in Holland, Denmark and other countries of Europe.

A second program is also direct action designed to bring extension school education into penal institutions. Another program of the Corrections Commission is directed at helping to provide employment opportunities for released prisoners.

This is the largest undertaking in the corrections field ever undertaken by the organized bar and it deserves continued support. It is a measure of the new horizons of public service of the American Bar.

#### CRIMINAL PROCEDURE STANDARDS

The diversity of our political institutions has fostered governmental innovation and experimentation in the states and it would be a mistake to try to cast all civil or criminal procedure into a single rigid mold. [The Court Executives Act is but one example of the pioneering work of the state systems, and on which we in the Federal Courts are now trying to build under the Court Executives Act.]

There are certain areas, however, in which both the Federal Constitution and sound public policy argue for a greater degree of common standards and practice than we now have. One of these is the administration of criminal justice, in which, independent of federal constitutional requirements, it is sound policy to avoid wide variation from state to state in society's treatment of criminal conduct.

Over the past 30 years enormous progress has been made in the voluntary development of uniform state codes for civil matters and we now move into a period when the legal

profession should seek to extend this voluntary acceptance of uniform patterns into the administration of criminal justice at the state level.

This Association has supplied solid foundations for such a development in the form of studies and reports of the Criminal Justice Project, first chaired by Judge J. Edward Lumbard of New York, and now by Judge William J. Jameson of Montana.

[Time may well prove the Criminal Justice Project to be one of the Association's greatest public service programs up to this point in its history. It is, as you know, a comprehensive set of standards covering every phase and stage of criminal justice and can be used by the states as a starting point for any complete revision of their criminal procedure.]

The drafters of these standards would not make claim to their perfection in any sense. Of necessity many of the standards reflect the traditional compromise of any deliberative process. In the six years work on these Standards I doubt that any one of the 100 lawyers, judges and law professors who worked on the project agreed with every standard on every subject, but taken as a whole the fifteen reports by the Association represent the richest source ever developed to bring the administration of criminal justice up to date.

Mr. Justice Clark, continuing his signal contributions to the law, is Chairman of the Association's Committee to implement these standards and much progress has been made in ten states by his committee.

Every bar association and every member of this Association should press his state to consider these standards as a starting point for improvement.

#### EDUCATION AND REGULATION OF THE LEGAL PROFESSION

The licensing and admission power over lawyers vested in each of the fifty state jurisdictions, ninety-three federal districts and eleven circuits, has led to a hodgepodge of standards for admission, and regulations that are desperately in need of careful re-examination. Much that is being used is archaic and inadequate and must be discarded. This dispersal of authority over lawyers among fifty states and numerous federal courts has prevented meaningful regulation of professional conduct. More stringent discipline is needed in terms of protection of the public from the small minority of lawyers who have exploited uninformed laymen and abused the trust implicit in the franchise to engage in practice. A beginning has been made in the report of The Special Committee on Evaluation of Disciplinary Enforcement. Implementation of the recommendations of that Report is the largest piece of unfinished internal business of the legal profession and it cannot wait.<sup>1</sup>

A strong, independent, competent legal profession is imperative to any free people. We live in a society that is diverse, mobile, and dynamic, but its very pluralism and creativeness make it capable of both enormous progress or debilitating conflicts that can blunt all semblance of order. The role of the lawyer in a Common Law system is to be the balance wheel, the harmonizer, the reconciler. He must be more than simply a skilled mechanic. He must be that but in a larger sense he must also be a legal architect, engineer, builder, and, from time to time, an inventor as well. This is the history of the lawyer in America and in this respect he is unique among the lawyers of all societies. To fulfill this mission there must first be adequate training—better than it now is—then clear and comprehensive standards of professional conduct and behavior and, finally, established means of regulation of professional conduct. The legal profession cannot claim exemption from the proposition that

those having a monopoly on the performance of vital public services should be strictly regulated to protect the public interest. A profession ought to be able to regulate itself, but the truth is that the legal profession has not done so. I suggest that the time may come when, if the legal profession wants to avoid regulation from the outside, it must sternly regulate itself from within.

The basic raw material for comprehensive standards of professional conduct is now available. This Association has promulgated a general Code of Professional Responsibility together with suggested disciplinary enforcement standards, a detailed set of Standards for the Prosecution and Defense Lawyers, the Standards on Fair Trial and Free Press, and the Report on Disciplinary Enforcement. Those standards, taken together, offer the best hope for maintaining an honorable and effective Bar and every State Bar Association should move now to establish means to make sure those standards are rigorously enforced. Without strict enforcement of ethical standards the Bar will fail in its mission and it will never have, and it will never deserve, the confidence of the public.<sup>2</sup>

#### PUBLIC PARTICIPATION

We need not rely on Dr. George Gallup or Mr. Louis Harris to know that the public is deeply aroused and disturbed about the state of justice and all its works. We must believe that if the people are fully informed they will make the right decisions and to be sure the public is informed it is imperative that the Bar share the leadership for court improvements with all segments of the public—with leaders of Labor and Industry and with civic and community organizations. To break out of the mold of obsolete patterns of court organization, the whole people—not just lawyers—must be drawn into the programs for change.

#### TRIAL DELAY

Time will not permit a discussion of all the complex of factors which now delay the processing of cases in the Federal District Courts but several examples may be useful. The advantages of the Individual Calendar have now been recognized by most federal courts. It is one of the keys to speedy improvement, especially in metropolitan courts where congestion is the greatest. I hope every District Court in the United States will adopt that proven mechanism of court administration without more delay.

Another matter affecting the trial courts deserves comment.

For thirty-five years English courts have dispensed with juries entirely in virtually all civil cases. The public, judges and lawyers in England show no signs of wanting to return to the jury system. A number of our states have long conducted civil cases with juries of five, six or seven members and in the past year more than a dozen federal districts have followed the examples of some of those states and reduced the size of federal juries for civil trials. With the reduced jury there is a consequent reduction in the confusion and cost of trials. A large court calls several hundred or even a thousand citizens for jury duty and often the court house has no assembly rooms large enough to contain them. Obviously reduced jury demands will reduce the administrative burdens of calling, processing jurors and the confusion involved in handling so many people.

This new development deserves study and I have urged the recently appointed Committee on Rules of Civil Procedure to study the experience of Courts using five, six or seven-member juries.

If we find we can function with five or six-member juries in all federal civil cases we

<sup>1</sup> ABA Report and Recommendations in Disciplinary Enforcement, June 1970.

<sup>2</sup> Very soon two other sets of Standards of the Association will be completed. One is a Code of Judicial Conduct and the other will fix Standards for the day-to-day function of trial court judges.

can probably save as much as three million dollars per year directly, and produce other indirect savings that may in the long run be more important than the millions saved directly.

#### DELAY IN APPEALS

The factors contributing to delay in processing appeals from the District Courts are somewhat less complex than those of trial courts, but so important that they deserve mention. A simple aspect long overlooked is that we must develop a way for the Courts of Appeals to take active direction and full responsibility for every appeal from the day the notice of appeal is filed. When that notice is filed the District Court loses jurisdiction, of course, and understandably loses interest. Up to now there has been a tendency for the appellate judges to assume that the lawyers will push the cases along but we should know by now that this is not always a safe assumption.

An appeal, like a ton of bricks, moves when it is pulled or pushed. Sometime the appeal lags because the transcript of testimony is not ready, since court reporters must often move on to the next trial thus delaying preparation of transcripts.

Another large factor in the excessive cost and excessive delay in criminal appeals is the tendency to appoint a new lawyer on appeal. The average criminal trial takes 2½ days to complete and except in a rare case no trial lawyer who represented the defendant in the trial, and who is worth his salt, needs a full trial transcript to conduct the appeal. But when a new lawyer is appointed he has no efficient way to prepare an appeal except to secure the entire transcript of testimony. Requiring the trial lawyer to conduct the appeal will thus save both time and money. No lawyer should be appointed by the Court in any criminal case unless he is competent and willing to conduct the case to its final disposition if there is an appeal. This should be made the subject of an agreed policy within each Circuit or the Congress should direct it.

We must promptly develop screening methods to identify those appeals that can be heard within thirty or sixty days without printed briefs and without a transcript. An alternate to be explored is to hear such appeals on a written brief but without oral argument. Some courts have experimented with this, with very favorable results.

There is a third factor in delay for which we judges are solely responsible. This is the excessive writing of opinions. We appellate judges tend to write more than is needed or useful and the excessive writing delays the process. Moreover, it often confuses rather than aids the bar and adds needless cost to lawyers and the public and others who are compelled to maintain law libraries. With all deference, it is becoming increasingly apparent that appellate judges must discipline themselves to dispose of more cases without formal opinions and when opinions must be written every effort should be made to do so with greater brevity; moreover some cases should be decided summarily from the Bench. Some important cases require extensive treatment but this should be the exception, not the rule as it is today. I add, by way of confession, that this criticism—and it is criticism—is not confined to any particular level of appellate courts.<sup>3</sup>

With few exceptions in this country appeals move at a glacial pace because we are using the "cracker barrel" methods I spoke of last year to process vastly expanded volumes of cases. It is imperative that we de-

<sup>3</sup> More than 4000 cases are filed annually in the Supreme Court; written opinions or memorandum opinions are written in fewer than 200. The two situations are not fully comparable but the comparison is not without some relevance.

velop some new methods and new procedures for appeals. This is a high priority. At the appellate level ingenuity and determination can bring swift results. Prompt decisions on appeal may well discourage a substantial number of the frivolous appeals taken only for delay. I will ask the Judicial Conference to authorize appointment of a Committee on Appellate Rules to consider these pressing problems.

The public is tired of the spectacle of appeals that lag for years and repeated appeals whose chief purpose is delay. I must repeat what I said to you at St. Louis last August: There must be finality at some point.

#### THE SUPREME COURT

Of the work of the Supreme Court I will say only what I have said before, that we cannot keep up with the volume of work and maintain a quality historically expected from the Supreme Court. Nine Justices must now deal with approximately 4000 filings each year as compared with 1100 filings in 1940 and 1300 in 1950.

Either the quantity or quality of the work of the Court must soon yield to the realities. This view is shared by a growing number of legal scholars, judges and lawyers. Enlarged supporting staffs can help but the judicial function must be performed by nine Justices. On another occasion I will discuss this problem more fully.

#### STRUCTURE OF FEDERAL COURTS

One problem of the Federal Courts is of grave and immediate importance. In some courts it can reasonably be called an emergency.

The structure of the eleven federal circuits is at least 100 years out of date and must be reexamined. Everyone who knows the federal system knows this to a normal certainty. The Fifth Circuit almost literally spans the continent from Key West around the Gulf to Western Texas, nearly three thousand miles. No courtroom in North America is large enough for that court to hold, comfortably, an *en banc* hearing of its fifteen Appeals Court judges. The Fifth Circuit is an unmanageable, administrative monstrosity. The Ninth Circuit runs from the Mexican Border to Alaska and out to Hawaii and Guam while the District of Columbia Circuit at Washington contains ten square miles.

An Advisory Committee of the American Bar Association in 1968 reported that reorganization of the Circuits was urgently needed.

The Judicial Conference of the United States has urged that Congress create a special commission appointed by the three branches of the federal government with power to recommend changes in this structure that would become law if approved by the Judicial Conference of the United States, but subject to a veto by the Congress. This is basically the familiar mechanism by which Congressional and Judicial salaries were finally adjusted after long delays. It is a sound procedure and it is the most efficient way to improve the organization and the administration of the Federal Circuits. The Congress is now considering this proposal.<sup>4</sup>

I urge this Association to give this subject prompt study and to consult with the Congress on a solution.

The recital of these vexing problems calls for no summary. There are other problems of the Federal Courts I have not mentioned. I have touched only the most pressing matters that call for prompt action.

I am confident that with the Association's great tradition of public service and your keen awareness of the insistent need and great ferment for change, you will lend your prestige and your support.

The American people look to you. I know you will not fail them.

<sup>4</sup> H.W. 7378.

#### REMARKS OF CHIEF JUSTICE WARREN E. BURGER AGENDA FOR CHANGE

You have come to pay tribute tonight to the unique public career of Chief Justice Bell whose record covers the span of a half century. Few men have ever held the highest legislative office as President of the State Senate, the highest executive office as Governor, and the highest judicial office as Chief Justice.

In a period when the burdens on our judicial systems—federal and state—have reached almost a breaking point it is interesting that Chief Justice Bell's 50th anniversary comes at a time when Pennsylvania has taken important steps, in which he has had a large part, to bring its judicial machinery up to the demands made on it. You now have a Unified Judicial System and you have vested broad new powers in your highest court with a Court Administrator to carry out the non-judicial managerial functions. You have upgraded and streamlined your courts dealing with minor cases.

Perhaps one of the most significant steps you have taken is to establish a Judicial Inquiry and Review Board with power to see to it that judges perform their duties in keeping with the high traditions of the legal profession and the Judiciary. The attention of judges everywhere will be focused on how this process evolves. There is a growing body of thought in the profession and among judges that with the vast expansion of courts and growth of judicial power some kind of accommodation must be made between the imperatives of judicial independence and the public interest.

This occasion is an appropriate time, I hope, to discuss just a few modest examples of what we should place on our agenda for change.

Now that the elections are over I trust it will not seem partisan if I quote another distinguished Pennsylvania leader, Senator Hugh Scott. As a classical scholar the Senator rendered in flawless Latin what I will put in English. In speaking of problems of the functioning of Congress he said:

"All things are changing and we are changing with them. . . ."

I would alter this to say, as to the courts, "All things are changing and we . . . must change with them."

I do not mean this in a precisely literal sense but rather that we must be open to consider changes to meet new problems and new conditions, as Pennsylvania has just done with sweeping revisions of the Judicial Articles of its Constitution.

In the annals of history our country is still a very young country and all our claims to preeminence and greatness in many fields of human endeavor cannot hide this fact. It is good that we are in our youth as a nation because the young can adjust more readily than the old. Our resiliency and flexibility is a great national resource that makes revolution in the violent sense irrelevant and unnecessary. One aspect of our being a young nation accounts for a national attitude—not universal but widespread—that whatever is American is best and that probably we invented it. But this is not an attitude of the young people who are asking questions about our system. One of the genuine values of the questioning unrest of our youth is their tendency and eagerness to reexamine what we have been doing as a people and why. Their probing is irritating and even painful, as all probing is, but even as these young people seem to act immaturely it may be that they are probing for the insight Bobby Burns expressed in his prayer that we "see ourselves as others see us."

We are now well into the final third of this century. Thirty years from now our present 205 million people will have grown to 325 million, but our judicial machinery is not even adequate for the burdens now placed

on it. Even if our population remained static and our society, our economy, our science and all other development stood still (and of course they will not do so) our judicial machinery will be unequal to the task.

Our dynamism will continue on the curves that have taken us, for example, from no automobiles in 1900 to 80 million today, and with them the expansion of uncounted thousands of miles of highways. We had a handful of telephones in 1900 and we now have 100 million or more. In 1900 it took about 175 hours of the speediest travel to go from New York to California and today it takes four hours. In that period we reduced the average work week from 60 to 40 hours but increased the Gross National Product 300%.

The rate of change may alter but the change will not stop. More likely the pace will increase, and with it enormous stresses will be placed on all our institutions and particularly on the courts.

For lawyers and judges the question is how we will meet the massive problems flowing from this growth and dynamism. The problems are massive, but so is the opportunity for American lawyers and judges if they will reject both despair and complacency and examine our methods and our procedures with critical and inventive and open minds.

As I read history, the societies that survived have been like the animals that survived. They had the capacity to adapt to new conditions and the resiliency to adopt methods and ideas from others. We took our basic legal and judicial structure from England, of course, and it was then and is now fundamentally one of the best, if not the best, ever developed to resolve conflicts among human beings and between individuals and the State.

When we look back, however, we can see that except for embellishments and minor improvements we have the same basic system today that was confirmed in the Constitutional Convention in this city 183 years ago. In its procedural fundamentals it is so much the same that—as I had occasion to say to the ABA in August—Jefferson, Hamilton and Adams would need only a slight briefing to step into the State or Federal courts in Philadelphia or St. Paul or San Francisco and perform very well indeed.

From past experience I am aware that even an analytical discussion in the field of comparative law—the comparison of our methods and procedures with others—exposes me to the risk that I am advocating some specific changes.

Tonight I advocate nothing except an open-minded and mature willingness to examine our judicial machinery carefully, thoughtfully—and critically to prepare for the onslaught of events of the next 30 years. I am usually inclined to optimism but I will take the risk of saying *flatly* that if we fail to do this we will experience chaos in the courts with enormous and adverse impact on private civil rights and on law enforcement and the security of persons and homes and property, and with all this a loss of confidence in our system.

Let me suggest just a few areas for inquiry in the Federal system—and if these points of inquiry are appropriate for State courts as well, so be it. The points I raise are simply items on the agenda for change, not proposals, not specifics, simply agenda items.

Agenda Item No. 1: When the Constitution was written 183 years ago a few hundred yards from where we dine tonight, the Framers of Article III contemplated a Federal judicial system composed of courts of limited and special jurisdiction. One aspect illustrates a point I wish to make for this hypothetical agenda. In that day Philadelphia was one of the great ports of the world and the greatest in America. Transport and travel was largely by water. Shipping, shipbuilding, fishing were the foundations of our economy. In fixing the jurisdiction of the federal courts, jurisdiction over maritime

traffic and the hazards and casualties of water transport loomed at least as large as any single phase of the economy of 1790.

The authors of the Constitution saw that most litigation relating to this basic industry of water transport would arise either in the coastal waters or in navigable inland waters that would often fall between the jurisdiction of two States. They wisely decided that admiralty jurisdiction would be vested in the federal courts.

Now we come to an interesting aspect well known to the lawyers of Pennsylvania: Cases in admiralty, of course, could involve loss of cargo, of passengers, of vessels or damage to vessels in collisions with one another. Fundamentally there is no difference between ship collisions and automobile collisions except that ships generally involve larger stakes. Yet these wise authors left admiralty litigation in the hands of judges without juries. The maritime experts will respond that this was done because admiralty cases were traditionally tried without a jury. But why? Traditions do not spring from arid intellectual processes but from reason fertilized by experience and their reason and experience led them to let admiralty cases to judges. Another example is found in the Federal Tort Claims Act of 1947 in which the Congress after much study provided for trial by a Federal Judge without a jury.

With all their wisdom and foresight in statecraft the men who met here in 1787 could not conceivably anticipate the automobile and its impact on American life and on the courts. When they provided for federal jurisdiction in diversity of citizenship cases they could have had no thought of the mass of personal injury cases that would one day make up the largest single category of civil cases in federal courts.

I submit that if these men had been able to anticipate the automobile and its impact on courts they would have done one and possibly two things: (a) they would have made personal injury cases an exception to federal diversity jurisdiction, or (b) they would have said that if a ship collision is to be tried by a judge without a jury a simple automobile case could be disposed of in the same way.

Perhaps the time has come to ask whether automobile personal injury cases have any more place in the federal courts than over-time parking or speeding on Chestnut Street in Philadelphia.

Many rational experts of the whole field of litigation, more expert than I, go far beyond this modest agenda proposal. They advocate that automobile cases be removed from all courts and juries or at least that they be tried by judges without juries, thus speeding up and reducing the cost of the process. Those who advocate this step can hardly be thought radical or subversive when we remember that 35 years ago England, the Mother Country of The Common Law, abolished jury trial for civil cases with a few minor exceptions such as slander and libel cases.

Agenda Item No. 2: Our Constitution guarantees trial by jury in all civil cases in federal courts involving \$20 or more. Congress, by increasing the jurisdictional amount to \$10,000 has neutralized much of the impact of this dubious provision of the Constitution which received little consideration in a Convention preoccupied with matters of larger concern in a Philadelphia summer before the advent of air-conditioning.

Until the Supreme Court pronounces a final judgment on what the term "jury" means in federal cases I have no better basis than any other lawyer for an opinion on the subject except as *Williams v. Florida* of the 1969 Term may shed light. In that case the Court held that a state is free to use six-member juries in criminal cases. But we need not have a final opinion on the constitutionality of a jury of less than 12, in order to say that the subject is an appropriate agenda item for the legal profession if it

wishes to keep the courts from a breakdown.

The next budget for the federal courts includes \$14 million for jury fees. Ponder a moment on the saving in dollars, the saving in time and the reduced confusion, if we could cut that by 40%, allowing the full 12-member jury for criminal cases, and devote the saving of time, money and lawyers to better use.

While I speak of the jury system let me make it clear that whatever the future may bring with respect to civil litigation juries, and even if we should ultimately follow England as to civil cases, this should not be the pattern for criminal cases.

We know that as Englishmen developed the jury system in criminal cases, it was the shield or barrier between the individuals, the King and the King's Judges of those early days. American judges, as in England today, are blessed with independence from other branches of government. But the very complexity of modern government and the layers of officials, however necessary, render modern government possibly even more remote from the individual in 1970 than he was centuries ago in England. As a lawyer, my choice would be that we never abandon the jury system for criminal cases and of course the Constitution guarantees this protection.

Agenda Item No. 3: Another sample agenda item has a relationship to litigation and juries in civil cases. Here again I turn to the British experience which in many respects is influenced more by the methods and procedures of the Civil Code systems of Europe than are we.

In England, as here, some of the most time-consuming and complex litigation is in the field of business regulation, antitrust and patent cases. England's experience deserves study. In a complex business-economic case they often have two economists or other specialists sit with the judge and join with him as triers of economic issues. In a patent case involving esoteric questions of chemistry or physics or engineering, the lay judges who assist the professional judge are experts in the relevant field. This shortens and simplifies trials, and if the judgment of British judges and barristers can be relied on, the results are far more satisfactory and the process more efficient.

The mere fact that the prolonged trials so common in the United States are virtually unknown in England suggests we ought at least to look more closely at their experience.

Agenda Item No. 4: In 1969 we took a very important first step toward bringing modern business management methods into the courts. This was the creation of the Institute of Court Management largely due to the dynamic leadership of Bernard Segal. That Institute will turn out the first formally trained court executives next month. Important as it is it is only a first step. The problems of court management must remain a high priority on the agenda to make sure that qualified managerial executives are made available and are properly used by the courts for non-judicial functions and that they be given the means to bring the administration of justice into the 20th Century.

These few items of an agenda for the future are merely samples, as I said. I leave it to the resourcefulness and innovativeness of our lawyers, law teachers and judges to fill out agenda and then go to work without delay. It is only by a searching examination of the entire functioning and jurisdiction of the Courts that we can have any chance of being ready for the new burdens that lie ahead.

Korzybski in his work *Science and Sanity* describes Man as a "time binder" by which he means that unlike animals, Man can start where his forebears left off and improve the quality of life. Man, in short, has the capacity to learn and change and build on the experience of the past; he need not simply exist in a mechanical repetition of a life cycle foreordained by Nature or by his an-

cestors. In the methods of the law we have tended to let habit and the comfortable security of the familiar ways impede our search for better judicial methods and processes. There must be stability and continuity but there must also be change in order to survive.

After 35 years as a lawyer and judge I have now—for 16 months—had a new and closer look at the problems of justice and at the potentialities of the organized bar. I see a new attitude, a new willingness to change, a deep concern for justice—a new spirit in American lawyers and I am confident this new spirit is equal to the challenge for a generation of change.

[From Vital Speeches of the Day, Apr. 15, 1971]

COURT REFORM—PRIORITY TO METHODS AND MACHINERY

(By Warren E. Burger, Chief Justice, U.S. Supreme Court)

Delivered at the National Conference on the Judiciary, Williamsburg, Virginia, March 12, 1971

The President's appearance here yesterday and perhaps even more his pledge of support for our efforts makes this conference unique and gives it a dimension it could not have without the support of the Chief Executive of the United States. There is nothing very new about judges and lawyers gathering and agreeing that the courts are in trouble. When the President places the prestige and power of his office behind these efforts we have cause to take heart.

We have here today a cross-section of State and Federal judges and of State and Federal law enforcement authorities, and others seeking to avert an impending crisis in the courts. The only counterpart to this conference in this century was the Attorney General's Conference on Court congestion and delay convened by Attorney General Herbert Brownell more than fifteen years ago.

Fifty years before that conference, Roscoe Pound had warned the legal profession in the strongest terms that we were on the threshold of a crisis. That was in 1906. Periodically we respond and experience some relief but we are soon overwhelmed by a new tide of problems.

Today the American system of criminal justice in every phase—the police function, the prosecution and defense, the courts and the correctional machinery—is suffering from a severe case of deferred maintenance. By and large, this is true at the State, local and Federal levels. The failure of our machinery is now a matter of common knowledge, fully documented by innumerable studies and surveys.

As a consequence of this deferred maintenance we see

First, that the perpetrators of most criminal acts are not detected, arrested and brought to trial;

Second, those who are apprehended and charged are not tried promptly because we allow unconscionable delays that pervert both the right of the defendant and the public to a speedy trial; and

Third, the convicted persons are not punished promptly after conviction because of delay in the appellate process. Finally, even after the end of litigation, those who are sentenced to confinement are not corrected or rehabilitated, and the majority of them return to commit new crimes. The primary responsibility of judges, of course, is for the operation of the judicial machinery but this does not mean we can ignore the police function or the shortcomings of the correctional systems.

At each of these three stages the enforcement, the trial, the correction—the deferred maintenance became apparent when the machinery was forced to carry too heavy a load. This is what happens to any machine whether it is an industrial plant, an auto-

mobile or a dishwasher. It can be no comfort to us that this deferred maintenance crisis is shared by others; by cities and in housing, in the field of medical care, in environmental protection, and many other fields. All of these problems are important, but the administration of justice is the adhesive—the very glue—that keeps the parts of an organized society from flying apart. Man can tolerate many shortcomings of his existence, but a civilized society cannot remain so without an adequate system of justice, and by that I mean justice in its broadest sense.

I have said nothing of civil justice—that is the resolution of cases between private citizens or between citizens and government. This, unhappily, is becoming the stepchild of the law as criminal justice once was. Most people with civil claims, particularly those in the middle economic echelons, who cannot afford the heavy costs of litigation and who cannot qualify for public or government-subsidized legal assistance, are forced to stand by in frustration, and often in want, while they watch the passage of time eat up the value of their case. The public has been quiet and patient, sensing on the one hand the need to improve the quality of criminal justice but also experiencing frustration at the inability to vindicate private claims and rights.

We are rapidly approaching the point where this quiet and patient segment of Americans will totally lose patience with the cumbersome system that makes people wait two, three, four or more years to dispose of an ordinary civil claim while they witness flagrant defiance of law by a growing number of law-breakers who jeopardize cities and towns and life and property of law-abiding people, and monopolize the courts in the process. The courts must be enabled to take care of both civil and criminal litigants without prejudice or neglect of either.

This is why we are here today.

This could be the most significant judicial meeting in our time—depending on what will each of us do when we return to the daily tasks we have temporarily laid aside to gather at this conference let me suggest some of the problem areas and then let me venture some thoughts on what we might try to do about them.

There are many areas which we should study and consider, and, indeed, that we must consider but if we try too much at once we may fail in all our endeavors. I am thinking, for example, of substantive problems which cry out for reexamination, including the handling of personal injury claims, which especially clog the State courts; the need to ask questions about other areas of jurisdiction, such as receiverships or insolvent debtors, the adoption of children, land-title registration in some States, and possibly even such things as divorce jurisdiction and child-custody matters. We need a comprehensive reexamination of the whole basis of jurisdiction in order to eliminate whenever possible all matters which may be better administered by others so as to restore the courts to their basic function of dealing with cases and controversies.

We can see in the development of common law institutions many examples of changing jurisdiction and evolution of new remedies. I suggest no specific changes but I trust it will not be regarded as subversive to suggest the need for study and thought on these problems, remembering that subjects once committed to the courts are now the province of the other governmental bodies.

The common law tradition teaches that rights and remedies are never fixed or static but a continuing process of change however slow. For example, working men once had either no rights at all or common law rights based on negligence when they were injured in their work. The deficiencies of the common law remedies inspired lawyers to find other and better ways of dealing with the claims of injured workmen and no one would

seriously consider turning the clock back to the old ways. Large area of regulatory activity was once imposed on courts but for the greater part of this century that has been vested in a wide array of administrative and regulatory bodies with limited judicial review.

All of us attending this conference share and are the beneficiaries of the great common law tradition that undergirds American jurisprudence and virtually all aspects of our procedure, both state and federal. As lawyers and judges we can be proud of the great tradition of the common law and even have a pardonable pride in the improvements and developments that American lawyers and judges have added to it. We do not disparage or undermine the common law when we consider change indeed, change is the very essence—the very heart—of the common law concept.

The challenges to our systems of justice are colossal and immediate, and we must assign priorities. I would begin by giving priority to methods and machinery, to procedure and techniques, to management and administration of judicial resources even over the much-needed reexamination of substantive legal institutions that are out of date. That reexamination is important but it is inevitably a long range undertaking and it can wait.

I have said before, but I hope it will bear repeating, that with reference to methods and procedure we may be carrying continuity and tradition too far when we see that John Adams, Hamilton or Burr, Jefferson or Marshall, reincarnated, could step into any court today and after a minimal briefing on procedure and updating in certain areas of law, try a case with the best of today's lawyers. Those great lawyers of the 18th and 19th century would need no more than a hurried briefing and Brooks' Bros. suits. They would not even need a hair cut, given the styles of our day.

This is not necessarily bad, and I propose nothing specific on how we should change our methods of resolving conflicts in the courtroom. But I do know this—and so does anyone who has read legal history and read the newspapers in recent years—that John Adams, and his reincarnated colleagues at the bar, would be shocked and bewildered at some of the antics and spectacles witnessed today in the courtrooms of America. They would be as shocked and baffled as are a vast number of contemporary Americans and friends of America all over the world. They would not be able to understand why so many cases take weeks or months to try. No one could explain why the jury selection process, for example, should itself become a major piece of litigation consuming days or weeks. Few people can understand it and the public is beginning to ask some searching questions on the subject.

I need not burden this well-informed audience on the subject of the tension and the strains existing between the State and Federal courts in recent years. Because of the existence of those problems and the reasons underlying them I urged last August, at the ABA convention in St. Louis, that the chief justice of each State take the initiative to create an informal *ad hoc* State-Federal judicial council in each State. The purpose, of course, was to have these judges meet together informally to develop cooperation to reduce the tensions that have existed in recent years. I was pleasantly surprised, even astonished, at the speed with which the chief justices responded, for I am now informed that such councils are in actual operation in 32 of the States. Many of these councils have been created by formal order of the State supreme court. I am also informed that once the channels of communication were opened these State and Federal judges found other areas of fruitful cooperation and exchange of ideas. I regard this development of such importance that I wish to express my appreciation to the Conference of

State Chief Justices and to Chief Justice Calvert of Texas, its chairman.

In urging the cooperation between the State and Federal judges, and in urging the State judges to call upon the State bar associations and on the American Bar Association, I have no thought whatever that all State court systems or all judges be cast in one mold. Far from this, have an abiding conviction that the strength of our entire system in this country and the essence of true federalism lies in diversity among the States. It will not impair this diversity, I submit, to work together to develop effective post-conviction remedies for example, or common standards of judicial administration, common standards of professional conduct for lawyers, and, indeed, for judges, or the improvement in the method of selection, the tenure, and compensation of judges.

The diversity that has existed in our system and the innovativeness of State judges accounts for many of the great improvements that the Federal system has adopted from the States. One of the most crucial is in the developing area of using trained court administrators or executives in the administration of the courts. The States have been a whole generation ahead of the Federal system in this matter. When we sought to create the Institute of Court Management in 1969 the first step was to call on State court administrators for guidance and advice.

Whatever changes we make, we should never forget that under our federal system, the basic structure of the courts of this country contemplated that State courts would deal with local matters while Federal courts would serve a limited and narrow function. I hope we will never become so bigoted as to think that State judges are any less devoted to the principles of the Federal Constitution than other judges and lawyers.

I do not especially like phrases like "management of judicial resources," or "maximum utilization of judge power." They seem stilted to me as they do to most lawyers and judges. But these phrases are simply "shorthand" and if we accept them as such they become tolerable. The important thing is the concept underlying these "shorthand" terms. Every profession and every area of human activity has had to grapple with the hard realities behind the shorthand. The difference is judges and lawyers have lagged far behind the rest. I do not suggest that justice can ever become automated or that production-line processes are adaptable to courts. Other professions have devised new ways to increase their productivity without loss of quality and we must do so.

In terms of methods, machinery and equipment the flow of papers—and we know the business of courts depends on the flow of papers—most courts have changed very little fundamentally in a hundred years or more. I know of no comprehensive surveys, but spot checks have shown for example that the ancient ledger type of record books, sixteen or eighteen inches wide, twenty-four or twenty-six inches high, and four inches thick are still used in a very large number of courts and these cumbersome books, hazardous to handle still call for longhand entries concerning cases. I mention this only as one symptom of our tendency to cling to old ways. We know that banks, factories, department stores, hospitals and many government agencies have cast off anachronisms of this kind.

With relatively few exceptions, we still call jurors as in the past. We still herd them into a common room in numbers often double the real need because of obsolete concepts of arranging and managing their use. This process is often complicated by the unregulated arbitrariness of a handful of judges, for example, who demand more jurors than they can possibly use to be allocated each day for their exclusive use. There is almost a total absence of even the most primitive techniques in predicting the need for jurors just as there is a large

vacuum in the standards and procedures to coordinate the steps of bringing a case and all of its components—the lawyers, witnesses, experts, jurors and court staff—to the same place at the same time.

Happily, a very distinguished committee of the American Bar Association under the chairmanship of Judge Freedman of the United States Court of Appeals of the third circuit is now launching a comprehensive program of bringing up to date the minimum standards of judicial administration.

Independent of what we do in the courtroom itself, we need careful study to make sure that every case which reaches the courtroom stage is there only after every possibility of settlement has been exhausted. Those parties who impose upon the judicial process and clog its functioning by carrying the cases through jury selection before making a settlement which could have been made earlier should be subject to the risk of a very substantial discretionary cost assessment at the hands of the trial judge who can evaluate these abuses of the system. Someone must remind the bar and the public of the enormous cost of a trial.

As litigation has grown and multiple-judge courts have steadily enlarged, the continued use of the old equipment and old methods has brought about a virtual breakdown in many places and a slowdown everywhere in the efficiency and functioning of courts. The judicial system and all its components have been subjected to the same stresses and strains as hospitals and other enterprises. The difference is that, thirty or forty years ago, doctors and nurses recognized the importance of system and management in order to deliver to the patients adequate medical care, this resulted, as I have pointed out on other occasions, in the development of hospital administrators and today there is no hospital of any size in this country without a trained hospital administrator who is the chief executive officer dealing with the management and efficient utilization of all the resources of the institution. Courts and judges have, with few exceptions, not responded in this way. To some extent, imaginative and resourceful judges and court clerks have moved partially into the vacuum, but the function of a clerk and the function of a court executive are very different, and a court clerk cannot be expected to perform both functions.

From the day I took office, twenty-one months ago, this seemed to me the most pressing need of the courts of this country, and particularly so in my area of responsibility, the Federal courts. The first step I took was to help lay the foundations for a facility to train executives and I requested the American Bar Association to take the leadership in accomplishing this. That association did so with the American judiciary society and the institute of judicial administration as co-sponsors, together they created the institute of court management at the University of Denver Law School. That institute has now graduated the first group of trainees with an intensive full-time course over a period of six months including actual field training in the various courts. It will train two additional classes this year. This is not a Federal facility and indeed I expect most of its output will go to State court systems.

In the meantime, the Congress has taken one of the most important steps in a generation in the administration of justice by providing for a court executive in each of the eleven Federal circuits. The court executive will work under the direction of the judicial council of each circuit. I need not say, surely, to an audience including so many chief judges and administrative judges, that this will not only relieve judges to perform their basic judicial functions but it will provide a person who will, in time, be able to develop new methods and new processes, which busy judges could not do in the past.

The function of a court executive is some-

thing none of us really knows very much about. There are only a handful of court administrators or executives in this country and up to 1970 they are all self-taught. The few who were in being were, in the State courts and we called upon them to be members of the teaching faculty for the new Court Management Institute. The concept of court executive or court administrator will have its detractors but I predict they will not be heard for very long. The history books tell us how the admirals reacted when General William Mitchell insisted that an airplane could sink a battleship.

The desperate need for court executive officers does not alter the fact that it will require great patience and industrious homework on the part of judges and chief judges to learn to utilize these officers for their courts.

A great many of the infirmities in our procedures could be cured if judges had broad rulemaking power and exercised that power. The best example of this was given a generation ago in the Federal Rules of Civil Procedure and later in the Criminal and Appellate Procedure Rules.

For the past 30 years or more State legislatures, like the Congress, have been overwhelmed by a multitude of new problems and it is increasingly difficult to get their attention on mundane subjects like rules of procedure and other internal matters of the courts. In addition, judges, by and large, have been under increasing pressure of their own daily work and have not brought these matters to the attention of legislators.

The rulemaking process as developed in this country beginning 35 years ago is the best solution yet developed for sound procedural change. Since it is a cooperative process involving not only the legislative and judicial branches officially, but lawyers, judges and law professors, it can synthesize the best thinking at every level.

If your state does not provide for rulemaking power comparable to that vested in the Supreme Court of the United States in conjunction with Congress, I urge you to study closely the potential of this mechanism. In Federal habeas corpus review of State cases it could have saved a great deal of confusion in recent years. Flexible rulemaking processes could have promptly developed post-conviction remedy procedures to blunt the impact of the imposition of Federal standards on the States.

The combined experience of this country for nearly two hundred years now, with elective judges in most of the States holding office for limited terms and Federal judges who are appointed with tenure, affords a basis for a careful reexamination of the whole method of the selection of judges. This is part of the long range problem, but it deserves some mention. The aggregate of two centuries of experience should be sufficient to give us material for a comprehensive re-examination of the methods of selection and the tenure of State judges. In saying this, I, of course, intend no reflection whatever on those State systems having elected judges with limited terms and the many splendid judges in those States.

The fine quality of judicial work of State judges is in spite of, not because of, the method of selection.

The election of judges for limited terms is a subject on which reasonable men can reasonably have different views. Nevertheless the very nature of the judicial function calls for some comprehensive studies directed to the alternative methods developed in the last generation in some States. Those alternatives tend to preserve the virtues of popular choice of judges and at the same time develop a high degree of professionalism, offering an inducement for competent lawyers to make a career of the Bench.

We know that while there are certain patterns common in the fifty States as to the selection and tenure of judges, there is at the same time a wide disparity in their com-

pensation in such States as New York, California, and Illinois, to mention but three of the large States, the compensation of judges of the higher courts is as much as three times the compensation of their counterparts in some other States of the Union.

As lawyers and judges we know that the function of the courts in a small State is essentially the same as the function of the courts in the larger State. The size of the State has no relationship to the nature of the function, the degree of the responsibility, and the degree of the professional competence called for. It is, therefore, an anomaly for a wide disparity to continue. I do not suggest, by any means, that there need be a rigid, uniform standard of compensation or tenure for all the States. All I suggest is that the judges in the small States are performing essentially the same function as that of their brothers in a large State, and the conditions of their service should not vary excessively. It is not a wholesome or healthy thing for the administration of justice to have the highest court of a geographically large and economically powerful State receive two or three times as much as his counterpart a few hundred miles away. If we want quality justice we must pay for it.

As I range over this rather wide variety of subjects you will notice that in many instances I have been obliged to refer to matters of common or general knowledge or the result of spot checks, or other sources not wholly trustworthy. This suggests strongly the need for some facility that will accumulate and make available all information necessary for comprehensive examination of the problems of the judiciary in the fifty States. Recently a judicial conference developed an accumulation of 500 or more specific problems of courts.

Each of the points I have raised in the list of what seem to me some of the urgent priorities can be more readily treated and with better solutions there is a pooling of ideas and efforts of the States.

For a long time we have talked of the need for a closer exchange and closer cooperation among the States and between the States and the Federal courts on judicial problems. No States are without grave problems in the administration of justice. The problems vary chiefly in degree from those States with grave troubles to those on the threshold of disaster in their courts. The valuable work of the National College of Trial Judges is just one example of the value of cooperative enterprise.

We now have in this country a great ferment for court improvement. It is a ferment that has been gaining momentum slowly over a long period of time. More recently, this has taken on a new thrust and force under the leadership of the American Bar Association. The time has come, and I submit that it is here and now at this conference, to make the initial decision and bring into being some kind of national clearing house or center to serve all the States and to cooperate with all the agencies seeking to improve justice at every level. The need is great, and the time is now, and I hope this conference will consider creating a working committee to this end—before you adjourn. I know that you will do many important things while you are here, but if you do no more than launch this much-needed service agency for the State courts, your time and attendance here would be justified.

I hope that, having raised this long-discussed subject of a need for a facility to serve as a clearinghouse and service agency for States, you will not think me unduly presumptuous if I make some specific suggestions for your consideration.

It seems to me obvious that the States should make the final choices and the final decisions. In offering these thoughts, I draw particularly on my experience in the twenty-one months I have been in my present office. I now see the legal profession's strongest

voice, the American Bar Association, from a point of view which I never fully appreciated in my years of private practice or even in the period when I was a member of the court of appeals.

The American Bar Association is a force for enormous, almost unlimited, good with respect to every problem in the administration of justice. It is a force that cannot be directed or controlled by any particular group or any selfish interest because it includes approximately 150,000 lawyers and judges and law professors representing 1700 State and local bar associations and other legal groups. Its governing body, the House of Delegates, represents 90 per cent of all the practicing lawyers in this country. I mention these factors because the American Bar Association is essentially a grassroots institution whose components spring from the 50 States. The facilities and power, the influence and prestige of this association, are literally on the door step of every State capital through the State Bar Association, and that power and influence can be put to work in terms of achieving the objectives I have suggested to you.

My suggestion, therefore, is that in shaping the national organization or center to serve all the States, you consider calling primarily on this great association and its 50 component State associations, along with other groups that specialize in judicial administration. There are additional existing structures representative of all the States and a cross section of the legal profession. I refer now to the American Judicature Society, the institute of judicial administration, the conference of State trial judges, the appellate judge conference, the council of State governments, and the conference of chief justices. I am confident there will be widespread interest in the formation of such a group as this but it will take time to marshal all of the large resources necessary to its accomplishment as a means to an end that we should place high priority on changes in our methods and our machinery. The noblest legal principles will be sterile and meaningless if they cannot be made to work.

In closing, I offer the full cooperation of my own office and the facilities of the Federal Judicial Center and the administrative office of the United States Courts. But bearing in mind my own concepts of federalism I will participate only when and if you ask me to do so.

#### REMARKS OF CHIEF JUSTICE WARREN E. BURGER

MANCHESTER, VT.,

September 10, 1971.

The public image of justice, like justice itself, is indivisible. It does not distinguish between federal and state courts and it is not concerned with the details.

When riots develop in jails as a protest against long delays in trials or when a notorious case takes 2, 3, 5 or more years to complete, people make judgments. To them "courts are courts," "jails are jails," "delay is delay." And we should not be critical of the news media because they do not emphasize the distinctions between state and federal cases. Even if they did, the readers would not care. They are paying the bills for both and they want results.

These factors, among others, are the reasons why I have tried to give support to the creation of State-Federal Judicial Councils in each state and to encourage the development of the new National Center for State Courts. The sources of the problems are common and the solutions must come from close cooperation at all levels. And I need not remind you that for other reasons our interest and concern in what goes on in the state courts is neither hypothetical nor altruistic for every state case is, of course, a potential habeas corpus case for all of us.

What the public thinks, therefore, becomes the measure of public confidence in

the courts, and that confidence is indispensable.

To a large extent what people think is shaped by what we do or fail to do with less than 2% of the criminal cases in the federal system. In round figures 98% of those cases are disposed of promptly, and there is little occasion for anyone to write about them. Not all of the 2% factor are newsworthy but within that 2% are those few cases that drag for 2, 3, 4 and more years and are often the "notorious," the "spectacular" cases because of the crime involved, the identity of the accused or his counsel, or all three factors.

In addition, within this 2% figure are the cases in which delay gives rise to public anxiety and concern and even anger. These are the cases that undermine public confidence in the system. If it is one of the relatively rare homicide cases under a federal statute or a crime of violence, it may well add to the mass neurosis that afflicts our large cities. In some cities, Washington, D.C. and New York, for example, there are more homicides currently in one year than in the British Isles plus all of Northern Europe in one year.

Crimes of violence have a harmful effect on the total mental health of the community in which they occur. The swiftly growing traffic in narcotics has a similar impact. This is not the time to discuss causes and sources of crime. Our concern at the moment is one of procedure and methods. Other authority than that vested in judges must deal with causes.

Our problem is to see to it that the disposition time of that 2% group is reduced and brought as nearly as possible into line with the general run of criminal cases. This is not a matter of giving special treatment or special priority but rather of making sure that no cases are delayed by special treatment or by inertia or indifference or by someone exploiting procedure for the sole purpose of delay whether it be the prosecutor or defense counsel. These delays must stop.

To accomplish that I have requested the Chairman of the Judicial Conference Committee on Court Administration to propose a method of identifying the cases in which delay must not be permitted.

Obviously the so-called "jail case" is one of these. The Constitution gives an explicit guarantee to every accused person that he will have a speedy trial. We know from our own knowledge, although this is happily not common in federal courts, that in some places people have been subject to long periods of detention before trial. The developments in recent years, assuring counsel to all accused persons and enlarged release on bail pending trial, do not alter the basic proposition that the more serious criminal cases must not be allowed to languish whether by the action of the prosecutor, the defense counsel, or both.

If the accused is not guilty, it is a grave injustice for him to be held in confinement awaiting trial, and it is also a grave injustice to have a serious criminal charge hanging over his head for a long period of time without resolution and determination of the facts. On the other hand, if, in fact and law he is guilty, he should be given the speedy trial the Constitution promises. I take it for granted there can be no rational objection to delivering what the Constitution guarantees.

Because of the increasing number of criminal cases coming into the federal courts I have requested the Judicial Conference Committee on Court Administration to take up at a meeting next week the problem of identifying the cases in which delay is likely to occur if we are not alert. I will not undertake to anticipate what their solution will be but any judge who has had either direct experience or close observation can readily see the broad outlines of this problem. Without undertaking to give any particular rank to the classifications, I suggest the following are

ripe for consideration by the Committee on Court Administration.

First, every case in which bail is denied and the accused is in custody should be set for trial without any delay.

Another category would be the more serious criminal charges such as homicides, aggravated crimes of violence, charge involving traffic in narcotics.

A third category is charges against persons who have a substantial prior criminal record and whose release on bail may therefore present a larger risk to the community.

There may be other categories to which trial judges, who deal with this problem on a day to day basis, will be able to bring more intimate insight than I can have as an appellate judge somewhat remote from the complex problems of calendars and dockets of trial courts.

This problem may vary to some extent depending on whether cases are handled with a master calendar or an individual calendar. These differences should give no difficulty. Whatever is the method of calendaring and assigning cases, every large district court should have a procedure by which the Chief Judge, or possibly a committee designated by the Chief Judge, will have the power to identify cases in which delays should not be tolerated—the 2% group—and then make certain that those cases are not allowed to take the pace that the lawyers want or that they find tolerable.

Some federal districts now have rules giving prompt attention to cases in which the accused is held in custody. This is one important step but it is not enough. Some districts have rules that protracted cases are to be specially assigned so as to take into account the workload of each judge and other relevant factors so that other duties will not interfere.

This is also a good start. To such rules, however, we need to focus the inherent power of every court to organize and distribute its work so as to meet the new problems arising from the large increase in criminal cases and the consequent public concern and anxiety when serious criminal cases suffer long delays in being brought to trial and then go through an unexplained lengthy appeal process. At the trial court level this will call for discussions with the United States Attorney, the office of the Legal Aid or Public Defender, probably some representative of the practicing bar. We can very likely anticipate objections and suggestions why this cannot or ought not to be done. Prosecutors and legal aid offices are often understaffed and overworked. But this program will not make added work; rather it will ultimately reduce work by avoiding repeated postponements and successive hearings.

At the appellate level the same attitude must prevail, but every judge in this conference knows that transcripts, when they are needed for an appeal, can be prepared promptly in particular cases. To accomplish this the courts of appeal must take active control and management of every case as soon as the notice of appeal is filed. That is not being done now. We must reexamine some of the non-essential frills and luxuries of printed briefs and records that we appellate judges have become accustomed to and get on with the substance, which is fair and speedy justice. An appeal can be dealt with as well on modern machine-made copies of typed briefs as on printed briefs. And I have been an appellate judge too long to accept the argument that a court of appeals needs more than one copy of the transcript.

What is desperately needed is to have a few of the serious cases brought on for trial in 60 days after indictment and the appeal disposed of in another 60 days. It can be done. It can be done with complete and total fairness to both sides. It ought to be done and it is your responsibility and mine to see that it is done.

I intend to pursue this and I must have

your help. It is not a program for the future, but a program for now, and by "now" I mean September and October of 1971, not some distant date. It needs no lengthy report. It needs action and I want your help to see that it gets done.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

#### ORDER FOR ADJOURNMENT TO MONDAY, SEPTEMBER 27, 1971

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 12 o'clock noon Monday next.

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

#### ORDERS FOR RECOGNITION OF SENATORS CRANSTON, MATHIAS, AND CHURCH WEDNESDAY, SEPTEMBER 29, 1971

Mr. MANSFIELD. Mr. President, I ask unanimous consent that after the joint leadership has been recognized on Wednesday next, the following Senators be recognized for 15 minutes each for the purpose of conducting a colloquy: The distinguished Senator from California (Mr. CRANSTON), the distinguished Senator from Maryland (Mr. MATHIAS), and the distinguished Senator from Idaho (Mr. CHURCH).

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

Mr. MANSFIELD. Mr. President, I do not know what time we will come in on that day. Other Senators may be engaged in the colloquy being considered. I do not know what the subject matter will be. However, if there are any others, we will get that request later.

#### MILITARY PROCUREMENT AUTHORIZATIONS, 1972

The PRESIDING OFFICER. Under the previous unanimous-consent agreement, the Chair lays before the Senate the unfinished business which the clerk will report.

The legislative clerk read as follows:

Calendar No. 355 (H.R. 8687), a bill to authorize appropriations during the fiscal year 1972 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength of the Selected Reserve of each Reserve component of the Armed Forces, and for other purposes.

The PRESIDING OFFICER. There is a time limitation of 4 hours on amendment No. 432 which the clerk will now report.

The legislative clerk read as follows:

At the end of the bill, add the following new section:

SEC. 505. The Secretary of the Treasury shall place, in a special account established by him, all funds appropriated pursuant to this or any other law for the further testing or deployment of multiple independently targeted reentry vehicles (MIRV's). Such

funds may be used for the purposes for which they were originally appropriated only if the President and the Congress jointly determine at any time that the Government of the Union of Soviet Socialist Republics testing and deployment of a MIRV system, deployment of a large-scale antiballistic missile (ABM) system, and other action necessitate the further testing and deployment of the United States MIRV as a guarantee of the United States retaliatory capability. Upon certification to the Secretary of the Treasury by the President that such a determination has been jointly made by the President and the Congress, such funds shall be available immediately for the purposes for which they were appropriated.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be taken equally from both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

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

The PRESIDING OFFICER. The time on the amendment is to be equally divided between the Senator from Minnesota and the Senator from Mississippi. Who yields time?

Mr. HUMPHREY. Mr. President, on July 14 I submitted amendment No. 244 to the Senate military procurement bill proposing to place certain conditions on funds for MIRV. MIRV is the abbreviation for multiple independently targeted reentry vehicle.

I asked that those funds for MIRV be placed in escrow for the duration of the 1972 fiscal year. I testified in support of this measure on the same day before the Subcommittee on Arms Control, International Law and Organization of the Foreign Relations Committee and wrote in conjunction with Representatives HARRINGTON and FRASER a report on the implication of the MIRV program.

At the same time, I wrote a letter to the chairman of the Senate Armed Services Committee, the distinguished Senator from Mississippi, requesting that the committee consider amendment No. 244 before reporting on the military procurement bill, H.R. 8687. I was disappointed to find that there was no discussion of my proposal or MIRV in general in the committee report despite MIRV's control role in our missile system and its overall importance in the arms control debate.

Neither the Department of Defense nor the committee has even identified for public use the amount of funds earmarked for MIRV.

I think that is a rather important observation. The people of this country are entitled to know how much money we are earmarking for a particular program, project, or weapons system. We do know this much, that MIRV is tremendously expensive—somewhere in the range of \$1.2 billion to \$1.8 billion for fiscal year 1972. And if and when a scheduled MIRV program for our land-based Minuteman missile and submarine Poseidon missile is launched, the total cost will probably be in the range of \$12.9 billion.

It is very hazardous to make a guess on

the cost of any military weapons system. I have yet to see one that did not cost about double what it was originally estimated to cost.

This is not because the Pentagon officials seek to deceive us. I am not one who believes that there is a conspiracy on the part of the Pentagon to deny the country proper information. Nor am I one who believes that the industrial-military complex is determined to take over this Nation.

I have great respect for our Armed Forces, and I want this sentiment reflected in the RECORD.

I think one of the great tragedies of today is the demeaning of the Armed Forces. We need our Military Establishment. We need an adequate national defense. Above all, we need respect for those who are in the military for the defense of this country.

I must say, however, with equal candor that we need those who are in command, those who have responsibility, both military and civilian, in the Defense Department to level with us, particularly with the Congress and to give us all the relevant information necessary to arrive at these important decisions.

Mr. President, there is no decision that is more important than a decision to be made for national security. I weigh these decisions very carefully. For example, yesterday I voted for an amendment that would ask for an alternative budget to be forwarded to the Congress in fiscal 1973. That does not mean that I am committed to that budget. It means that I would like to see what a \$60 billion budget would buy in terms of national security.

I think we have a right to take a look at alternatives. I want it very clear, however, that, speaking for myself, as one who served in this body and on the Committee on Foreign Relations, and having served on the National Security Council during my term as Vice President, I am not going to knowingly or willingly weaken the defenses of this country. We live in a tough world, and we must understand that, but we must also understand that there is a momentum to the arms race, that it feeds upon itself.

Security is not piling up arms. Security is not, in essence, the amount of armament one country has compared to another. It is sophistication; it is effectiveness and efficiency; but more importantly it is the strength of our economy, its productive capacity, the productivity of our workers, the confidence of our management, and the full involvement of our people in the economic life of the Nation. Finally, security is in the spirit of the people and the trust they have in their Government, in the feelings people have about their country, their sense of dedication and willingness to sacrifice, and all of that is dependent upon whether or not they really believe what the Government says and whether they can place their trust in Government and those who are in Government.

I am not overestimating or overstating the importance of our understanding the essential elements of national security—one, being our military position—ready, prepared, properly organized, under good command, with modern weapons, all re-

lated to our commitments in the world, all related to what other people in the world have. That is a number one element in national security.

The second element is to keep in mind that the military is only the cutting edge of the economy, and the greatest threat to our security today is the inflation and unemployment taking place in this country, the disillusionment of our old people, the disenchantment of our young people, the strikes in our cities, the racial bitterness in this country. Those are the real threats to national security, and I have a feeling that our enemies, or those who are our competitors, to put it a more reasonable term, watch what happens in our social and economic structure as much as our military program.

The third element, the spirit, and the morale, of the American people is equally terribly important.

I want to emphasize, as we discuss the military procurement program, that we do not lose sight of the 3 elements of national security: the military, the economy, and the spirit of the Nation.

We are dealing here with the military and its weapons systems, and I am not going to recklessly cut those supplies or those weapons system. I will question them because I think it is fair to say that some of those weapons systems have yet to be proved as being very useful.

Insofar as MIRV is concerned, this is highly advanced and sophisticated part of our nuclear weaponry. It is fair to say we have made amazing strategic technological advances. My amendment today in no way retards or impedes research and development. It is related primarily to the political and diplomatic situation under way, at the SALT talks between the United States and the Soviet Union in Helsinki, and related to the forthcoming talks in Vienna between the United States and the Soviet Union, as these two countries and their two governments seek to find a way to lessen tensions and to find an agreement on both defensive and offensive weapons.

Mr. President, this amendment does not deny the military its money. This amendment merely puts the money in escrow. It is not unilateral disarmament. It is what our beloved President Eisenhower and our beloved President John Kennedy did. Both of those Presidents took unilateral action of a sort, stopping the testing of nuclear weapons pending responsible and reciprocal action on the part of the Soviet Union. I suppose there are no two men more loved and respected in our time. I doubt President Eisenhower was derelict or irresponsible in national security matters, and he was probably one of the greatest generals who ever served this Nation.

It was General Eisenhower, as President of the United States, who authorized unilateral cessation of nuclear testing. And it was John Kennedy who spoke on commencement day at American University on June 10, 1963, and said to the Soviet Union and the world, "We are stopping our testing pending your reciprocity, your similar move"—and he did it. This represents decisionmaking, the greatness of a man, the greatness of a President.

I submit what we are talking about doing so

here is within the Eisenhower-Kennedy pattern. I spent several years in the Senate as chairman of the Subcommittee on Arms Control and Disarmament, and at no time did I have anyone accuse me directly or indirectly of irresponsibility, because I believe in a strong defense structure.

But I must say with equal candor that had it not been for the committees of Congress, to keep pressing, we might never have had a test ban treaty.

I remember the beloved Adlai Stevenson in 1956 advocating a nuclear test ban, with the United States halting its nuclear weapons testing, and again, he advocated this suspension pending similar action on the part of the Soviet Union.

I can remember certain political leaders, one who is in high office today, saying that was irresponsible. I remember that Adlai Stevenson paid a high political price for his great foresight and message of real courage and strength. But he was assailed then from public platforms because he was supposedly weakening the defenses of this country, only to have the same administration that accused him do exactly what he recommended. In 1959 and 1960 President Eisenhower invoked nuclear test ban unilaterally across the board, as far as we were concerned, only to have John Kennedy consummate an agreement with the Soviet Union in 1963 which remains one of the great forward steps in the attainment of peace and arms control.

So this historical summary is the basis for my amendment. I do not come to it as a young man, foolish in the ways of national security; I come to it as one tested in this field of arms control.

I was in Moscow when we signed the Nuclear Test Ban Treaty; and I was a member of an administration that helped to negotiate the Nuclear Nonproliferation Treaty. I went to Europe with the President visiting 6 countries to get the details of the treaty ironed out and worked with Mr. William Foster, the chairman of our Arms Control Agency. So this matter to me is of high priority and of great seriousness and one on which I have spent a great deal of my time.

I, therefore, know about nuclear test bans, nuclear weaponry, and about negotiations with the Soviet Union.

The question of MIRV changes the nature and perhaps even the purpose of our missile weaponry. For these reasons, I do not see how we can avoid discussing the issue at a time when the Senate is called upon to pass an expensive and highly significant military procurement bill.

Let me digress to say to the chairman of the committee that I know of the hard work he performed on this bill and the tremendous amount of effort that has gone into the committee report and the amount of savings that have been made. I respect the work of the Committee on Armed Services, and particularly the work of the chairman. I see a great deal of good in the military procurement bill which has been brought before us for action.

I called up my original amendment, and I introduced it as an amendment to H.R. 8687 with some minor changes. By

I hope to engage my colleagues

in a joint evaluation of the implications of our MIRV program. Hopefully, they will conclude as I have done that a continuation of our MIRV program during fiscal year 1972, which is to say during the strategic arms limitation talks now underway, is not only unnecessary, but harmful to future arms control agreements.

Mr. President, I ask unanimous consent that the amendment to place the funds for MIRV in escrow for the duration of fiscal year 1972 be again printed in the RECORD at this point.

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

SEC. 505. The Secretary of the Treasury shall place, in a special account established by him, all funds appropriated pursuant to this or any other law for the further testing or deployment of multiple independently targeted reentry vehicles (MIRV's). Such funds may be used for the purposes for which they were originally appropriated only if the President and the Congress jointly determine at any time that the Government of the Union of Soviet Socialist Republics testing and deployment of a MIRV system, deployment of large-scale antiballistic missile (ABM) system, and other action necessitates the further testing and deployment of the United States MIRV as a guarantee of the United States retaliatory capability. Upon certification to the Secretary of the Treasury by the President that such a determination has been jointly made by the President and the Congress, such funds shall be available immediately for the purposes for which they were appropriated.

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

Mr. HUMPHREY. I yield.

Mr. CRANSTON. I am delighted to join with the Senator from Minnesota as a cosponsor of his amendment to place in escrow the funds for the further testing and deployment of multiple independently targetable reentry vehicles—MIRV's. It is a step that has been long overdue, and one with far-reaching implications for the future stability of the strategic competition between the United States and the Soviet Union. Indeed, if such a step as Senator HUMPHREY proposes is not taken, the prospects for long-term stabilization of the nuclear arms race do not look bright—even if many other aspects of that competition are effectively frozen or foreclosed by SALT agreement.

I am greatly heartened by reports that a preliminary SALT agreement providing for low limits of anti-ballistic-missile deployment by the United States and the Soviet Union may be imminent, and that the negotiations may also produce an agreement placing an upper limit on the number of strategic offensive missiles each side may possess.

It has taken the SALT negotiators a long time to reach even this point. While the diplomats have conferred in Vienna and Helsinki, the military establishments on both sides have been working industriously to place their strategic forces in the best possible position by continuing to build up nuclear arsenals. While I have no doubt that the continued and rapid deployment of new intercontinental ballistic missiles in the Soviet Union has complicated the chances of early agreement, it has been hindered still

more, in my view, and the prospects for future more lasting agreement diminished by the continued U.S. deployment of two very questionable weapons programs: the Safeguard ABM and the MIRV, now being installed on Minuteman III ICBM's and in Poseidon submarines.

Thus it is encouraging that the SALT teams are nevertheless hopeful of reaching meaningful first-step limitations on both offensive and defensive weapons.

Those two desirable outcomes of SALT are what makes Senator HUMPHREY's amendment on the one hand so logical, and on the other hand so imperative.

It is so logical because the single real justification for MIRV has always been to provide a means of penetrating a large ABM deployment. All Senator HUMPHREY's amendment would ask is that no further development or deployment of MIRV go on in this country until the Soviet Union takes steps, including deployment of a large-scale antiballistic missile system, which would warrant the equipping of our missiles with MIRV's. If a SALT agreement decrees that there shall be no large ABM deployments, then there is no need for MIRV.

The amendment is so imperative because a SALT agreement that places only quantitative, but not qualitative, limits on offensive missile forces will inevitably provide both the Soviet Union and the United States with strong incentives to incorporate MIRV's and other means of increasing effectiveness into their offensive missiles in ways that I am convinced would work to the disadvantage of both. In their rush to build every conceivable improvement into existing missiles, both would incorporate capabilities into their missiles that the other side could not detect without intrusive and obviously unacceptable on-site inspection—a condition not presently required, and one which Senator HUMPHREY's proposal would not require either. Once such a qualitative arms race were well underway, each side would soon assume the worst about the other's offensive capabilities, and the fragile stability brought about by the SALT agreement would be short lived indeed.

I am convinced that the United States made a bad mistake when it proceeded in 1970 from the development to the deployment of MIRV's, at the very time that serious SALT negotiations were getting underway at last. The move could hardly have assured the Soviet Union that we were very serious about seeking the "comprehensive" SALT agreement President Nixon had declared to be his goal; but furthermore there was absolutely no strategic reason for the deployment at that time.

Mr. President, earlier this summer Senator MUSKIE held a series of important hearings in his Arms Control Subcommittee on the arms control implications of the current defense budget. In testimony at those hearings one expert witness after another provided compelling arguments why MIRV is unnecessary and in the end would be to the United States disadvantage. I ask unanimous consent that at the conclusion of my remarks the statement of one of those witnesses, Dr. Herbert Scoville, Jr., be placed in the RECORD.

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

(See exhibit 1.)

Mr. CRANSTON. Mr. President, as Dr. Scoville and other witnesses point out in the hearings, MIRV is useful—if it can be said that any new nuclear weapons program is "useful"—only as a technique for overcoming a massive and effective anti-ballistic-missile defense. While past concern that the Soviet Union might have been planning such an ABM system could have justified developing a MIRV capability in this country, a large ABM system has not been deployed in Russia, and the U.S. MIRV deployment was therefore premature to say the least. If a SALT agreement produces a freeze on further ABM deployment there is no justification for any MIRV at all.

Why, then, are we still going ahead with MIRV? Another witness at Senator MUSKIE's hearings, Dr. Carl Kaysen of the Institute for Advanced Study at Princeton, observed:

If there is no substantial ABM, the only excuse for MIRV then is as a counterforce of first strike weapon. I think first strike weapons are very dangerous and . . . the attempt to achieve damage limitation is both futile and dangerous.

I share Dr. Kaysen's concern, though I think he greatly understates the danger and the futility. If the United States is really attempting to achieve a first-strike capability of any sort, it has taken up the pursuit of what I am convinced is an unattainable goal, and one which cannot help but result in an uncontrollable arms race without end. MIRV is not the answer to anything but only the manifestation of a mad and futile pursuit of "security" that will end in no security at all.

Critics of proposals to halt the United States MIRV programs now object that the Soviet Union is going ahead with a MIRV program of its own, but expert testimony this year has established that they are far from achieving such a capability, and may not even have started on a true MIRV. Even if they had, the answer to a Soviet MIRV would not be a U.S. MIRV.

At this point, without a Soviet MIRV program or the deployment of additional U.S. MIRV's, both sides possess so much additional overkill power, beyond the capacity necessary to destroy one another in a retaliatory attack—even after absorbing a surprise first strike—that the idea of adding still more nuclear warheads to our arsenals is pointless. I do not know what the U.S. strategic targeting plan is—the figures are highly classified—but I am willing to accept the conclusions of Senator SYMINGTON—who does know—when he stated in a hearing on June 16:

Knowing the targets which are classified, and knowing the number of warheads classified, I say nevertheless, without fear of contradiction, that we have the capacity to destroy the Soviets hundreds if not thousands of times. What difference does it make if we can destroy them 4,000 times and they can destroy us 2,000, as against our being able to destroy them 2,000 times and they being able to destroy us 4,000 times? This is the logical theory of overkill.

Mr. President, I hope very much that the SALT negotiators, once agreement is

reached on limiting numbers of ABM's and offensive weapons, will go on to achieve the more difficult but vastly more important goal of placing firm limits on the kinds of strategic weapons each side can possess, beginning with MIRV, and then begin to negotiate an end to the overkill itself.

Meanwhile, however, it is imperative that for the present we take no more unilateral steps that would jeopardize such a future agreement—Such as the MIRV development that has taken place already—For that reason I wholeheartedly support Senator HUMPHREY's initiative.

The Humphrey amendment is beautiful in its simplicity. It requires no negotiation with other parties; it requires no complex verification procedures; it will in no way weaken or erode U.S. strategic stability—on the contrary, it will strengthen it; it will contribute significantly to the prospects for further negotiated arms control measures at SALT; and it will bring to a halt a weapons program that is totally unnecessary, wasteful, and dangerous.

#### EXHIBIT 1

STATEMENT OF HERBERT SCOVILLE, JR., BEFORE THE SUBCOMMITTEE ON ARMS CONTROL, INTERNATIONAL LAW AND ORGANIZATION OF THE SENATE COMMITTEE ON FOREIGN RELATIONS, JULY 14, 1971

Mr. Chairman, it is both a privilege and a pleasure to come again before this Subcommittee which has over the years been such a constructive element in the struggle to increase national and world security by limiting armaments. I am particularly gratified that in this series of hearings, the Committee is attempting to clarify the relationships between arms control and unilateral weapons R & D, procurement and deployment decisions as expressed in the proposed DOD budget. The two are interdependent and cannot be separated. Too often in the past the arms control implications of new weapons developments have been ignored until it was too late to avoid a new round in the arms race.

At the request of the Committee staff the primary subject of my discussion today will be MIRVs (Multiple Independently Targetable Reentry Vehicles), a classic example of such a tragedy. They were originally developed and justified as the most cost effective method for enlarging our nuclear strike capability and the most certain means of insuring penetration of an ABM system while the decision makers gave little or no consideration to their destabilizing characteristics and to the pressures they created for accelerating the arms race. Unfortunately, despite the Senate urging restraint, the U.S. continued MIRV testing and deployment at a pace which is not justified, even by Secretary Laird's own statements of the threat so that as a result their control has been made much more difficult today than it was two years ago.

If MIRV development and deployment is allowed to proceed without any limitation, other new strategic weapons programs will almost inevitably be demanded in order to offset the increased vulnerability of fixed land based ICBMs. These demands will be extremely difficult to resist even though the submarine based deterrent would remain invulnerable if ABMs were restricted to low levels.

Therefore, it is important to determine whether MIRV limitations are indeed a hopeless objective or whether there is still time to restrain this dangerous development.

To explore this issue I shall try to show: (1) that the U.S. can halt its MIRV deployment for several years without incurring any security risks,

(2) that the Soviet MIRV program is many years behind that of the U.S. and that it would require several years of testing before they could deploy MIRVs which could threaten Minuteman, and

(3) that a U.S.-USSR ban on the production, testing and deployment of MIRVs, verified by national means, is technologically feasible, and in the mutual interest of both nations. Whether it is politically feasible will never be known until the U.S. takes the steps necessary to achieve Soviet agreement.

#### U.S. MIRV PROGRAM

At the present time the U.S. has completed the development and testing and begun deployment of first generation MIRVs on the Minuteman III and Poseidon missiles. When these programs are completed in the mid 70's, 31 Polaris submarines will carry Poseidon missiles with a reported 10 MIRVs per missile, or 160 warheads per submarine, and 550 Minuteman IIIs each with 3 MIRVs will be emplaced. Two Poseidon equipped submarines have already gone to sea and about 100 Minuteman IIIs are deployed. \$1.6 billion is in the FY 72 budget for these programs. The budget also contains \$87 million for research on improved MIRV guidance systems in the ABRES program, some of which will undoubtedly go toward improving their accuracy.

Secretary Laird has stated that these MIRV deployments are required to ensure penetration of Soviet ABMs and to provide additional retaliatory weapons in the event of a Soviet first strike against the Minuteman force. He said:

"Should part of our missile force be unexpectedly and severely degraded by Soviet preemptive actions, the increased number of warheads provided by the remaining MIRV missiles will insure that we have enough warheads to attack essential soft urban industrial targets in the Soviet Union. At the same time, the MIRV program gives U.S. increased confidence in our ability to penetrate Soviet ABM defenses, even if part of our missile forces are destroyed."<sup>1</sup>

Even with the recently reported resumption of ABM deployment around Moscow and even without any ABM agreement at SALT which President Nixon has stated as goal for this year, the Russians will not have an ABM needing U.S. MIRVs to maintain the deterrent until well after 1975. If an ABM limitation is achieved, MIRVs will never be needed.

In this connection much concern has been expressed in some quarters that the Soviets might secretly upgrade their anti-aircraft defensive missile systems (SAMs) into ABMs. If it is so easy to convert air defenses to ABMs, why is the U.S. dismantling its Nike Hercules SAM batteries and instead proposing to spend more than \$12 billion on a new system of limited effectiveness? Moreover, Secretary Laird has recently reaffirmed his view that "an effective (ABM) defense of our population against a major Soviet attack is not now feasible,"<sup>2</sup> and this judgment took into consideration all technology available to the U.S. and not just modifications to an existing SAM. The type of logic which adopts a double standard for U.S. and Soviet technical capabilities is, in my view, very dangerous and can in the long run decrease rather than increase U.S. security.

While a SAM system can always have some capability for shooting down a ballistic missile, it is quite another thing for it to have a realistic capability for neutralizing the U.S. deterrent. Soviet SAMs do not have the high performance radars which are required. Coupling Russian HenHouse radars to the present SAMs will still not do the job since these radars are in most cases vulnerable and could be put out of action by a single missile.

<sup>1</sup> Fiscal Year 1972-76, Defense Program and the 1972 Defense Budget, March 15, 1971, P. 66.

<sup>2</sup> Ibid., p. 63.

Then, the SAM-ABM system would be a blinded Cyclops. The Soviets at a minimum would have to build new, sophisticated, and powerful radars providing wide area coverage before their SAMs would have any real ABM capability. These would take many years and be detected long before they were truly operational. Countermeasures could be instituted far in advance. And indeed, as Secretary Laird has argued, no ABM can with existing technology reliably protect countries like ours and the U.S.S.R.

With respect to the other stated justification for MIRVs, i.e., the need for more retaliatory warheads, Secretary Laird stated in early March that the initial threat to Minuteman would not occur until 1975-76.<sup>3</sup> Moreover, since that time it has been shown that the threat from the new construction of large Soviet ICBM launchers was illusory. Finally, as I will discuss shortly in more detail, it becomes increasingly evident as every day passes that the Soviets have probably not even yet begun testing a MIRV system of the type and accuracy which could threaten Minuteman. Thus, even the 1975-76 date is almost certainly premature.

In this connection the program for placing MIRVs on the Minuteman III is particularly unwise at any time for two reasons. Not only is it a bad investment to expend billions of dollars to replace a single warhead with three out of fear that 95% will be destroyed, but also the Minuteman III MIRVs are the most destabilizing because they have the greatest potential as counterforce first strike weapons. Their warhead yield of hundreds of kilotons together with their fixed, accurately known, firing location provide them with a much greater hard target capability than the smaller yield warheads which would be fired from submarines. On the other hand, the fact that Minuteman III will only carry three warheads makes it much less effective in securing the deterrent by penetrating ABMs than Poseidon with 10 or more warheads. All these factors combine to make the Minuteman III MIRV program undesirable in any circumstances.

In sum, even taking the DOD's own justifications, it is apparent that there is no present security requirement for U.S. deployment of Poseidon and particularly Minuteman III MIRVs. While it is true that orderly scheduling would support the continuation of the present deployment program, I would hope that no government official would use such an irresponsible excuse for the continued deployment of MIRVs in light of the risks that such action presents to our ability to halt the arms race.

Recently one further justification for U.S. MIRVs has, however, also been rumored, i.e., the need for MIRVs to provide the U.S. with the option to retaliate, following a Soviet first strike, in some manner other than by destroying Russian cities. President Nixon stated:

"I must not be . . . and my successors must not be . . . limited to the indiscriminate mass destruction of enemy civilians as the sole possible response to challenges. This is especially so when that response involves the likelihood of triggering nuclear attacks on our own population. It would be inconsistent with the political meaning of sufficiency to base our force planning solely on some finite . . . theoretical . . . capacity to inflict casualties presumed to be unacceptable to the other side."<sup>4</sup>

No public amplification of this has yet been made, but the use of MIRVs in a counterforce second strike has been hinted as one means of providing such a capability. Unfortunately, a second strike counterforce MIRV cannot be differentiated from a first strike one, and Secretary Laird has categorically denied that the U.S. was seeking such a weapon. The Soviets would inevitably view any counter-

<sup>3</sup> Ibid., p. 46.

<sup>4</sup> President Nixon's State of the World Message, February 25, 1971, p. 131.

force MIRV as a threat to their deterrent as we would view a similar Soviet program as a threat to ours. The Russian fear of the U.S. MIRV program may well be the explanation for their construction of new large holes for possible hardened launchers. A U.S. attempt to achieve counterforce MIRVs would be only a thinly disguised program to raise the arms race to a new level.

Finally, I believe that President Nixon's objective, while superficially attractive, is dangerously misguided. The scenario that the Soviets might initiate a surgical first strike to knock out our Minutemen and bombers, an attack which would require thousands of megatons and kill millions of Americans as a byproduct, on the chance that the U.S. might refrain from retaliation, seems to me a fantasy which ignores all the realities of a nuclear war. Far better for the U.S. to expend its energies and resources on means to avoid the outbreak of nuclear war than the means to fight it. It is sometimes argued that having such a second strike capability might be a useful deterrent to Soviet consideration of initiating a limited nuclear war. In my view, the fear of U.S. destruction of the entire fabric of Soviet civilization is an infinitely more potent deterrent than the fear that we might destroy her residual strategic forces.

#### SOVIET MIRV PROGRAM

There is no question that in the absence of any arms limitations the Soviets can in time develop and deploy MIRV systems which could threaten fixed land based ICBMs. The large payload of their missiles makes this easier in the long run for them than for us. However, no convincing evidence has ever been presented that the Soviets have yet tested a MIRV system with such capabilities.

In the spring of 1969, President Nixon and DOD officials expressed fears that the "footprint" of the Soviet 3-MRV system, which was first test flown in August 1968, had a pattern for destroying Minuteman. As time has passed, this fear appeared to have been unfounded. Then in the fall of 1970, the DOD again announced that new tests indicated the Soviets had for the first time tested a 3-MRV system using their SS-9. Now, six months later, it again seems that these fears were exaggerated. Recent reports have cast serious doubt as to whether the Soviets tests were of a MIRV system which could realistically threaten Minuteman. (They may have only been malfunctions of the old MRV.) A MIRV which can threaten Minuteman must have accuracies of less than 1/2 mi. CEP and the flexibility to vary the "footprint" to cover a wide variety of Minuteman deployment patterns. No evidence has ever been presented to support this. It seems likely that this is but another example of the selective public release of partially analyzed intelligence information in order to stampede the Congress and the public into supporting new weapons programs.

It seems most likely that the Soviets have not yet even begun testing a MIRV system which could threaten the Minuteman component of the U.S. deterrent. However, they are technologically capable of doing so at any time. When they do, it will probably be with a missile system capable of dispensing 6 or more independently targetable warheads, rather than the triplet warhead MIRV used in the U.S. SS-9 threat calculations. Six or more MIRVs per missile would reduce the need for the Russians to deploy additional large ICBMs. That is why it is important to try to put a brake on MIRV programs now. This is much more critical to U.S. security than limiting the number of large ICBMs. The Russians already have enough CC-9s provided they have such a MIRV capability.

Yet, why has the Administration, in spite of overwhelming Senate support, (S.R. 211), been so reluctant to take the necessary steps to attempt to get the Soviets to agree to some limitation on MIRVs? Why have we promoted unilateral U.S. MIRV programs which have

no present security requirement and yet which make Soviet MIRV programs so inevitable and their agreement to limit them so difficult? Is it because we do not have the political strength to halt a new military technology? Some say we cannot design a negotiable MIRV limitation which would protect our security, but I do not believe this to be a reasonable excuse for our apparent footdragging.

#### LITIGATION ON MIRV'S

I do believe it is technically possible to have a MIRV limitation which could be verified by national means so as to protect U.S. security. Admittedly, national means are not adequate to detect deployment of MIRVs in a missile system of the same external configuration as a single warhead missile. However, onsite inspection is not adequate for this either, since it is impossible to prevent substitution of the MIRV stage by a single warhead prior to the arrival of an inspector. U.S. attempts to obtain Russian agreement to onsite inspection would be evidence only of our lack of interest in a MIRV limitation.

A ban on the production, testing and deployment of all MIRVs would, however, be a verifiable all inclusive agreement, which would be in the mutual security interests of both countries. Any agreement which allowed even small MIRV deployment would almost certainly be unstable and defeat its purposes. To allow the Russians to achieve our present capabilities would almost inevitably provoke U.S. responses in weapons programs. The presently deployed U.S. Poseidon and Minuteman III MIRVs would have to be replaced with single warheads. A single warhead version of Poseidon has been designed, but the program has not been given priority.

The Minuteman II MIRV is very questionable even if the Russians went ahead with all their strategic weapons programs. A MIRV ban would be much more effective in protecting the Minuteman deterrent than any Minuteman III deployment. The Poseidon MIRVs are unnecessary unless the Soviets deployed a very large ABM which would take many years and may be foreclosed if President Nixon achieves his stated goals at SALT. In the event that a large ABM threat developed, the single warhead Poseidon could be converted to a MIRV in ample time to protect our deterrent.

With respect to the verification it is fortunate that the Soviets have not yet a tested MIRV which can threaten Minuteman. They cannot make such a deployment without tests which could be observed by U.S. national information systems. I testified on our ability to verify MIRV testing before this Committee last year and so will not repeat the details at this time.<sup>5</sup>

The Soviets could also verify such an agreement. Although the U.S. has tested and begun deployment of MIRVs for Minuteman III and Poseidon, the Russians would be certain to know if we continued to produce or deploy these in violation of an agreement. This is made easier for them by the fact that both these new missile systems have different external configurations from the presently deployed Minuteman I and II and Polaris. Thus, the U.S. can verify such an agreement primarily through the testing phase and the Russians primarily through the production and deployment phases.

One must, however, ask the question as to whether such an agreement is politically achievable even though technically feasible. At this point it is impossible to state categorically whether the Soviets would agree to any limitations on MIRVs. Certainly they have given little evidence that they are particularly eager for such an agreement. How-

<sup>5</sup> Verification of Strategic Arms Limitations—Testimony before the Subcommittee on Arms Control, International Law and Organization of the Senate Committee on Foreign Relations—April 13, 1970.

ever, such an agreement would be in their security interest, as well as that of the U.S., since it would eliminate the vulnerability of their land based ICBMs to a U.S. counterforce strike. Despite protests to the contrary by senior DOD officials, the Russians must view the U.S. MIRVs as a threat to their deterrent. The program to improve MIRV guidance systems is further evidence of U.S. intent to develop such a threat. President Nixon's view<sup>6</sup> that U.S. MIRVs are designed to demonstrate our defensive intent and are justifiable, while the Russian MIRVs, which are not even yet tested, are dangerous because they threaten our ICBMs, is likely to be subscribed to only in reverse by the Soviet leaders.

Despite these incentives for Russian agreement to such a ban, I am not optimistic that they would be willing to do so. When the U.S. Senate first urged such action they may have been, but as every day passes and U.S. deployments continue, agreement becomes more unlikely. Past experience has shown that they will neither negotiate from a position of weakness nor agree to freeze themselves in a position of inferiority. They refused even to begin SALT until their missile forces approached parity with the U.S. To forego the development of even a first generation MIRV system when the U.S. has completed testing and begun deployment on two such systems would be a major concession which might be impossible for their political and military leaders to make.

Nevertheless the U.S. should make every effort to persuade the Soviets to do so and take all possible steps to make such a Russian decision easier. The proposal of replacing our existing MIRVs with single warheads should be of interest to them. Certainly until we have explored every avenue for achieving a limitation on such systems, we should postpone further deployment of U.S. MIRVs for which there is no present requirement in the absence of a larger Soviet ABM, and should cancel any programs for further improvements in MIRV accuracies. Proceeding prematurely with our programs and thus destroying any hope of agreement would be a folly and unnecessarily increase the risks to our security. MIRVs are a clear example where proceeding with a unilateral weapons program provides less security than restraint. Parallel with these halts the U.S. should press forward with, and complete the development of a single warhead version of Poseidon and, if necessary, Minuteman III, so that we would be in a position to agree to a complete ban on the deployment of MIRVs by both nations.

#### RELATIVE IMPORTANCE OF LIMITING MIRV'S

Limitations on MIRV's should be the highest priority item in any attempts to limit offensive strategic weapons because of their destabilizing characteristics and the potential they provide for a first strike. Their deployment produces far greater pressures for escalating the arms race than do increases in the numbers or changes in other characteristics of strategic missiles with single warheads. The difficulties involved in verification, once a tested MIRV system is available, makes it urgent that they be controlled now before this problem becomes much more difficult. However, since MIRVs only threaten the land based portion of deterrent, the failure to ban them completely does not necessarily mean that the strategic arms race is uncontrollable. As long as neither side has large ABMs with nationwide coverage, mutual deterrence will continue to exist. ABMs threaten all portions of the deterrent. Therefore, the U.S. and Soviet governments have acted wisely in agreeing to give highest priority to the achievement of limitations on ABMs this year at SALT. However, while an agreement on ABMs is being negotiated, neither nation should

<sup>6</sup> State of the World Message, February 25, 1971, p. 138.

take any unilateral steps which might make more difficult an eventual limitation on MIRVs.

## SUMMARY

(1) The U.S. has no security requirement for the deployment of MIRVs at this time. The deployment should be stopped and funds for the Minuteman III and Poseidon MIRV programs should not be provided in the FY 72 Budget.

(2) The Soviet MIRV program is far behind the U.S. and in all probability the Russians have not yet even tested a MIRV system of the type that could threaten Minuteman.

(3) A ban on the production, testing, and all deployment of MIRVs would be in the U.S.-USSR mutual security interest and could be adequately verified without onsite inspections.

(4) In order to persuade the Russians to agree to a MIRV ban the U.S. should postpone any further deployment of MIRVs, cancel all programs designed to improve MIRV accuracy, and press forward with the development of a single warhead for the Poseidon missile.

(5) Even if a MIRV limitation cannot be negotiated, the Minuteman III program should be canceled, and the U.S. should refrain from further deployment of Poseidon MIRVs as long as the Soviet ABM remains limited.

(6) The fear that the Soviets might secretly convert their SAM aircraft defenses into an ABM which would threaten our deterrent has insufficient foundation to warrant any change in the above conclusions.

(7) The U.S. should direct its strategic policy toward maintaining deterrence, and refrain from attempting to develop a capability for fighting a strategic nuclear war which can only increase the risk that a nuclear holocaust will actually occur.

I congratulate the Senator from Minnesota on a most creative and constructive suggestion.

Mr. HUMPHREY. Mr. President, I want to express my thanks to the Senator from California and commend him for his work and efforts in the field of arms control and strengthening the military. I think the Senator has added great strength to our efforts in Congress, and I appreciate his cosponsorship. I appreciate immensely his work in this area and his statement today, which has been very helpful.

Mr. CRANSTON. I thank the Senator.

Mr. HUMPHREY. Mr. President, this amendment should not be considered any more or less than it actually is. It does not deny funds. It does not try to knock out of this bill the money for MIRV. It would place the funds that have been judged necessary by the Committee on Armed Services for our ongoing MIRV program in escrow for a period at this juncture of not more than 1 year. These funds, however, could be released at any given moment if it were determined by the President and the Congress that their release for the continuation of MIRV deployments were essential to our deterrent capabilities.

If the President of the United States were to come here, let us say, 3 or 4 months from now, and say, "The Soviet Union has not responded. The Soviet Union is MIRVing its missiles. The Soviet Union is going full steam ahead in the program of multiple warheads, and I think this leaves our country in serious jeopardy," does anyone really believe that the Congress of the United States

would not respond to that? Of course we would.

As a matter of fact, one of the big problems we have had around here is that Congress has been responding almost by automatic reaction to the requests of Presidents—not just this President. This is where the erosion of congressional power in national security has taken place.

I think one of the most important bills that has been introduced in this Congress was by the Senator from Mississippi, which relates to the powers of the presidency in areas of national security and the role that the Congress must play, because, after all, Congress does have a role.

Unless we fully investigate the erosion of the power of Congress vis-a-vis the President and unless we do something about it, we are going to find that all power rests in the President and the Congress has but one authority, and that is to appropriate money, without knowing specific amounts to be appropriated for a specific system. I would hope that would not happen.

I see another crisis on our threshold in the economy, where again we in Congress are almost having to say to the President, "Fix it up. You do it." I would submit to my colleagues in the Congress that we have a role to play, and it does little good for the Congress of the United States to get very upset about Presidential powers if we are unwilling to take some responsibility ourselves.

What I have done through this amendment is say—

We will appropriate these funds, we will give the benefit of the doubt to the wisdom of the Armed Services Committees and to the advice and counsel of the Defense Department, but we are also taking cognizance of something that is going on today, namely, the Strategic Arms Limitation Talks. And we are taking cognizance of the fact that this Government and the government of the Soviet Union have said they will try, first, to enter into some agreement on defensive missiles, and secondly on offensive missiles.

I submit that this political conference—SALT—and it is a political conference in the best sense of the word "political"—is as important to our national security as any weapons system that we could authorize or any military procurement bill that we could pass; because security is relative.

We are being told, in our NATO alliance, for example, that we have to have so many troops here, and so many tanks and so many planes, that we have to be able to respond in a particular time frame. Why? Because of what the Soviet Union has on the other side of the line, with its allies.

Mr. President, I submit that in nuclear weaponry, the same is true. So what we are proposing is that the moneys be appropriated, and that they be put in escrow. Then, if we find that the Soviet Union is continuing its missile program, particularly the deployment of a large-scale ABM and if it is trying to beef up its missile system with a MIRV program, then the President comes to this body with his message, and says to Congress:

Here is the situation, here are what we know to be the facts, and these funds should be released.

I think it would work. I want to emphasize that for our part, we are calling upon the Soviet Union to refrain from any testing and deploying of a MIRV, the deployment of a large-scale anti-ballistic-missile system, or from taking any further action which we could conceive as a significant threat.

If this measure I am proposing were adopted, we would be the first to take action with respect to halting MIRV. To that extent, we would be taking unilateral action. But it was the United States, not the Soviet Union, who first developed and is now deploying MIRV. That was just as much a unilateral act as halting further testing and deployment would be now.

While it is true that our MIRV was originally designed to assure us of ability to penetrate Soviet defenses, we have since discovered that these defenses are far from impenetrable. The Soviet Union had deployed a line of air defense missiles and associated radars, the Tallinn system which were at first thought to be the start of a nationwide ABM system. By now, most experts in the field have concluded that the Tallinn system is not part of any nationwide ABM, nor for that matter is it an effective ABM.

Dr. John S. Foster, Jr., Director of Defense Research and Engineering, in his testimony before the Senate Armed Services Committee this year, replied to Senator SYMINGTON's question about the effectiveness of Tallinn as a system to prevent our capacity to retaliate after a nuclear attack launched by the Soviet Union.

He said that he did not see how the Tallinn system could prevent our retaliating. And because our defense strategy is built around a second-strike, as opposed to a first-strike capability, our main concern is to assure our retaliatory capability. There has been some talk of the possibility of the Tallinn system being rapidly upgraded to a high confidence ABM system. This possibility has, however, been largely described due to the changes in equipment which would be necessary before any kind of ABM system could be activated.

I might say, Mr. President, we have found out that it takes quite a little while to build an ABM system. We have been arguing about this ABM system for years here. We authorized the ABM system, here in Congress, in 1968. I do not think there are very many ABM's operative right now. So a few months' lag time will not derail the whole weapons system. And I point out that the original argument for MIRV was that it was necessary because the Soviet Union was building a highly effective ABM system of its own.

That was the original argument. The MIRV was to have independently targeted warheads, which scatter and pick out individual targets, and to penetrate any sophisticated antiballistic missile system. I heard all these arguments as a member of the National Security Council. MIRV research and development was

done several years ago. I voted for funds for MIRV research and development. I voted for funds for the antiballistic missile system, for research and development. And, Mr. President, the whole basis of the argument for MIRV was that the Soviets had a big ABM system.

In fact, my colleagues will recall that we had a closed session here of the Senate one time, when I believe the distinguished Senator from South Carolina reminded us, in closed session—a secret executive session, with the galleries cleared—about the Tallinn system and the Galosh system in the Soviet Union. But our National Security Council has never been overconcerned about that development. First of all, it is obsolete. And obsolete technology weakens the capacity of a nation to put up more advanced technology. But we had to put up a second DEW line. Now we are not sure that the second DEW line is even worth having.

At the time we were told that the Soviet Union had put up large numbers of ABMs. Our response? We believed that the best security is an effective offense, so our response was to build a MIRV, which would be an effective retaliatory weapon, that could penetrate any ABM. Now what do we find in the morning paper, the New York Times?

Accord on ABM's reported close.

That is the lead story in the New York Times today, on the front page. It says:

ACCORD ON ABM'S REPORTED CLOSE  
U.S. AND SOVIET ALSO SAID TO MAKE SOME PROGRESS ON OFFENSIVE MISSILES

Reliable source reported that the United States and the Soviet Union were near an understanding on the limitation of antiballistic missiles as they ended the fifth round of their nuclear arms talks here today.

And they go on to discuss it in more detail:

On defense weapon, the Soviet Union and the United States were reported moving toward an understanding whereby each side would limit its antiballistic missiles to the number required for the defense of what it considers to be its paramount military objective in its territory. The Russians are said to have selected Moscow and the United States its three largest Minuteman strategic missile bases.

Mr. President, if we have an agreement in the works on the ABM, and the ABM was the reason we needed the MIRV, it would seem that we might have enough common sense here in Congress to temporarily put a halt to the MIRV system, which is very expensive, and which lends itself to the arms race if we deploy it. I suggest we wait to see two things: First, they get an agreement in Helsinki or Vienna on limiting the antiballistic missile systems? Second, do we make progress on offensive missile system limitation? And I might add as a third point, if the Russians do not limit their own MIRV, if they do not stop or at least slow down their own MIRVing of their own missiles, then this particular amendment triggers the response where the President says:

All right, the money is in the bank, the Russians have not reciprocated, they have gone down their own road, putting out these MIRV missiles, and I come now to Congress and ask you to release those funds.

In fact, Mr. President, under my amendment all that would be necessary is for the President to report to Congress, and we could set up whatever mechanism we want here, or through a committee in Congress to receive this report and to act. Or for that matter, we could do it by concurrent resolution. We could even do it by a simple resolution, to say, "Mr. President, the defense of the Nation and its security require the release of the funds."

But I would say that this morning's story, if it has any credibility—and I think it has—tells us that the main argument for MIRV has been shot down, unless we are just determined to keep going simply because we have an initial investment in it.

The actual Soviet ABM system insofar as our intelligence services know, consists of 65 Galosh ABM missiles constructed around Moscow between 1964 and 1968. Up until now, our defense planners have played the perennial guessing game of whether or not the Russians are stepping up their ABM deployments. Usually, around budget time every year, we discover that the Russians are doing everything we feared they might do and even more.

I have been in Congress a number of years, and one can predict, with almost calendar certainty, that every time we are about to discuss the military procurement bill, the Russians seem to have a bigger navy, a bigger air force, and more missiles. I do not know what happens to them after we finally pass the bill, but some miracle takes place, because things seem to get back into some balance. Every time we are about ready to pass one of these huge authorizations or appropriations—and it is even more so on appropriations—we always have the Defense Department alerting us to the possibilities of tremendous Russian developments and breakthroughs.

Once again I want to say that I expect the Defense Department to level with us and give us information. I wish they would do it the year around, not just before the votes on these bills. But I am of the opinion that they have no new evidence that the Soviet Union has constructed any new sophisticated ABM defenses. On the contrary, the evidence is that the ABM that the Soviet has is obsolete and out of date and easily penetrable.

Secretary Laird tells us that the Russians have resumed deployments of the Galosh ABM, which apparently is sufficient evidence to justify the continuation of our MIRV program. But the essential question of whether the Soviets have built or can build a high-confidence ABM in the near future has not been answered in the affirmative by our Government officials. There has been no—I repeat, no—evidence which would show that such a prospect is in sight.

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

Mr. HUMPHREY. I yield to the Senator from Rhode Island.

Mr. PELL. I ask the Senator from Minnesota what the impact of his amendment would be on the Polaris-Poseidon program; because, as I understand it, this program is pretty well advanced,

and some of our nuclear boats—I say "boats" because that is what submarines are called—are already MIRVed or Poseidonized.

If that is the case, would not this amendment stop in midstream a program that is presently underway at shipyards in, I believe, New London, and other places.

Mr. HUMPHREY. This amendment, first of all, would leave all those boats—as the Senator classifies them—the Poseidonized submarines, with their Poseidon missiles. Of course, all those with Polaris missiles likewise would remain as they are.

It would hold up further deployment of Poseidons on new boats or a conversion, until such time as we found that there was need for it, in case the Soviet Union did not respond.

Mr. PELL. What would be the case for submarines presently in the yards, actually being Poseidonized? Would they stop work on them?

Mr. HUMPHREY. No. This relates to fiscal 1972. The funds that are appropriated for fiscal 1971 are available to be used. But as to the new funds, for fiscal 1972, we simply say that those funds that are appropriated now will be put in escrow pending our observation and our reports as to what the Soviet Union is doing.

We do not need Poseidon missiles on submarines if nobody else has anything like it. We already have a superiority in the Polaris system, which I understand the Soviets could overcome in years to come. There is no doubt they could do it.

We are not going to play dead. Every time I hear these arguments, they are presented as if we are going to abolish our entire defense industry.

Mr. PELL. Is the amendment of the Senator from Minnesota designed mainly to affect the land-based MIRV-ed installations and not the submarine-based installations?

Mr. HUMPHREY. No; it is both. It refers to both. But it refers to fiscal 1972, not fiscal 1971. Those that would be completed under fiscal 1971 would be completed, and as to those that would be scheduled for fiscal 1972, under these appropriations, the funds would be held in abeyance, in escrow, unless the President reported that the Soviet Union was not responding in kind.

My entire argument is the relativity of defense structures. I see no reason for us to have, for example, 5,000 bombers if the Soviet Union has 500 or 1,000. Everything is relative.

Mr. PELL. I see the chairman of the Armed Services Committee in the Chamber—I am wondering whether the percentage of our submarines that have been Poseidonized has been mentioned in the public press or is well known, or is this figure not in the public domain?

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

Mr. HUMPHREY. I yield.

Mr. STENNIS. This is a good time to get this in the record. We have anticipated questions such as this.

Seven of our submarines already have been converted to the Poseidon from the Polaris, and presumably they are at sea.

Of these, four have been deployed with Poseidon missiles—that is, four already have gone out. Nine more are in the process. This is where we have the problem of changing horses in midstream. Nine more are in the process in the shipyards. Under the terms of the proposed amendment, I suppose it could be argued that those already deployed could remain MIRVed.

Mr. HUMPHREY. Yes, indeed.

Mr. STENNIS. Here are nine that are in the process of the transition. They start in 1971 and they do not finish that year, but they use 1971 funds and the 1972 funds. It might run into 1973, as I understand.

Mr. PELL. How long does it take to convert a Polaris to a Poseidon?

Mr. STENNIS. It does not take the 3 years I mentioned, but the use of the funds could well run into 3 fiscal years. I am advised that the submarine is in the process approximately 30 months. Others are traveling along with it.

Mr. PELL. My understanding was that it is nearer 9 months from the time it goes to the yard until it leaves the yard Poseidonized.

Mr. STENNIS. Somewhere I have been told about something about 9 months of work, but I do not know that they move quite as fast as 9 months. But they can affect 2 or even 3 fiscal years.

Mr. PELL. Would not the adoption of the Senator's amendment, since it only applies to fiscal 1972, mean that those submarines presently in the yards could be converted and that the amendment would hold up any more coming into the yards? Would that be a correct statement?

Mr. STENNIS. I think it is clear that those that are in the process now would be stopped by the 1972 funds, if they had to use 1972 funds.

Mr. PELL. In that case, we could not maintain our positions at sea, because we have a certain number of boats on patrol, and it would upset the cycle, I would think. Would that be so?

Mr. STENNIS. Yes, I think so. The amendment reads:

Pursuant to this or any other law.

That cuts off all the funds. As I interpret this, it very clearly says that it must stop.

Mr. HUMPHREY. No. The funds for fiscal 1971 are available; and I say most respectfully that funds that are in this program for the Polaris program and for the Poseidon program are not always spent in the fiscal year. As a matter of fact, we are most likely expending some funds from fiscal 1970 and fiscal 1971, because the military programs, as the Senator has noted appropriately, are in advance. May I say that it does not stop us from modernizing the Polaris.

When the Senator says "on patrol," these submarines can still be on patrol, but some of them will not be on patrol with Poseidon. Undoubtedly, there will be some additional submarines that are Poseidonized, over and above the seven we presently have that the Senator from Mississippi has noted.

Let us say it would not be fewer that would come out under the monies presently available.

Mr. STENNIS. It is clear under this language—let me read it:

All funds appropriated pursuant to this or any other law—

That refers to a law of 1971 or 1970 or, really, refers to future years—any other law.

That makes it permanent law. So this will stop the funds in its very tracks according to the terms now for any process going on, making the Polaris into a Poseidon, which means putting in the MIRV's.

Mr. HUMPHREY. As the author of the amendment, may I say most respectfully to the Senator from Mississippi that we are talking about funds for fiscal 1972. That is what this authorization is all about. Funds presently available are funds that are available to be used, and they can be used; but the funds for fiscal 1972 would be put in escrow. I repeat, we are not arguing whether any funds should be appropriated. We have appropriated the funds. As a matter of fact, the President, let me say to the Senator from Rhode Island, has \$12 billion in funds in escrow right now, \$12 billion to deny us hospitals, \$12 billion to deny us sewers and water, \$12 billion to deny kids food, \$12 billion to deny school lunches; but who gets excited about that?

Mr. PELL. In personal escrow, they are.

Mr. HUMPHREY. Yes. The President does not hesitate to take \$12 billion in funds appropriated by Congress for hospitals, sewers, food, and so forth, and putting them in escrow.

What we are talking about here are placing relatively few dollars in escrow from a MIRV program that we do not need, and still the President can come back here and say we have got to have it because the Soviets are not acting in a reciprocal manner. We say it will stop the whole continuity. We have stopped the whole continuity of sewer systems all over the country by this nonsensical attitude of the President. We have stopped building hospitals. We have stopped building roads. We have stopped building houses. Yet I do not hear anyone say that the security of the country is being threatened because of it. We have stopped giving people jobs. There are 6 million of them without jobs. That is a lot more dangerous to the security of this country than my amendment.

Mr. PELL. I am sympathetic to the amendment of the Senator from Minnesota, but I am also very much a believer in the efficiency, the effectiveness, and the importance of the present Polaris-Poseidon program.

Mr. HUMPHREY. So is the Senator from Minnesota. I think it is the best program.

Mr. PELL. I am trying to resolve a question of fact here. The question is, If the conversion of the submarines is held up for a period of time, will it have an adverse effect considering that we have so many stations where they should patrol? If such is the case, as I understand from the Senator from Mississippi, I was wondering whether the Senator from Minnesota might consider exempting submarines from his amendment, because I think there is a difference be-

tween this and going ahead with the MIRVing of the land-based missiles which are rimming the Soviet Union. When the Senator from Minnesota and I talked with Premier Kosygin, as he will remember, at different times, we could see the concern that the Soviets have as they look at the globe, and they see themselves surrounded in every possible way. If I were placed in that kind of position, I would be very nervous too.

I am wondering, therefore, if this is something in the Senator's amendment that really would have an adverse effect. Would the Senator consider not including the submarine portion? It would have the same propaganda effect, the same psychological effect, the same expression of the will of Congress as it should have to the Executive, but it would not interrupt the ongoing submarine programs.

Mr. HUMPHREY. May I say to the distinguished Senator from Rhode Island that the whole purpose of my amendment is to try to help along the discussions that are taking place now, to bring about a sensible and reasonable limitation on both defensive and ultimately offensive missile weaponry. The talks that are taking place in Helsinki and will continue in Vienna are crucial to the possibilities for a peaceful world, a world that can save itself from a nuclear holocaust.

When we talk about offensive weapons, we have got to talk about all of them—that is, when we talk about nuclear offensive weapons. It means that we have to talk about the ICBM's, also. We have a schedule for programing of the MIRV's. We have scheduled the MIRVing of the ICBM's. We also have a program of Poseidonizing some of our submarines, both of which are potentially offensive weapons systems. I do not like to think of them in those terms, but from the Soviet's point of view, that is the way they look at it.

My point is that we should take the initiative here and send out a signal that we are prepared to halt or to limit the program—I imagine that it would be a limitation—if we are prepared to take that initiative, provided they reciprocate, that is what I am talking about.

In all candor, let me say that I have looked at the submarine missile program as the better of our programs. While the Soviet Union today has more and higher yield land-based missiles than we have—we have an advantage with the Polaris and now with Poseidon.

May I say that my amendment does not prevent submarines from being on station with Polaris. Polaris is not exactly a toy. It is a rather impressive piece of weaponry. But it would put a halt to the expansion of our Poseidonizing our submarines for whatever period of time—for this year—not more than a year, may I say—provided the Soviet Union did the same. If it did not, then, of course, there would be no halt.

Mr. PELL. Does not the Senator from Minnesota think that if we bring it to a halt, it would mean that there will be some stations, I would think, that would not be manned.

Mr. HUMPHREY. I am trying to get the Senator to explain how that would

be, because we do not take submarines out of action—

Mr. PELL. We do. We take them out on a rotation basis.

Mr. HUMPHREY. But the Polaris missile is on that same submarine. That submarine is being converted. It is not a new submarine. It is being converted from Polaris to Poseidon.

Mr. PELL. But they have to come back to the yards for overhaul. Under the amendment the whole cycle would be held up and there would be a piling up of those submarines that needed overhaul, or were pulled off the station. It seems to me it would increase the number of other submarines coming out of service because the yard, in the process of converting, would not know whether to convert them back to Polaris, during a freeze such as the Senator proposes.

Mr. HUMPHREY. But they are in Polaris condition now.

Mr. PELL. But if they are halfway changed, that would be tough.

Mr. HUMPHREY. Those in station.

Mr. PELL. Yes.

Mr. HUMPHREY. I see the Senator's point.

Mr. PELL. That is why I am wondering whether we could limit the amendment here to—

Mr. HUMPHREY. I will have to take a look at that. The Senator from Rhode Island may have a good point there, in terms of the number that may be in station at the time.

Mr. STENNIS. Mr. President, I propose to read from a memorandum from the Navy that refers to the subject matter now being discussed.

It refers first to the seven submarines that have been converted. It says that the submarines already converted to Poseidon cannot carry the Polaris. To refit those converted and out of the yard but not yet deployed would require their return to the yard for approximately 1½ years each.

Mr. HUMPHREY. When the Senator says "deployed"—

Mr. STENNIS. That means the number sent out.

Mr. HUMPHREY. What we are talking about here with my amendment, relates to testing and deployment. Deployment means having the missile in position. A Poseidon missile is in position when it has been put into the submarine, "Whether it has left the harbor or not. I am not trying to regulate the movement of submarines on patrol, but those seven would be, for my purposes, ready—for the purposes of this amendment—ready and able to move as part of our structuring them as a Poseidonized missile.

Mr. PELL. Mr. President, if the Senator would yield for a minute, it is many months after the actual missile system is installed before the submarine is fit to go to sea. So there is a lag of many months.

Mr. HUMPHREY. I understand, but as far as deployment of the missile is concerned, the missile is an ICBM if it is put into the ground. The deployment of the Poseidon is at the time it is fitted into the system of the submarine.

I recognize that once we take a submarine and start to dismantle it and

change it to Poseidon, we have made a physical change to the submarine. It is not easy at all to switch back and forth.

My point is that we would not stop the Polaris program for the renovation, repair, and servicing that goes on. That would continue.

Mr. PELL. That has already been reduced because Polaris submarines are being converted to Poseidon.

Mr. HUMPHREY. But during that period of time, if this money were in escrow, it would not stop that program. They would continue the renovation, repairing, and servicing of those Polaris submarines and could do much work on the new Polaris submarines. Where they do, there is a factor of time concerned. However, once the new missiles are fitted into the submarine, it is for all practical purposes a Poseidonized, which is a different matter.

There are only four of those at the present time.

Mr. STENNIS. I believe the Senator is correct.

Mr. HUMPHREY. I will come back to that later. If further clarification is needed here, we will get into it.

Mr. PELL. The thought I had hoped might be acceptable to the Senator was that there might be some exemption of the Polaris-Poseidon program. I think from the viewpoint of what the Senator is driving at, this is only a portion of the total MIRV program.

Mr. HUMPHREY. Mr. President, one of the reasons I have offered the amendment is that we have developed the state of the art of MIRVing beyond the Soviet's present capability. This is not to say that in due time the Soviets will not catch up. However, as of now our multiple independently targeted reentry vehicle, landbased and Poseidon, is a superior weapon to that which the Soviets have. We are further along. I think the estimate is that we are at least a year ahead in our technology, and perhaps longer. Therefore, my amendment would not put us in a position of yielding something in technology that the Russians do not have as yet. We have a lead time. I hope I can demonstrate it to the satisfaction of my colleagues.

The whole purpose of the amendment is related to the present negotiations. I know that some people feel that the only way to negotiate with the Soviet Union is to have the so-called bargaining chips. I think we have to deal with the Soviet Union firmly. I think we have to understand that they are going to negotiate for their own security.

I hope that we are not so foolish as to throw away our security. I do not think we are. I do not think we have fools negotiating for us. We have people of ability at Helsinki. I think we have competent men on our negotiating team.

We are not going to negotiate away anything that will basically affect our security. The Russians will not, either. Therefore, what we are talking about is whether we can take some initiative that might get us off dead center.

Mr. President, I remember a few months ago that our Government was saying that we would not negotiate a separate ABM and weapons offensive

agreement, that they had to come together. That was the position taken 5 months ago. Now, fortunately, the President made an announcement, as did one of the leaders of the Soviet Union, that we had arrived at an understanding that we would proceed first on the defensive weapons and then lead into the offensive weapons. That is exactly where I was standing in February when I made my first presentation to the Senate. I said we have to go step by step with the Soviets. If we can get some success in limiting ABM's, then the reason for MIRVing will have been reduced. The argument for the MIRV was because the Soviet Union had deployed some ABM's. That is still my position today.

I think that, while MIRVing may prove to be required because of the intransigence of the Soviet Union, we ought to give some consideration to putting funds in escrow and have them ready and let the Soviet Union know that Congress has voted those funds. We ought to say in substance to the Soviet Union, "If you slow your missile race down and come to an agreement with us, the funds will not be expended. But if you do not, the funds are there. We do not have to go to Congress and ask for them."

Mr. PELL. What would be the effect on the present Polaris-Poseidon program if the amendment were agreed to?

Mr. HUMPHREY. It would put the now scheduling of the Poseidon program for fiscal year 1972 in escrow. It would hold it up.

Mr. PELL. What would be the impact on submarines in the yard that were undergoing the conversion process? We would have to have some kind of weapons system put on them in order to return them to the station with the fleet that is presently in service. Would it hold it in escrow for 6 months?

Mr. HUMPHREY. The Senator is correct.

Mr. PELL. That would be very tough on the submarines on station. It would slow up the movement into those yards.

Mr. HUMPHREY. It would slow up the movement into the yards for poseidonizing the submarines. However, we have submarines with Polaris. We always thought they were pretty good. They still work. It would simply mean that we would not for a period of time put any more submarines in the yard for the purpose of installing the Poseidon missile. We would keep them for Polaris. They would be on station wherever they might be required to be for the purpose of the Navy with Polaris missiles.

Mr. PELL. I am wondering if an amendment would not be acceptable to the Senator to the effect that this would apply to all submarines presently on station, but not to submarines that have already gone into the yard. This is what concerns me, the fate of the submarines in the yard.

I wonder if the Senator could accept an amendment or refinement that would say that it would apply or should apply to new starts and conversion and would not hold up the conversion of the others.

Mr. HUMPHREY. I will consider that suggestion and talk about it later.

Mr. STENNIS. Mr. President, if the Senator would yield to me on this factual matter, the subject of the memorandum from the Navy is the proposal to place MIRV's in escrow would have far-reaching and extremely detrimental effects on the strategic posture, general considerations, questions of sea-based force, and so forth. It goes into this proposition.

We are getting down to submarines that have been converted. Seven have already been converted to Poseidon from Polaris. Four of these have been deployed with Poseidon missiles. Nine more are in the process in different yards.

Now, on that point, let us be sure I understand. They take a Polaris submarine and they first have to take out its insides that relate to Polaris, and then they prepare for the Poseidon, and it is a long time after that happens before they would have a completed submarine again with the Poseidon.

We can get those exact times later, but it takes considerable time, maybe over a year. Then it has preliminary tests before it goes to sea.

Certainly this amendment would stop in the tracks these 9 submarines that are already in process. They would be neither fish nor fowl; they would be neither Polaris nor Poseidon, because once the intestines of the Polaris were removed, it is through until it is re-equipped for Poseidon.

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

Mr. HUMPHREY. I yield.

Mr. PELL. One problem for the Navy is that their people are on station, waiting to come back in. They have to come back for overhaul anyway.

This is why I could support the amendment if it did not apply to submarines presently going into the yard, but would apply to any new submarines coming to the yards.

Mr. HUMPHREY. Without making a judgment on that subject at this moment, let me again indicate what I am seeking to do. First, let me tell you what I am not seeking to do. I am not seeking to weaken our defense posture. That is No. 1. I would not for a moment offer this amendment, or support this amendment, or support it if someone else offered it, if I thought it would basically weaken our defense posture.

The purpose of the amendment is to get the Soviet Union to stop building its offensive missile. That is the whole purpose. Otherwise, we will be engaged in a mad arms race, spending billions and billions of dollars on weapons as we have in the past. I can remember when we put up the Nike.

Mr. STENNIS. Mr. President, the Senator has been mighty nice about yielding. Will the Senator yield to me again?

Mr. HUMPHREY. I am happy to yield to the distinguished Senator from Mississippi. This is important enough that we do not have to worry about yielding time.

Mr. STENNIS. With respect to the time element for submarines, I have the exact time now. The full conversion from beginning to end is 21 months. As it moves through that process, naturally

it uses funds out of more than 1 fiscal year.

Mr. HUMPHREY. Correct.

Mr. STENNIS. The 21 months can extend over parts of 3 fiscal years; in other words, out of 1 fiscal year, into a full fiscal year, and then into another fiscal year. That is what is going on now.

Mr. HUMPHREY. We are using funds from fiscal 1970.

Mr. STENNIS. And 1971 and 1972.

Mr. HUMPHREY. Yes.

Mr. STENNIS. Those funds are applied as they are needed. It is not yet born but it has money in it for 3 years. Now we are on a continuing resolution. It would stop that in its tracks.

Mr. HUMPHREY. Would the Senator be agreeable to testing what I call open diplomacy, in a matter which is of interest to the public, as well as the Senate? Am I to understand that if the amendment of the Senator from Minnesota were to provide no new funds should be available for Poseidonizing our submarines other than those funds needed for submarines now in port or repair yards, that the Senator would be agreeable?

Mr. STENNIS. I wish to say to the Senator that this matter is almost incidental to some of the basic reasons I oppose the Senator's amendment. We will come to those other reasons later.

Mr. HUMPHREY. I did not think the Senator would want to do that. But I think the Senator from Rhode Island is saying that if the amendment of the Senator from Minnesota would not include the Poseidonizing of those submarines that are presently in yards, he would be prone to support the amendment. What the Senator from Rhode Island is concerned about is that there are a number of submarines off station that have been brought in for MIRVing or Poseidonizing, and this is a change of movement; that if the amendment would not affect these he would be prone to support an amendment which would put in escrow funds over and above what we have presently scheduled. Is that correct?

Mr. PELL. That is my thinking. I would still want to think more on the fundamentals of the issue.

Mr. HUMPHREY. That is what the debate is about. I thank the Senator from Rhode Island. I want to thank the Senator from Mississippi who is tenacious and so well fortified with facts and figures. I wish I had a part of the Pentagon on my side, but I will have to do the best I can with the limited information I have.

Mr. STENNIS. If the Senator will yield, I have just been supplied a memorandum by the Navy. This will show how the money is involved. Under the current continuing resolution \$329 million of the 1972 money has been obligated for Poseidon and about \$170 million is for Minuteman—3 months. That shows the continuity of the operation in the process and how it goes on year to year.

Mr. HUMPHREY. In other words, we had 3 months of the current fiscal year under which the ratio of obligation is as the Senator stated, so that we are continuing the program. We know these programs are not completed in any 1 year.

The purpose of my amendment affects fiscal year 1972.

I am going to get together with the Senator from Mississippi and the Senator from Rhode Island and see if we can resolve some of these differences.

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

Mr. HUMPHREY. I yield.

Mr. PROXMIRE. As I understand the Senator's amendment it would simply provide that we would put into escrow the funds for MIRVing our missiles.

Mr. HUMPHREY. Correct.

Mr. PROXMIRE. Pending reaching an agreement with the Soviet Union in which they would agree not to MIRV their missiles.

Mr. HUMPHREY. Or if the President would come to Congress and say we have evidence which is demonstrable and can be maintained that the Soviet Union is undertaking an extensive MIRV program and that the continuation of this program affects the balance between ourselves and the Soviet Union to our disadvantage. The Congress, joining with the President, would thereupon release those funds.

Mr. PROXMIRE. It is the contention of the Senator that this would in no way weaken the military forces of the United States with respect to the Soviet Union.

Mr. HUMPHREY. Exactly.

Mr. PROXMIRE. In the event in the President's judgment it was weakening the United States position, the President would be free to come to Congress and we would provide funds for MIRV.

Mr. HUMPHREY. The funds are here. It would be a declaration on the part of Congress that the funds are to be used. I could not imagine any Senator if such evidence were available, who would not say, "Mr. President, go to it." We have done things like this before, without involving Congress, where unilateral action has been taken.

President Kennedy took unilateral action on testing our missiles in 1962 and 1963. President Eisenhower took unilateral action and I think he understood the importance of national security and the defense of our country, so that this is not an effort by the Senator from Minnesota to deny funds.

This is a different argument than the debate which took place a couple of years ago when there was a battle over whether to even appropriate funds for the ABM. I go further. I am willing to authorize funds for MIRV, and rather than have the President decide for himself he is not going to spend them, I say let us lay down guidelines. I remember a couple of Presidents, when Congress appropriated money for airplanes, who refused to spend it. One was a Democrat.

He said, "You can appropriate it, but I would not spend it." He turned out to be right, by the way, because had we built the airplane we were going to spend the money for, it would have been a big waste of money. But he put it in escrow. He just did not spend it.

What we are saying in this amendment is, we want to test the Soviet Union. We have negotiations underway presently, and apparently with some modest success. What we are saying is, "We will authorize the money, Mr. Russian. We are

approving the program, Mr. Soviet Union. So do not get funny. The money is there. Congress has approved the program. We have the advice and counsel of our committee and our Defense Department. But we are willing to put aside for a limited time, not more than a year, the use of this money."

By the way, we have more than a year's advantage in technology over the Soviet Union in MIRV. We have more Poseidon submarines than the Soviet Union. So we are saying simply, we will put these funds aside for not to exceed 1 year, and if the Soviet Union does not respond with comparable self-restraint, we are going to go ahead and take care of what our capabilities are. We will release the funds and proceed forthwith.

The advantage that we have is that we are ahead of the Russians in the technology and engineering which are required for MIRVing.

Mr. PROXMIRE. And the position of the Senator is that this would not in any way weaken the advantage we have over the Soviet Union. We would maintain it. There would be no dangers of losing the advantage by withholding the use of the funds. They would be released if necessary.

Mr. HUMPHREY. Exactly. May I say this amendment does not relate to research and development. Funds are in this bill for R. & D. and authorization. We continue the research and development. I do not believe we ought to stand and be frozen into position. I think we ought to continue to try to improve the state of the art.

Mr. PROXMIRE. I would like to ask the Senator from Minnesota a question or two to try to put into perspective ours vis-a-vis the Soviet Union's nuclear capability. Is it not true that in the latest posture statement by Secretary Laird he stated the United States had some 4,600 strategic force loading nuclear heads in our nuclear arsenal?

Mr. HUMPHREY. That is my understanding.

Mr. PROXMIRE. Did he not also say the Soviet Union had some 2,000 such weapons, which means that, as of mid-1971, the Pentagon itself estimated we had twice as many strategic force loadings as the Soviet Union?

Mr. HUMPHREY. That is my understanding.

Mr. PROXMIRE. Is it not also true that we have an additional 3,000 to 4,000, according to public estimates, tactical nuclear warheads positioned on the periphery of the Soviet Union, so that in event of war, they could reach many of the key Soviet military targets?

Mr. HUMPHREY. That is the figure generally accepted. It is a figure, which, may I say, disturbs the Soviet Union a great deal. Whenever one talks to a Soviet representative about arms control, he says, "What about your tactical weapons?" These weapons are not small. As a matter of fact, the tactical weapons are about as big as what we dropped on Japan in 1945.

Mr. PROXMIRE. As I understand the estimated damage table provided by the Secretary of Defense in 1968—there may be some changes since then—was that

only 400 strategic force loadings would destroy 76 percent of Russian industry and 30 percent of their population. But we have not 400 or 800 or 2,000 but 4,600. Then we have another 3,000 to 4,000 tactical nuclear warheads on the periphery of the Soviet Union. So we have the capacity to destroy the Soviet Union 10 to 20 times over.

Mr. HUMPHREY. Senator, I sat through many briefings, as have many other Members here, and I heard the former Secretary of Defense—Secretary McNamara—in closed session tell us of the capability of our nuclear missileery and our nuclear power. If the public could only comprehend what has been said, it would know we have enough nuclear power to destroy all the men God has created. We have overkill. Really it is incredible. This is madness. Everybody here knows we have enough nuclear power to burn the earth, to scorch everything. Our nuclear power has not been targeted all over the world. We have been selective as to where we have targeted that power. Let us lay it on the line.

Whenever we discuss this matter, I have heard people say, "If the Soviet Union would attack us first, they would take 100 million people with them." Then somebody says, "Well, we will take 120 million people." They talk like some kids who are off their rocker. What is going to happen if we kill 100 million people? What kind of society are we going to have? If they get 100 million of our people, then somebody wants to kill 120 million of their people and tell them, "We are going to get you."

When people understand what we are talking about, the only rationalization for the whole program is as a deterrent. If we use it, the whole ballgame is over. I do not think anybody in the Senate thinks for one moment that a nuclear war will leave anybody around or leave anything left for anybody lucky enough to crawl out from under the rocks.

Mr. PROXMIRE. So what the Senator's amendment would do would be to try to permit Congress to strengthen our negotiation process in a way that would in no way enfeeble or weaken the power of our military force and would take a big step toward stopping this nuclear arms race madness, this arms race that every Senator opposes, that all of us would like to stop, which could lead to nothing but destruction?

Mr. HUMPHREY. That is my purpose. Like most of us, I may not be able to expedite its purpose to a successful conclusion.

Let me put it this way: There are 2 ways to approach this defense budget on nuclear weapons. One can come here and say, "Vote no funds." Some people do not want to vote for any funds. I would not do that. In other words, if the vote were put to me as to whether we were going to appropriate funds or not, I would vote "Yes."

Mr. PROXMIRE. I would agree with the Senator.

Mr. HUMPHREY. What I am saying is, we will appropriate the funds and vote the authorization and vote the funds, but because there are delicate, and

hopefully constructive and positive, negotiations underway, what we are saying in the Congress to our negotiators and to the Soviet Union is, we are not going to be caught short. We are not going to be denying our government the funds for these weapons in case they are needed. But we are not going to jimmy the negotiations, either.

The minute we start MIRVing more, the Russians do it. We have learned that from the past. I do not know how long we have to be around to catch on to what is happening. We were ahead of the Russians in ICBM's. They are ahead of us now. Some people say we have to catch up with them. Meanwhile, the people in the galleries have to pay the taxes, and they find out that the defense budget gets bigger and bigger even though we do not have any wars going on. That is what is happening.

Everybody wants a good defense system. I am not at all sure that we are any better off today with all the weaponry we have than when we used to have single shot rifles. If the other side has only that, then it is a question of how many men one has and how many rifles he has and what his capability in leadership is and, furthermore, who gets the technical advantage. Today we have these technical systems of weaponry, highly dangerous, and very costly. All the Senator from Minnesota is saying is, while these negotiations are on, let us not trip the wire.

Mr. PROXMIRE. I thank the Senator. I support the amendment of the Senator from Minnesota.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, with the understanding that no time be taken from either side.

The PRESIDING OFFICER. Without objection, it is so ordered. 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 PRESIDING OFFICER. Without objection, it is so ordered. Who yields time?

Mr. HUMPHREY. Mr. President, we have had a very good colloquy here, and I think it has been at least somewhat productive in terms of better understanding of what our posture is in terms of defense and missileery.

I am very much indebted to the Senator from Wisconsin (Mr. PROXMIRE) for the information he has given us. It is information which is incontrovertible, but somehow or other we still tend to believe that we are weak, and do not have the strength we ought to have.

I repeat once more, the Senator from Minnesota is not advocating that we ought not to appropriate these funds. On the contrary, I am advocating that we do appropriate them. I am not advocating that we unilaterally disarm. I am opposed to that.

Mr. MANSFIELD. Mr. President, will the Senator yield, without interrupting the train of his thought, so that I may make a unanimous-consent request?

Mr. HUMPHREY. I yield for that purpose.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the vote on the pending amendment, the Humphrey amendment, occur at 1:45 p.m. and that the time between now and then be equally divided.

Mr. STENNIS. Mr. President, reserving the right to object, that would leave only an hour, and the opposition has not been heard.

Mr. HUMPHREY. We have had a little time for colloquy.

Mr. STENNIS. Yes, there was a colloquy. I think we need more than 30 minutes.

Mr. HUMPHREY. I think I will require another 15 minutes.

Mr. STENNIS. That would leave us 45 minutes.

Mr. MANSFIELD. And that the time be divided as follows: 20 minutes to the sponsor of the amendment, the Senator from Minnesota, and 40 minutes to the manager of the bill, the Senator from Mississippi (Mr. STENNIS).

The PRESIDING OFFICER. Is there objection?

Mr. MANSFIELD. And there will be a rollcall vote, then, at 1:45 today.

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

Mr. HUMPHREY. Mr. President, if all of our intelligence information were proved wrong, and we did have to face a full-fledged, effective ABM, we are even prepared for such an outcome with our present panopoly of nuclear weapons. Secretary Laird is quoted to have said that—

If some unforeseen danger to the entire deterrent arose earlier (than 1976 when Mr. Laird has said that it can be expected that the accuracy of the large Soviet land-based missile, the SS-9, could be "substantially improved"), it would always be possible to deploy our already developed MIRVs before the threat became a reality. Thus, the funds for Minuteman improvements, as well as for the Poseidon conversion are certainly premature.

Those are the words of the Secretary of Defense. Then we are prepared for the worst possibility. What is striking is that not enough weight is put on the best possibility—in this case, an agreement on ABM. On May 20, the United States and the Soviet Union jointly announced that they had agreed to seek an agreement on the limitation of antiballistic missile systems by the end of this year.

Today I have cited a story that appeared in the New York Times, and I am sure in other newspapers, with the headline "Accord on ABM's Reported Close." This is a story from Helsinki and reports coming from Helsinki, where the latest round of SALT talks were finished today, indicate that there will not be the threat of an effective Soviet ABM, against which our MIRV was originally designed.

It is hoped and prayed that that is a fact.

In testimony before the Senate Armed Services Committee, Dr. Foster said:

If a ban were placed on the ABM in the sense of banning a capability to intercept a ballistic missile attack, then, as I see it at the moment, there would be no need for the United States to deploy a MIRV.

Mr. President, that is the head man for all of the research for our Department of Defense, Dr. Foster.

Secretary Laird said there was no need for it, and Dr. Foster said it. I go back to the statement of Secretary Laird. He said:

Thus, the funds for Minuteman improvements, as well as for the Poseidon conversion are certainly premature.

This is when Secretary Laird was saying that the Soviet system would not be really effective until 1976, and that large inputs of funds for conversion of MIRVs and Poseidon missiles was premature.

Now we come down here, and we hear Dr. Foster, in his testimony before this same committee that brings this bill in here. Dr. Foster said:

If a ban were placed on the ABM in the sense of banning a capability to intercept a ballistic missile attack—

And that is what they are working on in Helsinki—

then, as I see it at the moment, there would be no need for the United States to deploy a MIRV.

What I am saying is that if that ban is not agreed to, if there is not an agreement on ABMs that is satisfactory to our Government, then the money for MIRV is used. It is made available right now by the action of this Congress. But if there is a ban on ABM that is agreeable to our Government, and if the Soviet Union responds in kind through limiting its offensive missiles and stops its MIRV, then we will stop ours.

That is what you call sensible negotiation. There is no hazard involved in this amendment.

I think Dr. Foster's message is perfectly clear—there is no need for MIRV if there is an ABM ban. The rejoinder might be that the ban is a big "if." The information I have received does not confirm such a skeptical conclusion. I predict here and now, that the President of the United States will give us another one of these jolting messages that we are becoming accustomed to, that he will be on television one of these days announcing that we have agreed with the Soviet Union to limitations on the ABM. And I hope he can.

I repeat: I do not think our negotiators in Helsinki or Vienna are going to negotiate away our security. I think they are patriotic, good Americans, and they are very cautious and careful.

Once again, if the worst proves true and there would be no ban or limitation, there is still not sufficient justification for the resumption of our MIRV program.

Secretary Laird and other qualified officials have stated that the United States has a leadtime of at least 1 year in its MIRV program over the Soviet Union. Other experts with access to reliable information question whether the Russians even have a MIRV, which would mean that they are still in the testing stage. Whatever the case, the point remains that the United States is enough ahead of the Soviet Union to suspend its MIRV program as a signal to the Russians of our intention to halt MIRV testing and deployment.

I continue to repeat: The funds are made available, the authorization is made by Congress, the agreement for

the system is confirmed by Congress, and the funds are held in escrow only if the Russians halt the deployment and testing of their MIRV's.

Besides, the very nature of MIRV allows us to deploy these multiple warheads before any nationwide ABM system could be employed. We have our own surveillance and intelligence gathering systems which permit us to keep close watch on Soviet activities. We, therefore, would never find or permit ourselves to be in the position of being overwhelmed by a fully deployed, effective antiballistic system.

An anti-ballistic-missile system cannot be hidden from reconnaissance satellites. I think Senators know that our reconnaissance satellites can take photographs in the Soviet Union so precise that one can identify the kind of truck that is on the road.

I recall seeing, in my days in the Security Council, photography of shipyards in which the Soviet Polaris-type submarines were being built and how many were in the respective berths. We get an accurate count, and we knew how many tubes they had, how many missiles they had. They know what we have, too. They are taking good pictures at the same time. There are very few secrets.

Although we have lost our position of vast nuclear superiority which was impossible to retain due to the inevitable technological advances made in the Soviet Union, we are in a position of rough balance—in fact, we have more—with the Soviet Union, and I would support the notion of remaining in that position, as long as it means qualitative as opposed to quantitative nuclear parity.

While all our efforts should be concentrated on arms control, I fully recommend that we remain vigilant. I am not purporting that we take extensive risks, and hence, sacrifice the viability of our deterrence. I think the nuclear deterrent is a contribution to peace. Secretary Laird seems to think differently. I would like to quote from his testimony in mid-July before the Senate Committee on Armed Services. I will read in full the Secretary's remarks concerning the MIRV escrow amendment which I first introduced on July 14 because I think they are far from the mark. In fact, I think the Secretary has opted for rhetorical prose, sacrificing his obligation to responsible criticism:

Let me address the amendment offered by Senator Humphrey. As we understand it, Senator Humphrey has proposed an amendment, the purpose of which is to establish a mutual freeze on the deployment of offensive and defensive nuclear weapons, to provide a more conducive atmosphere for SALT. Under his proposal, such a purpose is to be accomplished by an amendment to the authorization bill which would place all MIRV funds in escrow, which permit using them only if the President and the Congress jointly determine that such use was needed in order to guarantee U.S. retaliatory capability.

Mr. Chairman, as we have stated many times, there is no other Department in Government as interested as the Department of Defense in reaching agreements on mutual arms limitations. That is the purpose of the Strategic Arms Limitation Talks.

Our objective is to preserve needed capabilities while we seek an effective and ac-

ceptable agreement through negotiations. We continue to believe that until such an agreement is achieved, the place to bargain is at the bargaining table, rather than through unilateral actions which could adversely affect our national security.

Let me digress for a moment to say that that is not what President Eisenhower thought and that is not what President Kennedy thought, and they did pretty well. They took care of the security of this Nation. We did not have any reason to be afraid that we would not have national security. They took some unilateral actions. We take them all the time. Every time the President decides to close a military base in the name of economy that is a unilateral action.

I know that you do not negotiate with the Soviet Union out of affection and love. The Soviet Union understands power.

I believe in the nuclear deterrent, but I submit that we have nuclear deterrents. I submit that just piling one weapon system on top of another does not give you any more safety, because if the other guy matches it, you do not have any more power simply because you have put up another weapons system.

Then Mr. Laird said:

As you know, the United States initially suggested at SALT possible approaches involving both quantitative and qualitative limitations on strategic systems, including MIRV's. We did not receive a favorable response to such a comprehensive approach.

I would note, Mr. President, that our Government has suggested that we delay the deployment of MIRV's. So my amendment is not beyond what the Government itself has suggested. It is simply that Congress is getting in on the act, and that bothers the executive branch of Government. They do not like us to be in on these things.

Mr. Laird said:

I fail to see how taking unilateral actions in this direction now would enhance the prospects of an arms agreement.

We are not taking any unilateral action. We are taking a unilateral initiative to get mutual action; and if the mutuality is not performed, then there is no unilateral action. But as I said earlier in my speech today, we took the unilateral action of deploying MIRV's, and we started it when we had the talks going on at Helsinki. And, at the very time we were telling people that we ought to have a limitation on arms, particularly on nuclear arms, we expanded the nuclear arms race in the MIRV program. The Russians expanded it with their land-based missiles. We took unilateral action.

What the Senator from Minnesota is proposing is that we take an initiative and that we only maintain that initiative to the point where we find that the Russians have responded. If they have not responded to our satisfaction, then the MIRV money is available. If they do respond, we have saved time, money, and danger. I think it makes sense, even if it will not have the votes in this body.

I continue quoting Mr. Laird:

I do not believe that the national security of the United States should be placed in escrow.

This is a dandy. We are not placing our B-52's in escrow. We are not putting our ICBM's in escrow. We are not denying MIRV the money. We are not going to put our Polaris submarines in escrow. We are not going to put those seven Poseidon submarines in escrow. We have a powerful deterrent force in the Navy today, in the submarine fleet.

Incidentally, I am interested in a good Navy, so that the record may be clear. I am concerned about the Soviet progress in their naval forces. I am not going to be around here voting to slash appreciably this defense budget. But I am going to do what I can to stop unnecessary, costly expenditures in weapons that are going to be matched by the other guy. You do not get ahead, anyway. You just pile them up, and that is what we have been doing.

There is not a person in the Government of the United States who can deny that we have the capability today to scorch the earth of the Soviet Union and to obliterate it. They have the capacity to do the same to us. Now, does not that make everybody happy?

The only thing it really does is that we no longer have a balance of power; we have a balance of terror. We have a situation in which we have to be exceedingly careful, we have created weapons of such a destructive capacity that we can obliterate mankind. But we are not satisfied. We have to get them newer and bigger and better, and we have to spend more money, when we are desperately in need, in the United States—and they are in Russia—of things that are needed to be done for our people.

We ought to be talking about how people live, not how to kill them. If we were to spend nearly as much money on the living department as we do on the killing department, I think we might be a little bit further along.

Well, Mr. Laird says:

Rather, I believe it is necessary to continue those programs essential for our security—including both Safeguard and MIRV—pending the outcome of our negotiating efforts.

Mr. President, may I say to the Secretary that I am not abolishing MIRV. I am not abolishing the Polaris fleet. I am not abolishing our air power. I do not believe in putting any of that in escrow. However, I do believe, before Congress, willy-nilly, comes up with huge expenditures for military weapons, that we have a chance to halt it, to inspect it, and have some reason to verify what we have done—on a mutual basis, or course. That makes sense. I am not just talking about saving money. That is not the only thing involved here. What is involved is something greater—it may be the saving of mankind, saving our countries from destruction.

Secretary Laird make good political oratory. I respect him for that. It is wonderful to get up and say we will not put our national security in escrow, but let me put it on the record now, so that it will be known what the Senator from Minnesota says about it, that I will not put it in escrow, either. I will not even put it in the deep freeze. I will not even put it in limbo. I want national security. I am willing to vote my support for it as

a Senator, as I have done in the past and will continue to do so. But, I do not think in any way that we have impaired national security by the Nuclear Test Ban Treaty, although there were many people here who thought so, and thought so sincerely. I do not think we have impaired our national security by the Nuclear Nonproliferation Treaty. I do not think we have in any way demeaned our national security by preventing the orbiting of weapons of mass destruction in outer space. I do not think we have impaired our national security by the Seabed Treaty, prohibiting weapons of mass destruction from being placed in the deep sea. I do not believe that has hurt our national security. I do not think we have injured our national security by denying the placement of weapons in the Antarctica although we have some people that want to put some down there, you know, Mr. President.

I suppose there are even some people who will want to put them on the moon.

All I am saying is that when we are negotiating an ABM limitation, we are negotiating an offensive nuclear weapon limitation as well.

I know, I have heard, do not rock the boat or add fuel to the fire. Do not start speeding up the deployment program and trying to get ahead of the other guy because if we do, the Russians will have to do the same. They will have to delay an agreement until they get caught up. They will not negotiate themselves out of a position at least of parity, as they see it, or at least of sufficiency—whatever the word is.

If we commit ourselves to 31 Poseidon submarines, which I think is our goal, we can rest assured that the Russians will have that many. It may take them longer. But they do not have to worry about public opinion or going out to get the votes. They do not have any television covering everything. They will merely put their money on the line and do it. Whether the Russians can build a good mousetrap, I do not know, but I am sure that they can build a good weapon. I do not believe that we will get far ahead of them unless we want to spend ourselves dizzy in a mad arms race.

May I say respectfully to a man I like very much, Secretary Laird, that I appreciate his rhetoric but I do not find anything convincing in his logic.

Secretary Laird's comments show faulty reasoning and misrepresentation, particularly with reference to the phrase about placing our national security in escrow. I prefer not to engage in a private debate with Secretary Laird on the virtue of his choice of words. Let me just say that it is precisely our national security and world peace that I had in mind when I first introduced this legislation. I still think that these goals are of primordial importance. It is simply that my view of the action-reaction syndrome which is at the heart of the arms race among the great powers, particularly the United States and the Soviet Union, is different from Secretary Laird's.

I do not view American behavior in a vacuum. On the contrary, I think that the history of armaments developments and for that matter, other forms of na-

tional competition, is a drama of incorrect assessments and a lust for superiority. The history of MIRV seems to fit perfectly in this pattern. We develop and deploy to counter a weapon which we have not fully evaluated and the Russians then start on the same track. It is a race and a spiraling race, but it does not lead up, just down and down and down.

MIRV is on its way to becoming another historical mistake. Based on past experience, however, the mistake can be corrected. We can well afford to take the first step which is a very small one, smaller than I would truly like, by placing the funds now being authorized for MIRV in escrow.

Although this action would be taken unilaterally—we cannot legislate the defense budget for the Soviet Union—we would be asking the Soviet Union to exercise comparable self-restraint. Specifically, for the funds to remain in escrow, we would be watching to see that the Soviet Union halted any testing and deployment of MIRV, or any buildup of a large-scale ABM system. In other words, the shift from unilateral to mutual would be a quick one. The Soviet Union would have to respond to our own gesture.

We have no reason to think it would not, despite reports to the contrary. The most recently announced news from the Pentagon is that U.S. satellites have spotted more than 80 ICBM silos now being built in the Soviet Union. The conclusion Defense officials would have us make is that the Soviet Union is indulging in some sinister plot to finish up ahead before an arms agreement is reached at SALT. Moreover, because of this "surge" in missile launcher construction, we in Congress are to assume that there is a new threat to our defense capabilities and that, therefore, it will be necessary to approve an even bigger defense budget in the next fiscal year.

Maybe there is a real threat in the latest Soviet construction activities, and maybe there is no deliberate attempt by the Defense Department to scare us. But maybe the threat is more illusory than real.

I would have thought we had reached the point of sophistication that would enable us to exercise a supreme amount of caution in our decisions based on a thorough evaluation of the issue at hand. In this case the discovery of 80 ICBM silos must be assessed in terms of Soviet strategy, goals, and intentions. Then this picture must be matched against our own and placed in the perspective of the future. The final conclusion might be the need for a bigger defense budget, but it could very well be to sit tight and seek agreements on arms limitations.

The Soviet Union has struggled for the past two decades to catch up to the United States in nuclear weaponry, perhaps because it defined security in terms similar to our own—in terms of our vast nuclear stockade. Now that it has reached a rough balance with the United States, it, too, has learned the cost involved in nuclear status seeking. There are real costs involved and the benefit is not as great as either of us expected.

The power which accrued from nuclear monopoly was not enough to control the behavior of weaker nations; it was not enough to stave off the inner feelings of insecurity which both superpowers have always felt, and most important, the human welfare costs were tremendous. I believe the Soviet leaders have come to this realization just as much as we have. I am not saying that the Russians will not drive a hard bargain, or that nuclear competition between the two superpowers, and to a lesser extent with China, will stop at once. But I do think chances are better than they have ever been because of recent developments to halt the arms race through a variety of agreements, be they tacit or formal in nature.

To move in this direction, I propose that the United States temporarily suspend the testing and deployment of its MIRV. The prime argument that once was made in defense of our MIRV program will lose all its strength when an ABM agreement is concluded. Even if an agreement is not reached, the present situation does not require the continuation of our MIRV program during the 1972 fiscal year, unless, of course, the Soviet Union took action which would threaten our retaliatory capability. If this should happen, MIRV's could be quickly retrofitted because of the advanced stage of the program and our State of preparedness.

Other arguments in defense of MIRV have been developed lately. These deal with the more fundamental question of deterrence—the survival of our second-strike capacity after a first-strike. The line of reasoning applied there is something like those for the emperor's new clothes. We have MIRV's, originally designed to assure penetrability. Now that we have discovered that the Soviet Union does not have and shows no sign of having a large-scale, high confidence ABM system, we have a new argument for our clothes.

Yet in studying the force structure and capacity of the Soviet Union, there is not any convincing evidence to show that our retaliatory capacity is threatened. So far, our Poseidons remain virtually invulnerable, our bomber defense is still capable of inflicting considerable damage, and our land-based missiles are too many in number, especially when account is taken of the number of multiple warheads already retrofitted on the Minutemen III missile, to be completely knocked out by a Soviet first strike. Hence, our defense triad still stands.

Certainly, it can become outmoded, if the Soviet Union designs a truly effective first strike defense capacity. We are not at that point by a long shot. What I propose today is to keep that point at a long shot. I urge this body to accept this amendment placing the funds for MIRV in escrow.

The precise enumeration of the funds must be left to the Defense Department since, to the best of my knowledge, no one in Congress knows exactly the amount the Defense budget allotted for MIRV. This situation is in itself most unfortunate, since Congress is being asked to endorse expenditures for a program, for which the expense is not fully

identified for congressional review. Under the present circumstances, the only alternative is to defer to Defense in this matter. But that does not mean Congress should relinquish its very important role.

Just as it is incumbent upon the Congress to approve funds for weapons systems, so it is also its responsibility to withhold them or suspend their appropriation. The Congress needs the advice and counsel of the President to make these kinds of decisions, but the President also needs to consult the Congress on all related matters. My amendment is built upon the consultative procedures and joint decisionmaking by the President and the Congress which should ideally be the normal procedure of our governmental process. In this amendment the decision to release the funds placed in escrow would be made jointly by the President and the Congress.

The President has moved, at the prompting of Congress, to seek an agreement at SALT. The Congress has played a role in the defining the parameters of the agreement and this is no time to abandon its role. I hope my colleagues will agree that accepting this amendment would mean that the Senate will continue to play its part at SALT and in halting the arms race. It will be acting responsibility, in the interests of this country and the world, by pressing our country to act like a great nation, at minimum risk to itself and at maximum benefit to the world.

Mr. President, I want to thank the distinguished Senator from Mississippi for engaging in this colloquy which I hope will be of some benefit to our colleagues.

Mr. STENNIS. Mr. President, I believe I have 40 minutes, do I not?

The PRESIDING OFFICER (Mr. BENTSEN). The Senator is correct.

Mr. STENNIS. Mr. President, I yield myself 15 minutes.

The PRESIDING OFFICER. The Senator from Mississippi is recognized for 15 minutes.

Mr. STENNIS. I thank the distinguished Senator from Minnesota very much for his words and his presentation here. There is no more highly esteemed man in this Chamber than the Senator from Minnesota. He is a highly responsible person, especially as a legislator. I know that he is very sincere in his search for peace. He is no pacifist, by any means. I know of his years of searching for peace and his great contribution in that field.

However, the facts of life are such that I wish I could agree with him on this particular amendment.

We all know the old saying, "Don't change horses in midstream." The pending amendment, however, would be crossing two streams and changing horses in each stream at the same time—that is, the SALT talks and the MIRVing or the changing of our Polaris submarine missiles over to the Poseidon and the Minuteman missile being MIRVed.

I will have to be very brief. I do not mean to go into the history of these matters but, many years ago, the Senator from Minnesota was a Member of the Senate when the Government made a basic decision—not Congress—for the big missile. We had the big ones—the Titan;

but we decided to go into the Minuteman field, many small missiles. That is the Minuteman, Minuteman I and Minuteman II.

Then here came the Soviets with the big missiles, the monstrous missiles—the SS-9's—the big ones. This MIRVing of our small capacity missiles is motivated in part—it is our way of having enough capacity and versatility to try to meet the capacity of the big SS-9's. In addition thereto, by putting these MIRV's, or these multiple entry missiles on one shot, we spread it around to many different targets. So that is our main reliance now, on the Polaris submarine. We may make mistakes about tanks and get caught short. We may get a bad airplane and get caught short or some other weapon proves inadequate or insufficient. But in this field of strategic forces, this is the area where we must be right. We must be up to par and a little above, because this is the field in which there is no known adequate defense. This is the field where, if we run second or let the other fellow think we may run second, it will be too late.

I underscore here that I believe that if we ever turn these weapons loose on each other, there will not be much left anyway. We must be certain, as certain as we can be, that we have the capacity, the versatility, and the top weapons and that our adversaries know this.

That is what we are in the process of doing now. We are stepping up our Minuteman to this Multiple Independently Targeted Reentry Vehicle system. We are stepping up our Polaris to a different kind of missile, the Poseidon. However, it is the same principle. And that is our front line of defense in this strategic field.

We have these long-range bombers, and I am glad we have them. However, these others are certainly quick and are front line defenses. Right in the middle of this process there is an amendment that would affect this situation. We have a few of the missiles on submarines. They are completed. The Senator's interpretation of his amendment is that it would leave them where they are. This, it seems to me, would affect all programs that fed money into this plan, whether in this bill or in any other bill.

Some of the money for these weapons comes from the atomic energy appropriation. It is in another bill. It would seem to me that it would cut that off.

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

Mr. STENNIS. I yield.

Mr. HUMPHREY. Mr. President, I would be more than happy to modify the amendment, and I will do so. I have the right to modify my amendment by striking out the words "any other."

Mr. STENNIS. Mr. President, I believe it would take unanimous consent after the yeas and nays have been obtained. However, if the Senator will, he can work on that and let me continue. I do not think that I will raise objection.

Mr. HUMPHREY. I thank the Senator from Mississippi very much.

Mr. STENNIS. Mr. President, this is a very serious matter. I regret so much

that those who are going to have to vote on the matter are not here to get the basic facts.

#### PRIVILEGE OF THE FLOOR

Mr. STENNIS. Mr. President, I have a valuable staff member that I desire to have on the floor. I failed to include his name on the list. I therefore ask unanimous consent that George Foster be permitted to be on the floor during the consideration of the military procurement authorization bill.

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

Mr. STENNIS. Mr. President, this proposal cuts the very middle and the heart out of this conversion of the Polaris submarines over to the Poseidon. It is just about as severe and disastrous with reference to the Minuteman program.

These conversions take 21 months. It takes 21 months to convert from the Polaris to the Poseidon. That period of time can run into a series of 3 fiscal years. Nine of these submarines are in what I call the docks. That may not be the correct term. But they are being refitted. That money may be taken out of fiscal years 1970, 1971, and 1972. Perhaps another will take money out of fiscal year 1971, 1972, and 1973. And another one might take money out for three different years.

So this amendment, after being modified, would certainly stop those in their tracks, even though we have gone to work and have spent under the continuing resolution a large sum of money in each one. I gave the amount earlier this morning.

What would it do? It would take us out of business. It would just stop us. What would it do to the Soviets with their SS-9's? It would not do anything. Talk about a balance. We are just standing here and stopping this work in its tracks while the Soviets can go on increasing their capability and using that time.

One might say that I am skeptical and that I expect the worst. Here is the other stream that I was talking about a while ago. We are changing horses in mid-stream.

The SALT talks are in a critical period if the information we receive is correct.

The New York Times has an article on the front page by Thomas J. Hamilton, Helsinki, Finland, dated yesterday. It says—

Accord on ABM is Reported Close. U.S. and Soviet also said to make some progress on offensive missiles.

These are offensive missiles that we are talking about. That is the stream we are trying to cross. And there is some indication at least that there is some kind of accord or agreement.

The article also states:

Reliable sources reported that the United States and the Soviet Union were near an understanding on the limitation of antiballistic missiles as they ended the fifth round of their nuclear talks here today. It was also reported that the two powers had made some but less marked progress here, since the Helsinki round began on July 8 toward agreement on a freeze that would maintain the two arsenals of intercontinental ballistic missiles at about their present levels.

That is a sign of hope. If we come here and unilaterally say that we are taking out the horses now and will stop now, if there is anything to bargaining and trying to negotiate a balance, one against the other, we have thrown away our cards.

I submit, with all due deference to the good intentions of the Senator, that this will take a lot of time. It is too late, according to the mechanics of these missiles. We are certainly in the middle of the stream on the Helsinki talks.

Mr. President, my third point is that if there is any meaning to the word negotiations or getting agreements or anything of that kind, a nation must not speak with two voices, especially if they are saying different things. We must have one voice. And where is that voice? Under the Constitution of the United States it is in the Chief Executive. The people of the United States have elected Mr. Nixon as President.

This is not a matter of saying "Help Mr. Nixon" or, "Don't hurt Mr. Nixon." This is a matter of saying, "Let us stay on the beam. Let us keep our eye on the ball for the country, and let the department of the government that has already started the talks and the negotiations at least have an opportunity to try and let them have a fair chance."

I respectfully submit that we would be meddling, to use a mild term, if we were to come in now.

Mr. President, I was anxious that the Senator from Maine speak at this point. However, first I yield 3 minutes to the Senator from Kentucky.

Mr. COOPER. Mr. President, I did not intend to speak today upon this amendment. In fact, I did not know it was going to come to a vote. Otherwise I would have spoken earlier after talking with my long-time friend, the distinguished Senator from Minnesota (Mr. HUMPHREY).

Mr. President, I will vote against the amendment. Because of the position I have taken in the past opposed to the deployment of both MIRV and the ABM, I want to speak briefly so that my position will be clear.

My view about MIRV has not changed from that I held over 2 years ago at the time the Senator from Massachusetts (Mr. BROOKE) and the Senator from New Jersey (Mr. CASE) submitted Senate Resolution 211 which I supported to express the sense of the Senate to halt the deployment of MIRV until some agreement at SALT could be reached with the Soviet Union. The resolution was referred to the Committee on Foreign Relations and approved. In committee I offered an amendment which was agreed to, which urged the President to enter into negotiations with the Soviet Union and not to deploy any additional offensive or defense nuclear weapons systems. The resolution was agreed to by the Senate with 72 for and only six votes against.

Now negotiations are going forward, and I must take the position that I do because of the status of negotiations, as I understand the status.

The President said in May in substance that negotiations would proceed toward reaching an agreement with the Soviet

Union on defensive weapons systems and some agreement on offensive weapons.

Because of my interest in the subject, which all of us share, and because I had introduced, with the Senator from Michigan (Mr. HART) and others over a period of 3 years, amendments concerning ABM in 1968, first to postpone deployment of the ABM; in 1970 and 1971, to limit the deployment of ABM. These amendments were hard fought and only narrowly defeated. I went this year during the Easter recess to Vienna where the SALT talks were being held. I spent over a week in Helsinki at the end of August during the fifth round of the SALT talks being held there.

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

Mr. STENNIS. Mr. President, I yield the Senator 2 additional minutes.

The PRESIDING OFFICER. The Senator from Kentucky is recognized for 2 additional minutes.

Mr. COOPER. Mr. President, I had the opportunity to meet and talk with our negotiators. As a result of my talks with them and as a result of my study of the issue, I believe an agreement can be reached on defensive weapons. I do not believe there is any possibility of reaching an agreement on offensive weapons until an agreement on defensive weapons may be secured. So the hope of the future, the hope for ending the arms race, or at least of some sensible control of the arms race, hinges on an agreement on defensive weapons, which it is hoped will occur this year and which I believe and our negotiators believe is attainable.

I do not believe it will be possible to talk seriously with the Soviet Union on the question of a freeze upon MIRV until that agreement has been reached. Parallel talks are going on on some offensive weapons.

This being the situation, I honor my friend from Minnesota, who held this position for so many years, and who is deeply concerned about the arms race and I agree with him. I think the President should have urged a United States-Soviet Union freeze before we deployed MIRV, to prevent another costly and dangerous level of the arms race. Now negotiations is the issue for if we do not get an agreement on defensive weapons I do see the possibility of discussing a limitation to MIRV or any offensive weapons.

For the hope of the future, the possibility of closing the arms race the United States and the Soviet Union already have a total of over 6,000 deliverable warheads and with one or two warheads capable of destroying Moscow or New York or Washington—it is essential that we continue to urge and support the President toward successful negotiations this year.

I intend to speak on the ABM next week. My reasons are basically the same for my present position on the ABM and for MIRV.

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

Mr. STENNIS. I yield 1 minute to the Senator from Minnesota.

Mr. HUMPHREY. Mr. President, I thank the Senator from Kentucky. May I say most respectfully that nothing

would be of greater importance to me than the success of the talks in Vienna and Helsinki, particularly on the antiballistic-missile system, stage 1, so to speak. I respect the Senator's judgment.

Mr. COOPER. I know and admire the Senator's long and deep concern over the nuclear arms race, and his effort toward its control.

Mr. HUMPHREY. There are many absentees here today. The purpose of my amendment today is to bring about debate and discussion. The President is the only one who can negotiate at Helsinki, he and his representatives. Nothing should be done to interfere with that. The purpose of this measure is to say that if we do not get an ABM agreement and if we cannot come to some agreement on MIRV, these funds will be released. I am not trying to lock up the funds and cripple our defense structure. I know the Senator feels the same as I.

Mr. COOPER. I understand thoroughly and I share his concern that we must halt the nuclear arms race.

Mr. HUMPHREY. I thank the Senator for his leadership in this field.

Mr. STENNIS. I thank the Senator from Kentucky.

Mr. PRESIDENT. I yield 3 minutes to the Senator from Nevada, who is eminently qualified in this field.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. CANNON. I thank the Senator for yielding.

Mr. President, I wish to speak against the proposed amendment for placing MIRV funds in an escrow account. I believe the consequences of such an action on our national security to be potentially so serious and so far-reaching as to render the proposal totally unacceptable. I need hardly note that the stakes in the game of strategic deterrence are very high, and most dear to us all. It is a game in which we cannot afford to make a mistake—because our first mistake could well be our last.

I do not believe in taking undue chances with our security. Rather, I believe the old adage, "I'd rather be safe than sorry," holds doubly true in these matters.

The proposed amendment is being raised not in response to a comparable or equivalent move on the part of the Soviet Union, but apparently in the hope that such a reciprocal Soviet move might be triggered thereby, or perhaps that future SALT agreements might make such a U.S. move acceptable.

I do not believe in negotiating in such a manner. At the present time we are engaged in SALT talks with the Soviets. But, also at the present time, the Soviet strategic arsenal continues to grow.

I support the SALT talks. I hope they bear fruit. Until they do, however, I do not wish to cut back our own forces unilaterally. Not only does this reduce our margin of security, but it also reduces the incentive for the Soviets to negotiate in SALT. And have no doubt about it. This proposal does amount to a reduction in our strategic forces. There is no manner of complying therewith which will not, in effect, reduce by a significant amount and for a significant period of time the

payload capability of our missile force. Additionally, of course, we lose the capability to penetrate ABM defenses which MIRV provides. Thus we lose doubly—both quantitatively and qualitatively.

Should we take such a step? I sincerely believe we should not.

Can we afford to take such a step? I sincerely believe we cannot.

Is there a need to take such a step? I sincerely believe there is not.

I, therefore, earnestly request my colleagues in the Senate to reject this proposed amendment, firmly and strongly, and thereby emphasize to all the fact that we will not take chances with our national security.

Mr. STENNIS. I thank the Senator from Nevada. I am glad to yield 3 minutes to the Senator from Arizona, who is well versed in this field.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. GOLDWATER. Mr. President, I rise to oppose the amendment offered by my good friend from Minnesota. I oppose the amendment on practical grounds, because since the SALT talks began, the Soviet missile strength has gained 70 percent. I see in this effort the same pattern the Soviets followed before this time, in reaching full development of a weapons system and learning all they have to know about a weapons system, and then suggesting to the United States a treaty that would prevent our going ahead.

I think the nuclear test ban treaty was made when we knew practically nothing and still know practically nothing about the nuclear and X-ray effects the Soviet Union knows all about. We do not know just what the MIRV status is in the Soviet Union. We do know they have been testing. We do know the footprints of the Soviet MIRV's happen to coincide with the placement of the Minuteman sites in the United States.

The statement has been made that the two nations are equal in missile strength. This is not exactly true. If we measure it by number of warheads, we have a standoff. If we measure it in megatonnage, we are away, away behind the Soviets. If we measure it, as is often done, by land based added to submarine launched missiles, while it is true that we are ahead of the Soviets at this time, it is also true that they are embarking on a submarine program that is six to seven times as great as our own and ours is ending and will end in the foreseeable future.

I do not think we could put the program in escrow. I think we might just as well say they cannot spend the money. It is not easy to put money in escrow and to say to our scientific people and other people in that field. "We want you to stop while we take a look-see." It is not that simple. You do not stop developing a complicated system like MIRV any more than you stop developing an aircraft like the B-1, and then begin it just by pushing a button and have progress made on it as if nothing had happened.

I fully respect the ideas and wishes the Senator has in his amendment. I join with him and with others who would like to see these talks succeed. I would like

to see the day come when we could begin really downgrading all of the military in this world. But I am not naive enough to believe we have reached that point, and I do not think we could even look toward the horizon and see it.

If the Soviets are really sincere in wanting to cut down their missile development, let them take the first step and then come to us, tell us what she has done, and see if it is worthy of our consideration.

I think the amendment is wrong at this time. I hope this body will turn it down.

Mr. STENNIS. Mr. President, I yield 3 minutes to the Senator from Maine (Mrs. SMITH).

Mrs. SMITH. Mr. President, I rise in opposition to the amendment offered by the Senator from Minnesota. Adoption of this amendment would seriously weaken the position of the United States in the SALT talks.

It would be nothing less than unilateral action on the part of the United States that would have serious effects on our strategic deterrent posture by reducing our nuclear payload capability.

Let us realistically face the fact that the deployment of MIRV's can be detected only by onsite inspection and the fact that the Soviet Union refuses to permit this.

We have already engaged in too much unilateral disarmament to the end result of dangerously weakening our national security and to the great advantage of the Soviet Union that has been building and increasing her military power instead of reducing it, as we have been doing.

Disastrously in the past years the tragic and fallacious policy of cutting our military strength down to no more than parity with that of the Soviet Union has now placed our Nation in grave danger. It is about time we not only put a stop to this folly, which the Soviet Union has exploited to its great advantage, but that we started rebuilding our national security instead of tearing it down.

Mr. STENNIS. Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator has 10 minutes remaining.

Mr. STENNIS. Mr. President, amendment No. 432 to the military authorization bill would propose to place in escrow any funds authorized by this or any other law for the further testing and deployment of multiple independently targeted reentry vehicles—MIRV's. This proposal could have far-reaching and extremely detrimental effects on the strategic posture of the United States and I urge the Senate to reject this amendment.

Let us consider this amendment and what this amendment No. 432 will mean to our strategic deterrent capability as well as the effect on funding for two major weapon systems—the Minuteman III and Poseidon programs.

This amendment provides that funds appropriated pursuant to this or any other law shall be placed in escrow and can only be used when it is determined jointly by the President and the Con-

gress that the Russians are testing and deploying a MIRV system in addition to other action that might necessitate further testing and deployment of the United States MIRV as a guarantee for retaliatory capability.

As you will note, this means that this section, if enacted, would become permanent law rather than being effective only for fiscal year 1972. If this is to become a permanent law for the indefinite future, the Congress would have to repeal it if the conditions in the future made the provision undesirable. I think it is very unwise and perhaps dangerous for us to enact a provision that would freeze us into such a position.

The conditions that the amendment sets out for release of the escrow funds need further explanation. It is important to recognize that there is no known method at present to determine if a MIRV system is deployed without actual onsite inspection of the vehicle. This means that we would have to have a mutual agreement with the Russians at the SALT talk negotiations for this onsite inspection before the conditions of this amendment could be met to release the escrow funds. It is highly unlikely that any negotiations would continue on this subject of MIRV deployment if the United States unilaterally cuts back its forces. The Russians would have no further incentive nor requirement for negotiations and could foreseeably develop and deploy their own MIRV system while our hands are strapped by this amendment.

I might point out further that it was just last year that Senate Resolution 211 was passed by this body, expressing the sense of the Senate on mutual suspension of further deployment of offensive and defensive nuclear strategic weapons systems by Russia and the United States. At that time it was made perfectly clear in the record that there would be no unilateral basis for a resolution of this nature and it would be strictly based on mutuality. I don't believe the Senate should at this time, therefore, revert to a unilateral situation.

This amendment, if enacted, would leave us with limited alternatives that pose unacceptable strategic degradation. The amendment is unclear as to whether the Minuteman III and Poseidon MIRV systems already deployed can continue as deployed units or must be recalled and replaced by a non-MIRV weapon.

The choices given us by this amendment are to regress and revert to the older Polaris and Minuteman II weapon system or deploy the Poseidon and Minuteman III with only one of the MIRV reentry vehicles while at the same time initiating development programs for single large non-MIRV warhead.

To revert our sea-based forces to a Polaris system we must remember that seven submarines already have been converted to Poseidon and nine more are in process at the shipyards. Those submarines already converted to Poseidon cannot carry Polaris and to refit those submarines with Polaris capability would require new manufacture and from 1 to 2 years leadtime. The submarines currently in the shipyards would have to be

reoriented toward the Polaris configuration and an additional year would be required to their time in the shipyard. Meanwhile, the payload capability would be drastically reduced and our strategic deterrent seriously degraded during these times.

In addition, we must remember that the Polaris missiles are showing signs of aging and some positive actions, probably new procurement of at least portions of the missile system would be required to offset this aging. This again would require leadtime delays.

Should we wish to revert to MIRV at some later time, further delays of a year to a year and a half must be expected to again reconfigure the submarines. The present equipments and designs do not permit the submarine to have the dual capability of carrying either Polaris or Poseidon, interchangeably.

To revert our Minuteman program to the Minuteman II missile, we would require about 2 years to restart the production capability. Approximately 20 percent of the projected total Minuteman III missiles have already been deployed as replacements for the aging Minuteman I. Because of its age, and its complete lack of nuclear hardening, there seems no question but what the Minuteman I should continue to be replaced. Minuteman II is out of production and has been for a matter of years, therefore, the lengthy delay if we intend to restart the production line.

Considering the alternative of continuing to deploy the Poseidon and Minuteman III in a non-MIRV configuration while at the same time initiating development of a large non-MIRV reentry system, the only way deployment of these weapons could be continued would be to deploy with only one of the MIRV reentry vehicles. These are small RV's with low yield. If this were done then the effectiveness of the Poseidon and Minuteman III missiles would be reduced to a small fraction of what it normally would be. In addition, this condition eliminates the ABM penetration capability of MIRV.

To equip the Poseidon and Minuteman III missiles with single new non-MIRV warheads is a costly and time-consuming process. It is estimated that a new Poseidon single reentry vehicle payload would require about 3 years and up to \$700 million for development and procurement.

Similarly a development effort would have to be initiated to provide a single reentry payload for Minuteman III capable of delivering an effective yield equivalent to that of the present MIRV design and appropriate for its payload carrying capabilities. An early interim program adapting the Minuteman I and II reentry vehicles to Minuteman III would require approximately \$100 million and still would leave undesirable penetration characteristics. A longer term step requiring about 3 years and \$240 million in development alone would be needed to provide a new, larger, single reentry vehicle which would possess better penetration characteristics.

It might be noted also that if a single reentry vehicle were placed on Poseidon and Minuteman III missiles with a yield the same as that covered by the MIRV,

then the hard target kill capability would be improved over that of MIRV. It would in fact, if optimized, be a good weapon for attack of hard silos. This could be considered a provocative step since the present MIRV is not a good weapon for use against silos.

It should be readily understood from the above that from the standpoint of U.S. security, none of the alternatives are acceptable. Each degrade seriously our strategic capability for prolonged periods of time and in the case of the sea-based degradation, representing 30 percent of our submarine force, would constitute too much of a strategic imbalance between the United States and Russia.

In addition to the effect that this amendment has on our strategic capability, we must also consider other economic problems.

Through fiscal year 1971, the costs already authorized for the development and acquisition of our Minuteman III and Poseidon missiles were more than \$6.7 billion. If we cancel further deployment of MRIV as the amendment proposes, we will in a large part fail to realize the prime objectives for which these missiles were developed, that is, the MIRV capability and the improved defense penetration ability which this provides. Thus, in this sense, the money spent to date could be considered wasted.

In summary, Mr. President, this amendment if passed, would unilaterally degrade the strategic capability of the United States to an intolerable degree. Furthermore, the wording of this amendment is such that without any consent from Russia for onsite inspection we cannot identify whether or not the Russians have deployed a MIRV system and therefore would never be able to reinstitute MIRV as a strategic deterrent capability.

I again urge the Senate to reject this amendment as unworkable and intolerable for our national security.

Mr. President, as far as the Senator from Minnesota has said or as the record sheds light on it by the cold letter of the law, the language of the amendment is uncertain. I refer specifically to the words of the amendment "or any other law." The Senator has asked that those words be stricken.

Mr. HUMPHREY, Mr. President, I ask unanimous consent that those words be stricken.

Mr. STENNIS, Mr. President, the yeas and nays have been ordered, but the Senator's suggestion would bring the amendment into line with the Senator's intent, and I am glad to waive any objection to modifying the amendment.

The PRESIDING OFFICER, Will the the Senator send his modification to the desk?

Mr. HUMPHREY, Mr. President, I propose to strike the words on line 3, page 1 "or any other"—three words.

The PRESIDING OFFICER, Is there objection to the modification of the amendment? The Chair hears none, and it is so ordered.

Mr. HUMPHREY, I thank the Senator.

Mr. STENNIS, Mr. President, there are present on the floor now Senators

who were not present when the Senator from Kentucky made his statement. I think he made a very valuable contribution—he is very knowledgeable on the subject—when he made the point that he was satisfied, on his own investigation and his contacts with the SALT talks, that there had to be an agreement there with reference to defensive weapons. We call ours the ABM. Otherwise there is no reason to talk about limitations on offensive weapons, and that is what we are dealing with today—offensive weapons.

The Senator is going to vote against this amendment for that reason, among others, because he indicated that he had some basis for belief that there is something in the headline that I read from today's New York Times that they perhaps were near an understanding with reference to limitations on defensive missiles, the ABM. I repeat that not only because I was impressed so much by what he said, but because I believe others should have a chance to know what he said.

Not much has been said about the Minuteman program, which is our corresponding ICBM to their SS-9, but, as I am informed, we have about 100 Minuteman missiles—I refer to the Minuteman III or the MIRV system—going through that process now. I think this proposal would be a "Dead Eye Dick," stopping that program in its tracks, to await some future event with uncertainty, when the President and the Congress, by joint understanding or joint method—I do not recall the exact word—would repeal this amendment. I say there is no movement on the other side. It is a unilateral action. That is the second stream that we are crossing, and changing horses right in the middle of it.

So we are faced here with the proposition, however timely this might have been some time ago or some years ago, or however timely it may be some time in the future, that now, right in the middle of these two streams, with the shift in the machinery of the nuclear weapon itself, and this possible ford crossing here in the Helsinki talks, is the wrong time to move.

I am very glad that we have a chance here this afternoon to dispose of this amendment on a rollcall vote. I believe a very decisive vote against it would be, since the issue has been raised—it was raised in good faith, but since it has been raised, a very decisive vote would be not only helpful, but I think virtually necessary, so that our position may remain clear, firm, positive, and well known.

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

Mr. STENNIS, I yield.

Mr. HUMPHREY, I would like the Senator to understand that this amendment merely places Congress on record in favor of success in the SALT talks. The amendment says that if those talks do not succeed, and if the Soviet Union continues to test, if they act in a recalcitrant manner, we are not going to stand idly by. The amendment has both the carrot and the stick. If there is any interference with the SALT talks at all, it is simply to

say Congress hopes and prays they will succeed, and encourages the President in his action, but that if they do not succeed we are not going to stand idly by.

Mr. STENNIS, I thank the Senator very much.

Mr. President, for the remainder of my time, the Senator from Washington (Mr. JACKSON) was compelled to be away today. He is very much concerned and very much interested in this matter, and he left with me a prepared speech on the subject, which he asked me to put in the RECORD. But I am going to do more than that. I am going to read as much of this speech as I have time for.

This is the Senator from Washington speaking. He says:

Mr. President, the immediate result of a cessation of our MIRV deployment and testing program would be a forced cancellation of the program now underway to convert our Polaris force to accommodate Poseidon missiles. This would decrease by 90 percent the number of deliverable warheads in the ships affected. In terms of the effectiveness of our sea-based deterrent in the coming decade, it would be just like losing 27 Polaris submarines.

Mr. President, I know that many of my colleagues agree that the integrity of the sea-based portion of our deterrent is especially important to the stability of the strategic balance. Yet it is in this component of the triad—the submarine force—that the effectiveness of our force when equipped with MIRV is greatly increased.

That is where the greatest contribution to this strategic force is, Mr. President, in those submarines; and here is the increased effectiveness.

Without MIRV on the Polaris force we must continue either to use outdated single warheads or make a very substantial investment in a new single warhead to be used in place of the projected Poseidon MIRV. Moreover, termination of the MIRV program on the sea-based force would leave the Navy with a small number of warheads on station—a number too small to give us the security we require at a time when the Soviet Union is moving ahead aggressively in the development of ASW programs and strategic forces generally. As our force deployments are now planned, the number of warheads borne by the sea-based force will increase as a response to these Soviet developments.

Were this amendment adopted we would have to close down the conversion program at once. If we were later to resume the conversion from Polaris to Poseidon, the added cost would amount to many hundreds of million of dollars.

All this confirms the fact that we are in the middle of the stream.

Mr. President, I ask unanimous consent that a copy of a letter I addressed to my colleagues in the Senate concerning the pending amendment be printed in the RECORD.

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

COMMITTEE ON ARMED SERVICES,  
Washington, D.C., September 24, 1971.

DEAR COLLEAGUE: Today, the Senate will vote on the very important amendment proposed by Senator Humphrey which calls for placing in escrow all funds for testing or deployment of Multiple Individually-Targeted Re-entry Vehicles (MIRVs) under this or any other law. This amounts to a unilateral halt to modernization of two-thirds of our stra-

tegic offensive forces. I urge you to vote against this amendment.

On the surface, the idea of escrow may appear to be an attractive way of postponing decisions on MIRV. I am sure all Senators want the SALT talks to produce an agreement limiting strategic arms. Actually, however, the amendment proposes a unilateral freeze on virtually all U.S. strategic offensive weapon modernization while obtaining nothing in return. This is not a resolution promoting joint Soviet and American efforts to halt the arms race. This is, rather, a unilateral arms limitation by the U.S. in the midst of a highly crucial phase of the SALT talks.

Weapon systems deployments simply cannot be handled as if they were contracts to buy residential property. The "escrow" provided by the amendment would apply to all funds appropriated under this or any other law. To mention only one of the serious difficulties which would be created by such an amendment: Polaris submarines must be significantly modified to carry the new Poseidon missile. This modification can be done only when the submarine is scheduled for other regular heavy maintenance work. We cannot park our Polaris submarines outside the shipyards and await joint Presidential and Congressional determinations about Soviet weapon systems programs while the number of our submarines on patrol dwindles. Modernization cannot go forward if this amendment is adopted, since the U.S. has developed no new single-target ICM—or SLBM—warheads. We simply cannot aim such a shattering blow at our strategic forces unless the Soviets have agreed to limit theirs.

I hope you will agree with me that the amendment will work against the national interest and against the success of the SALT talks.

Sincerely yours,

JOHN C. STENNIS.

Mr. STENNIS. Mr. President, I ask unanimous consent that the complete text of Senator JACKSON's remarks be printed in the RECORD.

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

REMARKS BY SENATOR JACKSON

Mr. President, the Senate has before it an amendment whose effect would seriously disrupt both our efforts to negotiate a SALT agreement and important programs to maintain the credibility of our deterrent. The amendment would require that we immediately halt the production and testing of MIRV, and it would continue this unilateral halt until such time as—by a mechanism left to the imagination—the Congress and the President "jointly determine" that the Soviet Union is testing and deploying a MIRV system of its own. It would do nothing to require that the Soviet Union halt research and development on its own MIRV program, or that the Soviets refrain from continuing to build up their strategic offensive and defensive forces.

Mr. President, the immediate result of a cessation of our MIRV deployment and testing program would be a forced cancellation of the program now underway to convert our Polaris force to accommodate Poseidon missiles. This would decrease by 90 percent the number of deliverable warheads in the ships affected. In terms of the effectiveness of our sea-based deterrent in the coming decade, it would be just like losing 27 Polaris submarines.

Mr. President, I know that many of my colleagues agree that the integrity of the sea-based portion of our deterrent is especially important to the stability of the strategic balance. Yet it is in this component of the triad—the submarine force—that the effectiveness of our force when equipped with

MIRV is greatly increased. Without MIRV on the Polaris force we must continue either to use outdated single warheads or make a very substantial investment in a new single warhead to be used in place of the projected Poseidon MIRV. Moreover, termination of the MIRV program on the sea-based force would leave the Navy with a small number of warheads on station—a number too small to give us the security we require at a time when the Soviet Union is moving ahead aggressively in the development of ASW programs and strategic forces generally. As our force deployments are now planned, the number of warheads borne by the sea-based force will increase as a response to these Soviet developments.

Were this amendment adopted we would have to close down the conversion program at once. If we were later to resume the conversion from Polaris to Poseidon, the added cost would amount to many hundreds of millions of dollars.

Mr. President, one serious problem with this amendment is that it ties the continuation of the U.S. MIRV program to the Soviet MIRV program. It would prohibit us from deploying (or even testing) our MIRV regardless of what the Soviet Union were to undertake in the way of improved strategic programs. So long as the Soviet Union were not seen to be developing MIRV, our hands would be tied even if the Russians were to vastly increase their strategic forces in ways other than the deployment of MIRVs. This is not the sort of rigid limitation to impose on the President—especially during complex arms control negotiations. The fact is that the effort to bring about serious limitations on strategic arms must proceed in a comprehensive manner in which the interrelationship among all strategic systems is fully considered. To single out MIRVs without regard to, say, ABM, or anti-submarine warfare, or large, modern missiles (like the SS-9) is no way to go about the business of arms control.

Another serious problem is the lack of a mechanism for the determination—for which the amendment calls—that the Soviets are testing or deploying MIRVs. This is a very complex matter. At various times, especially recently, there has been disagreement within the intelligence community as to whether this or that development on the part of Soviet warhead design constituted a MIRV or a step along the path to a true MIRV. The judgment has gone back and forth. One can anticipate that there will continue to be differences of judgment on this matter.

Moreover, it is unclear how we would be required to proceed were the amendment adopted. Would the House, Senate and Executive Branch all meet to examine the latest intelligence reports in order to reach the required determination? What if the Senate believed that the Soviets were testing MIRVs and the House disagreed?

Or should the President be required to introduce legislation to the effect that the Soviets are proceeding with MIRV and then call for a vote of the Congress to sustain or deny his judgment?

Mr. President, I share with my good friend and distinguished colleague, the Senator from Minnesota, the hope that we will be successful in achieving a stabilizing arms control agreement with the Soviet Union. This moment in the history of the negotiations seems to me a moment in which patience is prudence.

The PRESIDING OFFICER (Mr. CHILES). All time having expired, the question is on agreeing to the amendment of the Senator from Minnesota (Mr. HUMPHREY) as modified. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I an-

nounce that the Senator from Indiana (Mr. BAYH), the Senator from Missouri (Mr. EAGLETON), the Senator from North Carolina (Mr. ERVIN), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Iowa (Mr. HUGHES), the Senator from Washington (Mr. JACKSON), the Senator from North Carolina (Mr. JORDAN), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Missouri (Mr. SYMINGTON), the Senator from Maine (Mr. MUSKIE), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Illinois (Mr. STEVENSON), the Senator from California (Mr. TUNNEY), the Senator from New Hampshire (Mr. McINTYRE), and the Senator from Oklahoma (Mr. HARRIS) are necessarily absent.

I further announce that the Senator from Massachusetts (Mr. KENNEDY), the Senator from Rhode Island (Mr. PASTORE), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Virginia (Mr. SPONG), are absent on official business.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH), the Senator from Illinois (Mr. STEVENSON), the Senator from Indiana (Mr. HARTKE), the Senator from California (Mr. TUNNEY), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Massachusetts (Mr. KENNEDY) would each vote "yea."

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PASTORE) would vote "nay."

On this vote, the Senator from Iowa (Mr. HUGHES) is paired with the Senator from New Mexico (Mr. MONTOYA). If present and voting, the Senator from Iowa would vote "yea" and the Senator from New Mexico would vote "nay."

On this vote, the Senator from Indiana (Mr. BAYH) is paired with the Senator from North Carolina (Mr. ERVIN). If present and voting, the Senator from Indiana would vote "yea" and the Senator from North Carolina would vote "nay."

On this vote, the Senator from Alaska (Mr. GRAVEL) is paired with the Senator from Washington (Mr. JACKSON). If present and voting, the Senator from Alaska would vote "yea" and the Senator from Washington would vote "nay."

Mrs. SMITH. I announce that the Senator from Colorado (Mr. ALLOTT), the Senators from Tennessee (Mr. BAKER and Mr. BROCK), the Senator from Delaware (Mr. BOGGS), the Senator from Massachusetts (Mr. BROOKE), the Senator from New Hampshire (Mr. COTTON), the Senator from Nebraska (Mr. CURTIS), the Senator from Kansas (Mr. DOLE), the Senator from Michigan (Mr. GRIFFIN), the Senator from Maryland (Mr. MATHIAS), the Senator from Iowa (Mr. MILLER), the Senator from Illinois (Mr. PERCY), the Senators from Ohio (Mr. SAXBE and Mr. TAFT), the Senator from Pennsylvania (Mr. SCOTT), the Senator from South Carolina (Mr. THUR-

MOND), the Senator from Texas (Mr. TOWER), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The Senator from Oklahoma (Mr. BELLMON), the Senator from Colorado (Mr. DOMINICK), the Senator from Oregon (Mr. HATFIELD), and the Senator from New York (Mr. JAVITS) are absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senators from Colorado (Mr. ALLOTT and Mr. DOMINICK), the Senators from Delaware (Mr. BOGGS), the Senator from Tennessee (Mr. BROCK), the Senator from Pennsylvania (Mr. SCOTT), and the Senator from Texas (Mr. TOWER) would each vote "nay."

On this vote, the Senator from Maryland (Mr. MATHIAS) is paired with the Senator from South Carolina (Mr. THURMOND). If present and voting, the Senator from Maryland would vote "yea" and the Senator from South Carolina would vote "nay."

On this vote, the Senator from New York (Mr. JAVITS) is paired with the Senator from Nebraska (Mr. CURTIS). If present and voting, the Senator from New York would vote "yea" and the Senator from Nebraska would vote "nay."

On this vote, the Senator from Oregon (Mr. HATFIELD) is paired with the Senator from Iowa (Mr. MILLER). If present and voting, the Senator from Oregon would vote "yea" and the Senator from Iowa would vote "nay."

The result was announced—yeas 12, nays 39, as follows:

[No. 232 Leg.]

YEAS—12

Church  
Cranston  
Fulbright  
Hart

Humphrey  
Inouye  
Mansfield  
Metcalfe

Nelson  
Packwood  
Proxmire  
Williams

NAYS—39

Aiken  
Allen  
Anderson  
Beall  
Bennett  
Bentsen  
Bible  
Buckley  
Burdick  
Byrd, Va.  
Byrd, W. Va.  
Cannon  
Case

Chiles  
Cook  
Cooper  
Eastland  
Ellender  
Fannin  
Fong  
Gambrell  
Goldwater  
Gurney  
Hansen  
Hruska  
Jordan, Idaho

Long  
Magnuson  
McClellan  
Pearson  
Pell  
Roth  
Schweiker  
Smith  
Stafford  
Stennis  
Stevens  
Talmadge  
Young

NOT VOTING—49

Allott  
Baker  
Bayh  
Bellmon  
Boggs  
Brock  
Brooke  
Cotton  
Curtis  
Dole  
Dominick  
Eagleton  
Ervin  
Gravel  
Griffin  
Harris  
Hartke

Hatfield  
Hollings  
Hughes  
Jackson  
Javits  
Jordan, N.C.  
Kennedy  
Mathias  
McGee  
McGovern  
McIntyre  
Miller  
Mondale  
Montoya  
Moss  
Mundt  
Muskie

Pastore  
Percy  
Randolph  
Ribicoff  
Saxbe  
Scott  
Sparkman  
Spong  
Stevenson  
Symington  
Taft  
Thurmond  
Tower  
Tunney  
Weicker

So Mr. HUMPHREY's amendment (No. 432) was rejected.

Mr. STENNIS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

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

The motion to lay on the table was agreed to.

Mr. CANNON. Mr. President, this year I had the pleasure of serving for the third consecutive year as chairman of the Tactical Air Power Subcommittee. Before I review the tactical aircraft and missile systems that the subcommittee analyzed in considerable depth, I would like to make several major points that I consider to be of extreme importance to the members of this distinguished body and the American people as a whole.

#### A. CONSTANT ATTACKS ON THE MILITARY ESTABLISHMENT

The first matter that is of increasing concern to me in recent times is the constant and unrelenting attacks made against the Military Establishment, including both its military and civilian employees. They have been the favorite targets for many people to "shoot at." They are frequently represented to the American people as a group of fumbling, bumbling individuals, always guilty of waste and inefficiency. Nothing is further from the truth. Although many people seem to enjoy this game of poking fun at this large group of dedicated individuals, I have become extremely concerned about the grave injustices taking place as a result, not only to the hundreds of thousands of men and women in the service but to our overall national security as a collective matter.

The people in the Military Establishment are not wasteful or inefficient. I know hundreds of them personally, as do my colleagues in this body. They are dedicated as any other group of Americans. As a matter of fact, in this day and age of making them the "whipping boys," I admire their perseverance and patience all the more.

I deplore, as do all other Members of the Senate, those isolated instances where military individuals either committed crimes or took actions not in the best interest of the uniformed services. While this is extremely unfortunate, it is not unusual or unexpected where millions of people are involved. Yet, altogether too frequently many of us come to the snap conclusion that the entire Military Establishment is afflicted and guilty of wrongdoing. Nothing is further from the truth. All of us recognize this fact once we take the time to stop and think the matter through. However, I am concerned that many of us are not taking the time or reflection necessary. We are condemning the whole for the acts of an isolated few.

I recognize further the fact that the American people are "sick and tired" of the Vietnam war, and I myself am increasingly discouraged. I fully share the desire of our people to withdraw our forces as soon as possible. This, of course, should be done consistent with a smooth transition where the South Vietnamese can defend and protect their own interests against North Vietnamese Communists. We have never been in such a protracted, frustrating military operation in our history. Obviously, I do not intend to review that situation today. However, I do want to state that the overwhelming majority of military personnel involved in South Vietnam have

discharged their challenging duties ably and responsibly even though constantly risking their life and limb.

Mr. President, it is difficult indeed to fight a limited war with limited objectives, to combine a "butter and gun" philosophy here at home, and still expect U.S. soldiers on the battlefield to acquit themselves with valor at all times.

My thoughts in this regard are and have been that if we commit this Nation's flag, no half-baked measures are or should be adequate. When our Nation's interest is at stake, we must commit the nation, not merely a part of our population, to the exposure of the dangers and hazards involved.

I mentioned Vietnam only in that I recognize that it is the cancerous sore that seems to be the root cause of a great deal of the disillusionment toward our Military Establishment. I want the record to be clear that the Military Establishment as a whole diligently carried out the orders they were given. They did not establish or set policy as to the manner in which this war would be conducted.

#### B. PROCUREMENT OF WEAPON SYSTEMS

The second important matter that concerns me today, Mr. President, is the additional charge against the Military Establishment that they are a group of fumbling, bumbling, individuals when it comes to the procurement of weapon systems. Many people cite "cost overrun" experiences on many weapon systems as fundamental indicators that the military people involved do not understand or know the basic rudiments of business management.

I want to make it clear that there have been "cost growths" on many weapon systems. I do not criticize anyone for pointing this matter out. However, I do think that in good conscience and as a matter of fairness and equity to all concerned that we should examine in detail the reasons for the cost growth in our weapon systems. Most people automatically term this a "cost overrun" and imply inherent inefficiency or waste was the primary reason therefor. Do most weapon systems cost more today than several years ago? The answer is an emphatic "Yes." Do the weapon systems we are currently producing cost more than we originally estimated they would several years ago? The answer for the most part is a definite and resounding "Yes." Does that mean, however, that we can then automatically infer or conclude that those people involved were wasteful or grossly inefficient? The answer is an equally emphatic "No."

Anyone familiar in the slightest with the rapid inflation that we have realized in the past few years recognizes what has happened and what the primary explanation is. Every American who pays more for his bread, his meat, his clothes, his car, and every item he purchases is thoroughly familiar with the drastic increases in prices for these commodities in the past few years. Yet, there are those people who think that the cost of expensive military weapon systems by some form of magic represents an exception to the rule of inflation. They constantly

deplorable cost growths as if inflation was not the single most important aspect in the increase in program costs. Inflation is the single most influential factor in the added cost of our weapon systems. I can state this with some authority particularly as to those weapon systems that the Tactical Air Power Subcommittee has examined in detail.

Let us take a simple example. The cost of bread rises 20 percent from 25 to 30 cents a loaf in recent times. The rent on an apartment goes up 20 percent from \$150 to \$180 per month. People do not like it, but they accept it as an unfortunate and inescapable cost of living. The illustration when it pertains to weapon systems is identical, but it becomes all the more dramatic because the amount of dollars involved are significantly greater. A weapon system which was thought to cost \$1 billion a few years ago now rises to \$1.2 billion, namely 20 percent. Yet in this instance some people act as if they are completely taken by surprise. Such should obviously not be the case.

Granted, no one is happy, including myself most of all, over the rapid rise in inflation, but it is no secret, and it is not black magic. Most importantly it is not a case of gross waste or inefficiency in the Department of Defense that brought it about. It is a simple fact of life of buying a defense commodity in the American marketplace. It is the cost of doing business, and more importantly it is the cost of protecting our national security.

Inflation, while the single most important contributory reason toward cost growths, is not the only reason.

A second important reason is that the defense industry as a whole has found its employment rolls reduced dramatically in recent years, and the number of weapon systems being purchased by the Defense Department have also been dramatically reduced. What effect does this have on the remaining weapon systems which are being procured? Their costs rise significantly by virtue of a term well understood by all accountants known as "overhead." That means that the cost of the few remaining defense products being produced by a given company rises in cost because the overhead cannot be distributed among several other defense or commercial products that were previously produced.

I am not naive enough, Mr. President, to say that these are the only two reasons for cost growths, but I do know from personal experience on the subcommittee that these are the two principal reasons for cost growths.

A third important reason is the fact that the critics of the military use what are termed "original cost estimates" which were prepared by the military very early in the history of the weapon system when generally only limited data and paper studies were available. Quite obviously even the most dedicated Government employee who attempts to state with any preciseness what a total weapon system will cost the Government and the taxpayer is of extremely limited value. It should be used only as a guide. After all, he is projecting several years in the future. He is normally projecting

production cost figures in most cases even before research and development has commenced. Yet, critics of the military accept without question the validity of these original cost estimates merely because it serves their purpose to demonstrate a significant rise in the cost of any given weapon system. Military witnesses are required to provide original estimates because they are the only fragmentary data available at the time to make a determination as to whether a weapon system should or should not be undertaken.

There are, of course, other reasons which although germane are not of equal significance costwise. Design changes and technical problems during the course of research and development or production also in some cases play a significant role toward increasing costs. Another salient reason is the changes in the quantity of aircraft or missiles to be purchased. This is a very important point, frequently misunderstood and I will comment in some detail on it with respect to the F-14 program where it is particularly germane.

The thrust of my concern, Mr. President, is that when people criticize the military for cost overruns that they take the time and effort to sit down and analyze the contributing reasons causing the cost growth. For the most part they will find the reasons I have mentioned as being the cause for the increase in costs.

#### C. DESIRE FOR "SIMPLE" WEAPONS SYSTEMS

Another matter that concerns me, Mr. President, is the desire by many people for simplicity in our weapon systems. They conclude that any weapon system that is "complex" is automatically bad. In theory I fully support the premise that weapon systems most definitely should be as simple and uncomplicated as possible. However, unfortunately in this day and age when technology has made such rapid strides, it is not always possible to purchase a simple weapon system. The reason for this is that the driving requirement is that we have available for our soldiers the best capability to defeat any potential enemy, and achieving that best capability in most cases involves fairly complex equipment. The reason is simple. The complex equipment based on modern technology affords us a much higher and effective kill potential against a potential enemy. I firmly believe that we cannot resort to simple weapon systems merely because they are simple, which in the final analysis will be inferior to the weapon systems of a potential enemy. I will say that where simplicity can be achieved without compromising our capability and effectiveness on the battlefield that I would most certainly support that "simple" weapon system.

If we had insisted on "simplicity" and lack of complexity in the last few years we would never have developed or deployed the Minuteman, Polaris, Poseidon missile systems which today represent the "backbone" of our nuclear deterrence.

#### D. OVERALL DEFENSE EMPLOYMENT

There is another matter of grave concern to me, Mr. President. This involves

the overall employment situation in the country. One of the largest segments of U.S. industry is and has been the aerospace industry. It has taken probably the largest reduction in employment in recent years of any given industry. Hundreds of thousands of fine solid American citizens are unemployed because of the cancellation of numerous military defense programs and projects. Quite obviously if these people were still gainfully employed by their respective defense companies, they would be substantial taxpayers and contributing toward maintaining a healthy and prosperous economy. Yet, today, tens of thousands of these former taxpayers are on welfare, and in many cases their benefits are about to run out. Instead of contributing toward a healthy and prosperous economy, they are involuntarily forced to be recipients of government aid and tax support from other taxpayers who are still gainfully employed. I want to make it very clear that I am not sponsoring the aerospace industry as a form of WPA to prime the economy, but I do want to make it clear that when these hundreds of thousands of fine Americans are gainfully employed in the aerospace industry, it has always had a resounding and most beneficial effect on the economy. I also feel that it is somewhat ironic that while we terminate and cancel certain weapon programs which put these fine people out of work that we then turn around and seek a solution that costs several billion dollars to put them to work in some other form of employment. Unfortunately, we do not know how to rapidly transplant engineers, skilled machinists, and other individuals in the aerospace industry into other forms of gainful employment. We find it difficult indeed to come up with rational and logical programs for which these people can be gainfully employed. Yet, if they are not gainfully employed, our economy as a whole suffers very materially.

#### E. THE THREAT

Mr. President, I would now like to say a few words about the threat. I am of the opinion that many American people do not like to hear of the progress being made by the Soviet Union in the area of improving its military establishment. It constitutes "bad news." They would prefer that military threats disappear altogether. While I wholeheartedly agree that this would be a fine state of affairs, it has not and will not most likely occur. The American people have never shirked from their responsibilities when they were made aware of potential hazards and dangers from foreign sources. I want to make sure today that they recognize the possible peril that this Nation may encounter in the near future. By that I mean by the mid-1970's or possibly earlier. I do not want any citizen to ask me the question, "Why didn't you tell me what was going on in 1971 with respect to our potential enemies?" Respected members of this body must recognize and appreciate that it is the decisions that are made today which will determine precisely what the state of our military preparedness will be in the mid-1970's. It takes time and

money to purchase military hardware and to achieve a competitive military force structure. We have never been able to overcome the critical element of time with money. This Nation has always relied on a strong national military establishment to protect our safety and welfare. We must continue to do so as long as potential aggressors exist in the world. Anyone who takes the time and energy to study the tremendous strides and accomplishments of the Soviet Union in improving its military arsenal will quickly realize this. I do not intend to belabor it. Suffice it to say that the Soviets with 1,500 ICBM's to our 1,034; a more than 2 to 1 advantage in submarines; the development of a new tactical fighter every 2 years; and the constant updating and modernizing of its ground forces leads to the inescapable conclusion that if this pace continues, which our experts believe it will, that the Soviets will achieve a dramatic military capability significantly greater than ours. There will be no question as to who will have the second best military capability.

History has shown that nations do not build enormous military forces merely to have them lie fallow. They are either used directly for war or to intimidate weaker nations to capitulate without the necessity for war. It is, of course, far easier to "stick our head in the sand" and say that the "bogyman" will not come. I want to state, Mr. President, while I earnestly hope this is never the case, I for one am not willing to risk our future national security on such an invalid or insecure premise.

I, like everyone, earnestly hope the SALT talks and all other efforts toward reaching a meaningful peace with the Soviets and other nations with interests inimical to ours will bring a lasting and future peace. But history has repeatedly demonstrated that the safest and most secure nations are those that are the strongest. It is the weak in nations, as it is individuals, that invite and suffer the acts of aggressors throughout history.

Mr. President, I shall have more to say in the days ahead on these matters particularly as they concern the individual tactical weapon systems reviewed by the Tactical Air Power Subcommittee.

REQUEST TO ENTER MOTION TO RECONSIDER VOTE ON AMENDMENT 423

Mr. FULBRIGHT. Mr. President, I should like to address an inquiry to the distinguished Senator from Mississippi, preliminary to making a unanimous consent request.

On yesterday, at the time the amendment proposed by the Senator from Wyoming (Mr. McGEE) was voted on, I was attending a meeting of the Board of Foreign Scholarships downtown. They called me and I got here about 1 minute after that vote was announced. Of course, I realize that it is my responsibility that I missed the vote, but a motion was made to reconsider by the distinguished Senator from Mississippi and then he withdrew that motion to reconsider.

I should like to ask unanimous consent that I be allowed to enter a motion to reconsider the vote on the McGEE amendment.

Mr. MANSFIELD. Mr. President, I think that I would have to object because—I withdraw my objection if no vote is taken today.

Mr. FULBRIGHT. I have no desire to ask for a vote today, but under the rule, a motion should be made within the 2 following days. Because of that odd and unusual situation with the Senator from Mississippi, I merely point to the record where the Senator from Mississippi asked to reconsider the vote and then, when the Senator from Kentucky asked for the yeas and nays, the Senator from Mississippi, in response thereto, asked that the motion to reconsider be withdrawn. Is that not correct?

Mr. STENNIS. That is correct.

Mr. FULBRIGHT. That is what the record shows. All I am asking is the opportunity to enter the motion. I shall certainly not ask for it to be voted on until the leadership and the Senator from Mississippi are agreeable to that. I would not want to do it today but I would like the opportunity to say a few words about that amendment.

The Committee on Foreign Relations has jurisdiction over legislation dealing with the United Nations. While the Committee on Armed Services has broad jurisdiction I do not really believe it should usurp the jurisdiction of legislation dealing with the United Nations and so, in this indirect way, undercut the prestige and the authority of the United Nations. If that is going to be done, it should be done in a regular order.

My understanding is that the administration does not approve of this approach, but because it was disguised as though it were related to procurement, it was accepted here. I really believe that many in the Senate did not understand the situation because there is a large surplus of chrome in the stockpile. As a matter of fact, they are proceeding now to dispose of, I think it is 1 million tons of chrome as surplus, so that there is no issue whatever with regard to the availability of chrome.

Mr. CANNON. Mr. President, if the Senator from Arkansas will yield, that is not quite correct to say that we are disposing of some of it, because the subcommittee on the stockpile turned down the request for the disposal.

Mr. FULBRIGHT. The debate shows that, but the administration, as I understand it, had recommended disposal of the excess.

With that understanding, I ask unanimous consent that that vote be considered.

Mr. BYRD of Virginia. Mr. President, reserving the right to object, if the Senator from Arkansas wishes, I will be glad to give some background on this matter.

The amendment which is in the military procurement bill was originally introduced as a piece of legislation by me, by the Senator from Florida (Mr. GURNEY), by the junior Senator from Arizona (Mr. GOLDWATER), and by the senior Senator from Arizona (Mr. FANNIN). That was on March 29.

Under a technicality, it was referred to the Committee on Foreign Relations, although it deals entirely with a defense material, a strategic material.

At my request, the distinguished and able chairman of the Foreign Relations Committee held a hearing or instructed his Subcommittee on African Affairs to hold a hearing on this matter. A 2-day hearing was held.

Immediately following the adjournment of the subcommittee on the second day of the hearing, the distinguished chairman of the subcommittee told the press that he would recommend that the legislation be disapproved.

Subsequently, I took the entire hearings of the Subcommittee on African Affairs and had all of the material from the hearings printed in the CONGRESSIONAL RECORD.

Many times subsequent to that, I stated clearly on the floor that this matter is of such great importance in my judgment that I was going to do what I could to see that the Members of the Senate had an opportunity to vote on the matter.

How any Senator votes, of course, would be determined by that individual. However, I think that when we get to a situation in which the United States is dependent upon Communist Russia for a vital defense material, certainly that matter should be voted on either up or down by the Senate of the United States. That was the reason that the Armed Services Committee added that measure to the military procurement bill, because it ties in directly with military procurement.

We cannot build these nuclear submarines or jet aircraft or do all that is necessary in the case of military procurement without chrome.

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

Mr. BYRD of Virginia. I will yield in a moment.

It occurred to me, and it was the view of a large majority of the membership of the Armed Services Committee, that it is in essence a defense matter to determine whether the United States shall be dependent on Communist Russia for a vital strategic defense material.

I now yield to the Senator from Arkansas.

Mr. FULBRIGHT. Mr. President, I was not intending to discuss that particularly on the merits. This is an additional matter. I have the alternative of offering another amendment with a mere change of words. Since the Senator from Wyoming offered the amendment, and it has been discussed on that basis, I thought it would be a much more regular and orderly procedure for the Senate and more easily understood if I followed that procedure.

All I am suggesting is a procedural question. If anyone objects, I have the alternative of offering an amendment which is almost identical and get the same results. However, it would be easier understood if we were to follow the suggestion I am making.

That is all I was doing. I do not wish to delay the Senate. I was only asking to clarify a procedural situation by asking that the vote be reconsidered. I think that is the most orderly procedure to follow.

If the Senator refuses to allow that, I

will do it the other way. However, I believe it would be sufficient and more convenient for the Senate if there were no objection to a motion to reconsider, to be voted upon at a time mutually agreed upon between the manager of the bill and the Senator in control of the time on the opposite side. I certainly do not want to vote today.

Mr. GOLDWATER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GOLDWATER. Mr. President, I ask the Chair to give an opinion on the orderliness and proprietary of the request of the Senator from Arkansas.

Mr. FULBRIGHT. That is why I did it. I asked the Chair and the Chair had already advised me.

The PRESIDING OFFICER. The Chair advises the Senator that only one motion to reconsider is in order. That motion was entered and withdrawn without objection.

Mr. GOLDWATER. Mr. President, would the Chair rule that the motion had been made and then withdrawn and that that counts?

The PRESIDING OFFICER. That is the ruling of the Chair.

Mr. GOLDWATER. I thank the Chair.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Arkansas entering a motion to reconsider?

Mr. BYRD of Virginia. Mr. President, reserving the right to object, to set the record straight, the Senator from Arkansas said that he was not debating the matter today, that it was merely a procedural question. However, in his comments he mentioned a jurisdictional question between the Foreign Relations Committee and the Armed Services Committee. That was why I wanted to set the record straight.

The legislation had been referred to the Committee on Foreign Relations as a technicality because it technically deals with the United States Participation Act. But the substance of the amendment deals with a military problem. It deals with a strategic material. It deals with a strategic item essential for our military equipment.

So, it is clearly logical that it should be put on a bill which is appropriating \$21 billion of tax funds for the purpose of arming U.S. military and equipping the U.S. military to be prepared for a potential aggressor. I would think that the Senator would agree that the most logical potential aggressor would be Communist Russia.

Mr. President, in regard to the question of stockpiling, as the distinguished and able Senator from Nevada has pointed out, if we deplete the stockpile, we would be defeating our purpose. We know that the purpose of a stockpile is to have available for this country the strategic material necessary over a period of time. If we take the material out of the stockpile, then of course after a while that stockpile will be depleted.

But the fact is that 60 percent of all the chrome which is imported into the United States comes from Communist Russia. If Congress wants that to continue, Congress has the right to so vote.

The Senate voted yesterday by a vote of 46 to 46 that it does not seem logical to have our Nation dependent upon Communist Russia for a vital defense material.

Mr. President, any Senator has the right to present any amendment he wants at any time or to bring any bill before the Senate for consideration.

I see no purpose to be served in talking about reconsideration this afternoon, when at the most 51 Senators are present and I doubt if there are anywhere near that many. I think I would have to note an objection.

Mr. FULBRIGHT. I am not going to ask for reconsideration today. I am only asking that it be done next week when the Senator from Mississippi and the Senator from Virginia are agreeable to the vote. If the Senator wishes to object he may do so but it is not a good reason to say it is done only because there are 51 Senators here.

I am only asking unanimous consent that the motion be entered and that is the most efficient and the best way to bring it before the Senate. The alternative is to offer the same amendment again with a technical change, which I will do. But all it would do would be to cost more money to print another amendment and inconvenience the staff, and it would not accomplish anything. I am not going to ask for a vote today, but the fact that there are only a few Senators here has nothing to do with it. I would object myself to voting on anything of consequence now. I do not know why the Senator would object, but that is his privilege.

I will offer a similar amendment which will have to be voted on separately. I think it will be confusing and difficult. I am trying to help the administration. The administration is not disposed to sabotage the United Nations just as they are about to meet. I am trying to help the administration. They are not in favor of the amendment of the Senator from Virginia. Whenever I can I like to be in a position of assisting the President in his foreign relations.

I renew the request. I did not want the Senator to be under any misapprehension that I was going to ask for a vote this afternoon.

Mr. BYRD of West Virginia. If the Senator is not asking for a vote today I see nothing to be accomplished by entering a unanimous consent agreement. The same request could be made on a subsequent day.

Mr. FULBRIGHT. Is it on that ground the Senator objects?

Mr. BYRD of West Virginia. I see no purpose that could be gained. The Senator can always make the request. As the Senator pointed out and as I have pointed out, any Senator can present an amendment at any time to this bill dealing with the many phases of the bill.

Mr. FULBRIGHT. Since we had the vote and the debate on this issue I thought it would save time and make clear for the Senate in the future on what question they were voting. It is a normal procedure. I am sure no Member of this body realized that when the Senator from Mississippi said "I withdraw it," after the yeas and nays, that

precluded it. It surprised me and it surprised everyone with whom I have discussed the matter that that was the effect when he withdrew it. Any Member could have objected. It happened quickly and no one that I know of recognized that such a procedure would preclude a motion to reconsider.

I gather that the Senator from Arizona, even as learned as he is in the rules, thought this was out of order. I did, too. I was going to make a simple motion until I was advised it was not in order. I was surprised to find the rules could be so peculiar as to say that offering and withdrawing a motion precluded another motion. That was the peculiarity of the motion. I never heard before that offering a motion and withdrawing it has the same effect as tabling it without a vote. It is a very efficient way to proceed in the future. Everyone will have to be alert to be sure such motions are not withdrawn. Otherwise a Senator could say, "I move to reconsider," and then withdraw it and there is no opportunity to vote.

The PRESIDING OFFICER. If the Senator will suspend, the Chair wishes to advise that the Senator had no right to withdraw on his own, but on leave of the Senate.

Mr. FULBRIGHT. I said no Member of this body realized that happened. I doubt the Senator from Mississippi realized he had thereby precluded a motion to reconsider when he withdrew it. I think this is a peculiar, archaic rule.

Mr. BYRD of West Virginia. Mr. President, will the able Senator yield?

Mr. FULBRIGHT. I yield.

Mr. BYRD of West Virginia. The rules are in the rule book, and there are only 44 standing rules. Every Senator should know about that particular rule. There is a rule dealing only with reconsideration—rule XIII.

Mr. FULBRIGHT. The Senator from West Virginia is the only Member familiar with all the rules, and he knows them very well. Since the passing of the Senator from Georgia, the Senator from West Virginia inherited that mantle of knowledge of the rules.

Mr. BYRD of West Virginia. The Senator pays me a great compliment and it is not deserved.

Mr. FULBRIGHT. It is deserved. This is a very peculiar rule. If a Senator wants to object, he can; I would only say I think it is only an inconvenience for the Senate.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Arkansas to enter a motion to reconsider?

Mr. HANSEN. Mr. President, what is the pending question?

The PRESIDING OFFICER. The question now pending is whether there is objection to the request of the Senator from Arkansas' entering a motion to reconsider.

Mr. HANSEN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

#### PHOENIX

Mr. CANNON. Mr. President, the Senator from Wisconsin (Mr. PROXMIER) in his remarks on the floor of the Senate

on September 14, 1971, against the F-14 fighter program, also chose that occasion to make a series of statements criticizing the Phoenix missile which will be carried by that airplane. Some of the wire services and press reported the charges, emphasizing the alleged problems and deficiencies of the Phoenix missile in particular, and these charges reached the reading public in the next day's newspapers.

The speech itself contained a great number of incorrect facts and statements about the Phoenix missile system and about its use as an air-to-air weapon. I believe that the RECORD should be corrected so that our debate and decisions on the F-14 and the Phoenix will take place based on true and correct information. For that reason, I will point out some of the erroneous statements that were made and will place in the RECORD a side-by-side refutation of its claims.

The speech claimed that—

Tests conducted by Hughes Aircraft Corporation, manufacturer of the Phoenix system, confirm that it has no capability against maneuvering targets except over the shorter stretches of its range. Beyond a certain point, the tests showed, the Phoenix rocket motor burns out and it cannot get the maneuver energy needed to keep up with a target which can quickly change directions.

Now that is erroneous from several standpoints. In the first place, what was done to evaluate Phoenix capability against sharply maneuvering fighters was a thorough analysis and simulation by the Navy's Air Development Center at Johnsville, Pa. These evaluations, done in March, 1971, compared the Phoenix with the advanced version of the Sparrow missile. Their findings were that the Phoenix could defeat even the most highly maneuverable fighter at long ranges, and that the Sparrow was better for short range aerial combat. They also reconfirmed that after the missile's rocket motor stops burning and the missile is slowing down, it does have less energy left for performing violent maneuvers to knock down an evasively-turning fighter. This fact is not a new discovery, of course, since it is a limitation of all air-to-air missiles. Like a spent bullet, a missile, too, eventually will fall out of the sky. But the evaluation of the Phoenix did show that it has much more long distance capability than even the advanced version of the Sparrow because its rocket motor burns much longer, in fact, twice as long.

Second, the only test by the Hughes Aircraft Corp. resulted in a hit on a highly maneuvering fighter. Therefore, the true facts about the Phoenix are that it can intercept and kill the best fighters the enemy has and can do so at much longer ranges than any other missiles that we have today in inventory or in development. Phoenix will add a great improvement to the Navy's long range air defense capabilities.

The speech also said:

Second, hardware tests at the Naval Weapons Center's Corona Laboratory have shown that the Phoenix can be effectively countermeasured by simple low power techniques.

The tests, although not specifically identified in the speech, were made in 1968 at Corona. They actually showed

that the Phoenix is unaffected by "simple low power techniques" of countermeasures, and that the only countermeasures that could begin to affect the Phoenix were devices of high power and great complexity that were of the late 1970-80 time frame and were not practical for a real-world tactical enemy fighter environment. As a result of these tests certain modifications were made to the missile to meet these countermeasures.

A third charge was that a study had shown that—

The Phoenix will have severe reliability problems due to many of the same complexity of design features which have made the Sparrow unable to withstand rigorous combat handling procedures.

This charge also was undocumented, and neither the Navy nor the Hughes Aircraft Corporation has been able to find any study reporting severe reliability problems. Both report that the Phoenix will meet or exceed its reliability specifications.

The latter part of the statement about the cause of Sparrow reliability problems was in error. Severe problems were discovered when the Sparrow missiles were used in combat conditions in Southeast Asia, but the cause of these problems was old design technology—the old Sparrow missiles were built with vacuum tubes, and carrying those missiles on airplanes in combat caused severe wear and tear, even when the missiles were not fired, because these vacuum tubes were turned on and running on every flight in the combat zone. The solution to this particular problem was obvious. The advanced Sparrow missile has been designed with solid state transistors, which removes the reliability problems caused by vacuum tubes and also gives the Sparrow a quickstart capability much like a transistorized radio. The Phoenix also is completely transistorized, too, and it will not have the problems that plagued the old Sparrow missiles.

A fourth claimed weakness of the Phoenix as a system was that it could not be fired at long range against targets not identified visually. This is a general problem for all air-to-air combat with long range missiles and not a deficiency peculiar to the Phoenix. The solution to the IFF—for identification, friend or foe—problem is in precise command and control and in secure communications systems. There are methods for IFF identification in existence today, and they are being improved upon all the time. It is just not correct to state, "there is no demonstrated solution yet in sight"; it would be more accurate to say that an absolutely foolproof system has not been devised to date.

Nevertheless, there would be no mistaking the intentions of a wave of unidentified aircraft heading toward a carrier task force at high supersonic speed. Such a sighting would not be confused with a stray commercial airliner that had wandered off course, as was implied in the speech.

Another error was made with the statement that the Phoenix missile was estimated to cost \$400,000 per shot. It is true that total procurement costs for the

Phoenix system are in the neighborhood of \$400,000 if based on a production run of 2,000 missiles, the average quantity assumed in the speech. But when we talk about procurement costs, it is necessary to have a pretty careful accounting of just what is included. The \$400,000 would encompass all of the costs to the Navy, not only of buying missiles themselves, but also of buying all of their support equipment and of outfitting carriers and shore stations to store, test, and repair the missiles. The point I am making is that when the pilot pulls the trigger to fire the Phoenix missile, the only part of the total procurement package that is launched into the air is the actual flyaway missile itself; and if we want to calculate the cost of a missile shot, then we should look at the cost of the missile itself. Phoenix missile flyaway cost, even in this first year of production when the manufacturer is at the top of his learning curve, is about \$320,000. This will go down as the production rate builds up. The average missile flyaway cost is expected to be about \$270,000, and this price includes a generous estimate for inflation. The estimated cost of \$400,000 per shot assumed that all of the test equipment and other support items were lost at the same time, and that, of course, does not happen. Once that equipment is bought and in place in the Navy, additional missiles can be purchased to replace ones used up for just the flyaway price of the missile.

The speech also was wrong when it stated that the search radar on the F-14 operates only in a narrow cone in front of the airplane. The correct fact is that the Phoenix missile system radar has a 130° wide search path in front of the airplane, which is over one-third of a complete circle. Another point to keep in mind is that the airplane will be making turns when it is on a loiter patrol station looking for possible attackers, and it can sweep its radar through a complete circle in a constant search for surprise intruders. The long range of the radar will give ample warning time of even very high speed attackers approaching the fleet from any direction.

The charge was made that the Phoenix could not intercept cruise missiles as it was doubted "whether the Phoenix would have the maneuverability to correct for errors in its estimates of their direction and velocity." This statement exhibits a fundamental ignorance of missile guidance systems. The easiest target for an air-to-air missile to intercept is a cruise missile which is proceeding on a straight course at steady speed toward a target. Compared with trying to knock down a maneuvering enemy fighter, a cruise missile is duck soup, the easiest possible task, and besides it is a missile guidance problem and not a missile maneuverability problem. The correct facts are that the Phoenix AWG-9 computer can simultaneously direct the intercept of six different missiles at six separate targets, and at the same time it can be following other targets that are within radar range. The Phoenix absolutely will not have any problem with intercepting cruise missiles or enemy bombers

as was charged at another point in the speech.

Another assertion made was that a total missile procurement on the order of 2,000 missiles was unrealistic and an inadequate buy for combat purposes. It was contended that—

These 2,000 missiles would be wholly expended if 12 planes a day flew fully loaded in a 30-day conflict with the Soviets—even if all the missiles somehow could be rushed to the scene.

We could take another approach to the usefulness of those 2,000 missiles; namely, where are the Soviets going to get 2,000 military targets from in a 30-day war? The point to be made is that when force planners formulate an inventory plan, they consider the number of potential targets that are likely, the number of sorties our forces could generate utilizing the missile, and also our own complementary inventory assets that will be used against the enemy targets. In planning for Phoenix procurement for war reserve purposes, the planners would also consider that we have Sparrow and Sidewinder air-to-air missile inventories and also our own ship-launched SAM's and ship-based guns for air defense. These other defensive weapons complement the Phoenix, and this overall defensive system is taken into account when allocating the portion of it that will be handled by Phoenix. In summary, a Phoenix missile inventory on the order of 2,000 or so missiles is not at all an unreasonable quantity.

There were other errors of fact about

the Phoenix made in the speech, but instead of making a point-by-point rebuttal now, let us see what a positive look at the Phoenix will reveal. In the first place, an overall look at the air-to-air missile family is in order. Our present missiles are the Sidewinder, which weighs about 250 pounds; the Sparrow, about 500 pounds; and the Phoenix of about 1,000 pounds. These form an orderly progression in terms of size, effective range, warhead lethality, and guidance capabilities. Also, as they get bigger—and better—they cost more.

The Soviets, too, have built their missiles to match ours. Their Atoll is similar to our Sidewinder; their Anab is similar to our Sparrow; and their Ash is of the same general size as our Phoenix. Further, the Foxbat airplane is reported to have a new missile in the same class as the Phoenix. The important point to remember is that our Sparrow outranges our Sidewinder and their Atoll; likewise our Phoenix outranges our Sparrow and their Anab, and also their Ash. The new missile apparently approaches the Phoenix in capability.

This raises a fundamental question about air combat: Are we willing to face a potential enemy while outflown by his aircraft and outranged by his missiles? I believe it would be foolhardy for us to do that.

It is well known that the Foxbat can fly at mach 3, or three times the speed of sound, and at altitudes of over 70,000 feet. Our tactical airplanes, including the F-14, were not designed for and

cannot match this performance. The only counter that we will have that can intercept this threat, carrying its own long-range missile, is the Phoenix when fired from a supersonic aircraft at reasonably high altitude—say 35,000 feet. Also, note that the only aircraft that we have that can meet these launch conditions with Phoenix is the F-14.

These are very compelling reasons for having the Phoenix missile capability. I believe that the debate on the F-14 and Phoenix should center about the real choices that we are making—Is the added capability needed, and is it worth its cost—and not about a series of undocumented and incorrect charges. It is a worthy subject for debate, but in my own mind the answer is obvious. I do not think we can afford to be second best in air-to-air missile. I do not think we can let ourselves be outranged by our potential adversaries. The stakes are too high. They are the survival of the fleet against the maximum potential of the threat.

For these reasons, I will support the Phoenix and the F-14 programs in this Defense bill. I urge other Senators to consider these facts as they reach their own decisions.

I ask unanimous consent to have printed in the RECORD a side-by-side comparison of the principal charges made in the speech of September 14 and the rebuttal as prepared by the Navy.

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

SENATOR PROXMIRE'S SENATE SPEECH, SEPTEMBER 14, 1971

ISSUE

Mr. President, there are many issues to be resolved in deciding whether to buy the F-14, but they reduce themselves essentially to two.

First, how reasonable is it to build an airplane, equip it with a terribly complicated and expensive air-to-air missile, and then stick it on an attack carrier to protect that carrier and its task force from the spectrum of threats which the Soviets can throw against them?

Second, how reasonable is it to rely on that airplane, with all the performance compromises caused by carriage of that missile, as our next generation Navy Fighter?

These are the questions I want to answer. I will talk today about the Phoenix missile and the fleet air defense mission of the F-14. I will then address myself in a few days to the dogfighting capabilities of the F-14 and several of its competitors.

These are the points I hope to make today:

First, the vulnerability of the attack carrier has reached the point where it is as obsolete today for a war at sea with the Soviet Union as the battleship proved to be for World War II. The carrier could not stand up to a concentrated Soviet attack against it. And even if it could, it could not be resupplied to carry out its offensive operations.

COMMENT

One of the most overstated claims by opponents of the aircraft carrier is its supposed vulnerability. Yet this vulnerability is seldom defined or treated in either application: how open is the carrier to successful attack *and* crippling damage if an attack is successful. Nothing more than subjective opinion supports the notion that the carrier could not stand up to a concentrated Soviet attack. In reality, factual data of the past thirty years fully justifies the Navy's confidence that modern aircraft carriers are the most difficult ships afloat to attack and disable.

For example, none of the oldest class of carriers which are still in the fleet today—the Essex-class carriers which were in World War II—were ever sunk. Many of them took up to five and six hits by the first "guided missile" in history—the Japanese Kamikaze aircraft—each carrying payloads equivalent to the warheads of current Soviet antiship missiles. Many of them took several torpedo hits. In case after case they were back in action within a relatively short period of time—frequently an hour later. When the time came, they went into port for repairs. Since that time, the modern carriers of postwar construction have been given even greater protection—heavier armor, more compartmentation, much better damage control features—so that, although carriers may take some hits, they will have a high degree of survivability.

Additionally, an often forgotten fact is that the World War II carriers, while surviving the most concentrated attacks in history, decimated the attackers. The battleship was not discarded as a weapon system because of its vulnerability but because its guns were outranged by the carrier's bombs. Carrier aircraft still outrange any Soviet tactical system—specifically the cruise missile.

SENATOR PROXMIRE'S SENATE SPEECH, SEPTEMBER 14, 1971—Continued

## ISSUE

Second, there is no substantial evidence that the more than ten years old yet still untested Phoenix missile system could give it a new lease on life. The Phoenix probably could not handle the Soviet bomber threat against which it was designed, let alone those facets of the overall Soviet anti-carrier capability which have been expanding in recent years.

Third, only the Soviet Union has the power to neutralize our carriers. China does not, nor do the lesser powers against which we might be involved. Therefore, we should plan now on a force level of nine attack carriers and the systems needed to defend them in conflicts where Soviet naval forces are not involved.

## COMMENT

The AIM-54 Missile is this Country's most advanced air-to-air guided missile. As an integral part of the F-14/AWG-9 Weapon System it has been designed to cope with the entire air threat spectrum of the 1970-1980 time frame, ranging from low altitude (subsonic and supersonic) to high altitude Mach 3 weapons. These threat weapons include high performance fighter aircraft (Foxbat, Flagon, Fitter) carrying medium and long-range air-to-air missiles; surface launched cruise missiles (Styx and Shaddock); and supersonic bombers carrying long-range air-to-surface missiles (Kangaroo and Kitchen).

The AIM-54 can be launched in multiple missile attacks as required against hostile forces varying in size from large groups to a single aircraft. As many as six AIM-54 Phoenix Missiles can simultaneously be guided to six widely separated targets. As an integral part of the F-14 supersonic fighter aircraft, the AIM-54 Phoenix Missiles will provide the potential for more kills per sortie than any existing air-to-air weapon.

Although Phoenix has not yet been employed operationally, tests to date demonstrate that all design performance requirements are being satisfied. Thus far, 42 missiles have been fired with unprecedented success. Many of these launchings were impossible to accomplish with any other known missile; for example, hits were made by:

A Phoenix launched at a target 78 nautical miles away  
Two Phoenix simultaneously guided at two targets 10 miles apart

A Phoenix fired in launch-and-leave mode, independent of launch aircraft radar illumination

Phoenix against a low-altitude simulated hostile cruise missile

Phoenix against a high-altitude, supersonic simulated foxbat

Phoenix fired against a highly maneuvering fighter

A live warhead test against a fighter target

Several look-down, shoot-down attacks on low-altitude targets (in clutter background)

One missile fired against two closely spaced targets (less than 1,000 feet apart) resolved and came within the lethal range of the intended target.

Of the forty-two missiles launched, twenty-seven have been completely successful; four were considered "no tests," due to causes outside the missile. This 71% success ratio includes initial factory-produced weapons and is beyond that ever achieved by any other air-to-air guided missile program. This progress clearly points the way toward attainment of the desired reliability and guidance accuracy requirement for Fleet service. The basic design has proven to be sound. Changes have been incorporated that will prevent recurrence of any failures which have been experienced. None of the design modifications have involved the design concept; all changes have merely involved detailed implementation.

This statement amounts to a recommendation that the United States concede to the Soviet Union control of the seas because the Soviets have a strong Navy. It implies that we should maintain naval forces capable of combat only against a threat weaker than Soviet naval forces. This in turn implies acceptance of defeat or withdrawal from any showdown situation involving Soviet naval forces, with no alternatives available. Denial of use of the seas to the U.S. and her allies would spell victory for the Soviets, who recognize our dependence on the use of the seas. President Nixon recognized the difference in geographical situations in July 1970 when he stated:

"One other point I would make briefly is this. What the Soviet Union needs in terms of military preparedness is different from what we need. They're a land power, primarily, with a great potential enemy on the East. We're primarily, of course, a sea power and our needs, therefore are different."

It is in the context of U.S. need to use the seas in support of its vital interests, sometimes with and sometimes without strong allied naval forces, that the direction of the recent buildup of the Soviet Navy has its real significance. The general purpose forces of our Navy have been designed to control the sea lines of communication and to project the power with which to defend our vital overseas interests. The new Soviet Navy with its main power in weapons designed for interdiction—submarines and antiship missiles launched from Long Range Aviation, Naval.

Aviation, surface and submarine platforms—have been designed to counter our naval forces and deny us the use of the seas to support our allied and overseas forces. Once isolated, the U.S. would be denied a forward defense posture and our allies would be forced to seek accommodations with the Soviets or the CPR. Sufficient evidence in peacetime of Soviet capability to do this would be enough to start the erosion of our alliances and lay the basis for accommodations by our allies with the USSR.

Considering the possibility of such a consequence, it is illogical that a serious proposal could be made to reduce the carrier force level below the minimum required to meet the primary threat at sea. Unless one chooses unequivocally to dismiss the Soviet naval threat to our national interests, the only logical proposal would be an increase in the size of our carrier force. The carrier force of the United States Navy constitutes our margin of superiority over the Soviet navy. The aircraft carrier provides the essential umbrella of airpower at sea, without which other naval forces could not safely operate. Without the carrier force we would lack any capability to control and use the seas.

SENATOR PROXMIRE'S SENATE SPEECH, SEPTEMBER 14, 1971—Continued

## ISSUE

Finally, I will add a caveat: if these arguments are not accepted—if we do want to provide fleet air defense against the Soviet anti-carrier threat—we don't need the F-14 to do it. There are other equally effective yet much less expensive alternatives available. We could put the new Sparrow missile on either a modified F-4 or the F-15, or we could put the Phoenix itself on a modified A-6. In addition to saving money, these approaches would give us what the F-14 does not—a chance of getting the first-rate Navy fighter development task, would be required.

## COMMENT

Cost must be related to mission success. The advanced capabilities of the F-14/AWG-9/PHOENIX weapon system provide the only means of assuring success on future air superiority missions. Effectiveness and need must be the measure to determine value of the requisite investment. We could purchase the World War II F-6F for far less dollars than the F-4J requires, increase the quantity of aircraft in the Navy inventory, but not be effective against the current and projected threat.

A similar comparison can be made between the F-4J and, the F-14. The F-14 will meet the threat; the F-4J will not, regardless of the quantities procured. We are forced to spend more money per unit to attain needed performance levels. There is no known substitute way to accomplish the stated missions against the anticipated fighter, interceptor, and cruise missile threat.

Modifications to the AIM-7 could certainly expand and improve its capability. However, the physical size of the missile is a limiting factor for seeker range, target resolution, aerodynamic range (total rocket motor impulse), and warhead size. The ability to approach this upper boundary would be further limited by the degree of development risk desired and the extent of modification that would be tolerated. For example, if compatibility with existing AIM-7 fire control systems and interchangeability with existing AIM-7's is required, the improvement would be minimal. If the only constraint is for physical fit in existing aircraft semisubmerged cavities, performance capability could be maximized. In either event, if the performance of the AIM-54 is to be approached, a larger missile is required. Also, to provide in the AIM-7 even a limited multi-shot capability against widely spaced targets, a major development task, would be required.

Although a modified A-6 may be a feasible platform for the Phoenix missile system it is certainly not an acceptable alternative to provide area defense against the Soviet anticarrier threat in itself. The threat is already in being and serious now, and is becoming more severe because Soviet investment in military technology has reached the pay-off stage.

To ignore or doubt the severity of threat predictions and not adequately prepare to counter them is strategically unsound. Inherent delays in the development required to achieve an operational capability with a new fighter design are not acceptable to national security. If we do not face the facts realistically and introduce the advanced superiority possessed by the F-14 against the entire threat spectrum, the long term costs will be immeasurable.

## I. THE BASIC VULNERABILITY PROBLEM

The main function of attack carriers is to serve as floating air bases, which can be used to provide tactical air support to deployed land forces. No respectable defense expert has ever questioned the need to maintain some aircraft carriers for this purpose. The carrier debate has focused instead on important subsidiary issues: how many carriers do we need and in what kinds of conflicts do we plan to use them?

A common misunderstanding, shared by many carrier critics, concerns the primary mission of the Navy in general and aircraft carriers in particular.

The primary mission of the United States Navy is to gain and maintain general naval supremacy, to control vital sea areas, to protect vital sea lines of communication, to establish and maintain local superiority (including air) in an area of naval operations, to seize and defend advanced naval bases, and to conduct such land and air operations as may be essential to the prosecution of a naval campaign. In summary, the primary mission of the Navy is to gain, maintain, and assure the continued control of the seas, and the air above them, as required in support of our national objectives.

The aircraft carrier is the principal ship of the surface fleet through which our Navy maintains its supremacy at sea. The attack carrier fills this role because it represents airpower at sea. History has demonstrated that naval surface forces cannot survive in the face of a strong air threat without air superiority.

The most comprehensive review of the entire concept of naval carrier forces was conducted in 1970 by the Joint Subcommittee of the House of Representatives and Senate Committee on Armed Services. Following their extensive study of past and projected costs, effectiveness of attack aircraft carriers and their task forces, and thorough review of the factors considered in the decision to maintain the [then] present number of attack carriers, the Joint Committee Report stated:

## ON ROLES AND MISSION OF CARRIER

The attack aircraft carrier has in the past and will into the foreseeable future, continue to perform a vital and indispensable role in insuring the control of our sealanes essential to our commerce. Our industrial operations could not last more than a very short time if our strategic materials were to be cut off from overseas.

In addition, carrier air forces are able to provide tactical air in support of land forces operating far beyond existing American air bases or where such bases have been rendered inoperative. In particular, with the current emphasis on reducing American commitments abroad in both Europe and the Pacific, the highly mobile carrier provides a unique means of providing American air power in distant locations without establishing bases and installations ashore.

Nothing "goes without saying" in warfare, nor are there any certainties involved. In fact, it is the very uncertainty of war which makes the employment of military forces an art that is mastered by so few and misunderstood by so many. This is particularly true in the employment of airpower, whether it be sea- or land-based.

The certainty with which Hitler committed the Luftwaffe to "finish off" Britain marked the beginning of the end for Germany.

The relative costs of land-based and sea-based tactical air forces and the uncertain availability of land bases in other countries are important factors to be considered in answering this question. But the most critical factor of all is the growing vulnerability of our carriers. It goes without saying that we should not employ our carriers in situations where they and the aircraft on them are certain to be neutralized or destroyed.

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The Navy argues correctly that it is very difficult to sink an aircraft carrier and that no modern carrier (Essex class or later) was sunk in the Second World War. But the significance of this admitted truth should be placed in context at the outset. It is true as far as it goes, but it doesn't go very far.

The fact of the matter is that it is comparatively easy to damage a carrier enough to make flight operations impossible and force the ship to return to port for a long period of time for repairs. Any in anything but a very protracted conflict, to force a carrier out of action for three months or more would be almost as good, from the enemy's point of view, as sinking it.

It is against this background that World War II experience should be evaluated. As one former defense analyst has noted:

In the Second World War, 60 percent of the carriers that took one hit by a Kamikaze and all the carriers that were hit more than once were forced to return to port for repairs. New carriers with improved damage control features that came into action toward the latter part of the war—Essex class and later—did not fare any better.

And the anti-carrier weapons available today to the Soviet Union are a lot more sophisticated than the Kamikaze tactics of World War II. In testimony last year during the joint hearings on the CVAN-70 aircraft carrier, the Navy listed the following threats to the carrier in the following alleged order of their severity today:

- Nuclear weapons
- Submarines with cruise missiles
- Long range bombers with cruise missiles
- Cruise missile-equipped surface ships
- Tactical aircraft
- Long range bombers with conventional weapons
- Gun equipped ships
- Ballistic missiles

Granted that we must size all our conventional forces on the assumption that nuclear weapons will not be employed at the outset of a conflict and granted that some of the latter threats can probably be defeated, the list is nonetheless impressive.

Interestingly enough, one threat not included in the Navy's list is submarine torpedoes, one of the oldest and surest forms of enemy attack against any surface shipping. Submarine torpedoes were used with devastating effect by the Germans in World War II, as indicated in more detail later. The Russian submarine force today is about seven times as large as the force with which the Germans entered World War II. Moreover, these submarines are a great deal quieter and difficult to detect than the German subs. Using wolfpack tactics they would have a significant chance of penetrating close enough to our much more detectable carriers to launch their torpedoes against it. And these torpedoes, now of the acoustic homing variety, will still wreak substantial damage. The Navy's devotion to its own Mark 48 torpedo program itself makes the point rather well.

The certainty with which Admiral Yamamoto's superior forces approached Midway marked the beginning of the end for Japan. In each case the defenders recognized the certainty that they would suffer losses, but wisely and courageously accepted such risks in order to inflict unacceptable losses upon the enemy. No knowledgeable leader of any military branch asserts the invulnerability and certainty of survival of all his forces in a war.

The Navy expounds this premise because it is factual and provides a graphic point of departure for better understanding of the post-war improvements made in our modern carriers to make them even more survivable. There are other factual data available gained from accidents such as that which occurred in USS Enterprise in 1969, when nine major caliber bombs (equivalent in weight of explosive to more than six anti-ship missiles) detonated on her flight deck. On that occasion, all essential systems were maintained in an operable status, effective damage control contained the effects of fire, and the ship could have resumed her scheduled air operations within hours, as soon as the debris was cleared from the flight deck. It is not possible to demonstrate by simulation the toughness of our modern active carriers more effectively than was accomplished by this unfortunate accident.

It should be noted that in wartime conditions humanitarian considerations receive lower priority than in a non-combat situation. A damaged carrier such as Enterprise would bury the dead, repair the damage and continue to fight. Actually, repair time for carriers damaged in World War II averaged four weeks, suggesting that a more accurate statement might be: "In anything except a very short war the enemy might be quite reluctant to commit the main body of his bomber strength against carrier task forces and risk the severe attrition that would likely result."

Data available from a recent review of the World War II Kamikaze campaign can be interpreted to support the statement displaying how statistical analyses can be misleading. While it is true that carriers hit by Kamikazes generally returned to port eventually for repair of damage, in most cases they were not immediately "forced to return to port," but were withdrawn only as they could be spared. During World War II, of the 30 fast carriers operated in combat none were sunk or permanently put out of action by Kamikaze attacks even with multiple hits.

At the height of the Kamikaze offensive, during the battle for Okinawa, over 1,800 Japanese sorties were launched resulting in five hits on carriers by single Kamikazes and two hits by two Kamikazes—a hit rate of five per 1,000 sorties. Of those carriers taking one hit, two continued in operation, two were only temporarily out of action and one was forced to return to port for repair (it had been hit by two Kamikazes 30 days earlier and had continued in action). Of the carriers taking two hits, one was temporarily out of action, while the other was forced to return to port for repair.

Additionally, in February 1945 the USS *Saratoga*, a pre-Essex class carrier, received four Kamikaze hits and two bomb hits in a 1½ hour period and resumed flight operations 1½ hours after the last hit.

Overall there were a total of 16 Kamikaze hits (from over 5,000 sorties) on fast carriers during the period October 1944-August 1945. Ten of the 12 carriers hit by one Kamikaze (83%) were able to conduct air operations after being hit. Three of the six hit twice in each attack were able to continue air operations (50%). Therefore, 76% of the Kamikaze-damaged carriers were capable of continuing air operations. The average number of weeks in repair yard per hit was 1.8.

The order of the listed threats is correct, but the statements are incomplete. The submarine threat was actually stated, and printed in the record of the joint hearings as follows:

Submarines in general, but particularly nuclear submarines with cruise missiles."

The Navy considers the torpedo to be part of the weapon load of "submarines in general." The extensive hearings considered far more information than this, however, and one of the many statements printed in the record of hearings of the Joint Committee states:

"Of the major weapons which constitute threats to the carrier, torpedoes are by far the least effective. The submarine must reach a point within several miles of the carrier to fire torpedoes. Furthermore, the torpedo protective system of modern attack carriers is extremely effective. Recent technical analyses at the Naval Ship Research and Development Center show that a significant number of torpedoes are required to put a modern Forrestal or subsequent class carrier out of action."

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Moreover, these advances in anti-carrier weaponry have been accompanied by advances in the surveillance capabilities needed to bring these weapons to bear. Satellite and long-range aircraft reconnaissance have greatly reduced the ability of naval task forces to hide in the broad expanses of the oceans. And more sensitive submarine sonars and higher speed submarines to make it much easier for submarines to find and attack the carriers.

For all these reasons it is virtually impossible today to find a single defense expert outside the Navy who believes that our carriers could effectively survive a determined onslaught by the Soviet Union even with nonnuclear weapons.

Many observers have noted, for example, that four or five hits by Soviet cruise missiles—whether from aircraft, surface ships, or submarines—would force a carrier to retire. Similarly it has been suggested that a few hits on the carrier's four screws by submarine-launched acoustic homing torpedoes would cause enough loss of propulsion power to make normal flight operations impossible and to greatly reduce the carrier's ability to avoid further damage.

The problems of defending against this limited number of hits has also been pointed out. The effectiveness of antisubmarine warfare (ASW) measures in any particular engagement is limited by the inherent variability of the underwater acoustic environment and the unreliability of sophisticated sonars. And anti-air warfare (AAW) improvements are likely to be overwhelmed by improvements in offense, such as higher speed and lower altitude missiles. The net effect is that both types of defense can cause substantial enemy attrition over a long period of time but cannot provide strong assurances that a carrier could survive a determined attack.

And that is precisely the kind of attack which the Soviets would throw against them. Testimony to Congress by Navy spokesmen in recent years has stressed the Soviets' growing anti-carrier capability. Attempts have also been made to calculate the effects of a concentrated attack against the two or three carriers we could hope to have deployed somewhere at any one time.

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This assessment grants advanced capabilities only to the attacker, who also apparently has no vulnerabilities. The "defender", is denied any advances in hardware or techniques. Furthermore, the offensive capabilities of the "defender" are ignored, creating an impression that no capability really exists. For example, "long range aircraft reconnaissance" could be denied to an enemy at our choosing. Unescorted aircraft that perform this mission are the most vulnerable of all enemy forces, yet the enemy is granted this service throughout most such arguments of this nature. Similarly, sensitive submarine sonars make it much easier for the attacker, while a few paragraphs later it will be stated as a liability to the Task Force in that, "The effectiveness of anti-submarine warfare (ASW) measures in any particular engagement is limited by the inherent variability of the underwater acoustic environment and the unreliability of sophisticated sonars." But it is not stated that these same water conditions appreciably increase the difficulties facing an attacking submarine. The attacker's more sensitive sonars are apparently unsophisticated and highly reliable while his high speed contributes nothing to the defender's capability to hear higher noise levels generated by that speed. The case against the aircraft carrier is thus biased by summing all such inconsistencies to the advantage of an attacker who would suffer no attrition to the defense in depth or far-reaching offensive striking power of carrier task forces.

Carrier task forces can concentrate sustained air strike power against Soviet combat ships since aircraft are in a sense reusable missiles. Soviet logistics support shipping, essential to their ability to sustain action, can also be destroyed. The ability to concentrate air strike forces against Soviet naval targets, simultaneously in widely separated areas, outranking them in the process, is a fundamental advantage our Navy enjoys.

The most noted defense expert outside the United States Navy—Admiral Gorskov, head of the Soviet Navy—embarked on a massive program to modernize the Soviet Navy. The Soviets have diverted a disproportionate amount of their resources into the effort to counter the U.S. Navy's sea control and mobile striking power embodied in our carrier forces. From their continuing high-paced efforts to meet the threat of our carrier force, one must conclude that Soviet military experts are gravely concerned about the capabilities of our striking forces to survive their best efforts.

Furthermore, a large number of defense experts, both members and witnesses of the Joint Senate-House Armed Services Subcommittee on CVAN-70 Aircraft Carrier, compiled 758 pages of study effort on this subject. The Joint Subcommittee's opinion that long lead funds for the CVAN-70 should be approved indicates the belief of experts that the attack carrier capability must be retained as an integral part of our Nation's striking power.

As recently as March, 1971, Secretary of Defense Melvin Laird stated:

"I am convinced that our responsibilities in the Atlantic, the Pacific, the Mediterranean and other ocean areas will require construction of an additional nuclear-powered carrier for the Navy to insure adequate attack carrier capabilities for the 1980's and beyond."

The identity and qualifications of the observers are unidentified. It is believed that the only qualified observers who have noted empirical data on Soviet cruise missiles are the crew of the Israeli destroyer *Elath* sunk in 1967. The *Elath*, a vintage World War II destroyer acquired from the British, possessed a minimal air defense capability against high speed attack and her thin-skinned hull was typical of such old ships, which were small and inexpensive. Unlike old destroyers, modern aircraft carriers are designed and constructed to prevent penetration of warheads to their vital areas.

Comments of a similar nature apply to the "suggestion" about submarine-launched acoustic homing torpedoes. No mention is made of weapon reliability or speed, or the submarine's problem of attaining a suitable firing position against a task force proceeding at high speed and defended by surface ships, their anti-submarine airplanes and helicopters, maritime patrol planes, hunter-killer submarines. The changing formations and dispositions of the force, coupled with high ambient noise levels from other maritime shipping also aggravate the submarine's problems which must remain undetected to be effective, but at the same time must make high speed generating high noise levels in an attempt to maneuver into a firing position.

This rationale does not recognize that the mission of the Navy is to gain, maintain, and assure the continued control of the seas against any enemy. The carrier force constitutes the Navy's most effective means of accomplishing this mission because of its far-reaching offensive capability. Against a major seapower such as the Soviet Union, the margin of superiority provided by the aircraft carriers is vital. If one were to accept the notion that the problems of defense are too great, we would sacrifice our offense by keeping the whole Navy safely in port.

Fortunately for the Nation, neither the Navy nor our responsible leaders have this defeatist attitude. Instead of retreating from the possibility of a limited number of hits from an all-out enemy effort, the Navy would employ its forces—and especially the carrier forces—to inflict unacceptable damage upon the enemy *before* he could achieve his purpose.

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One such calculation is set forth in the Brookings Institution analysis of the fiscal 1972 defense budget. It suggests that the modest Soviet bomber force alone could completely neutralize our carriers:

"This fundamental point is worth elaborating by a purely illustrative and highly simplified model. Suppose the USSR is willing to expend twenty-five bombers, each capable of carrying one air-to-surface missile, and their fighter escorts, in order to disable one carrier. (The Soviets have in their naval aviation force some three hundred ASM-capable bombers, whose primary mission would be to attack U.S. carriers.) Suppose also that the ASMs have 80 percent reliability and, very optimistically, that our fighter defense would have a 40 percent chance of shooting down a bomber in a single engagement and our surface-to-air missile systems (SAMs) an 80 percent probability of shooting down an incoming ASM. With these assumptions, the bombers would get six hits on the carrier more than enough to force it to retire. Less optimistic assumptions on defense would sharply reduce the number of bombers needed to put a carrier out of action."

If anyone thinks this is an exaggerated analysis, let me stress its assumption that each Soviet bomber is capable of carrying but one ASM. According to testimony last year in the CVAN-70 hearings, some of these Soviet aircraft have a multi-missile capability.

Another calculation, by former defense official Leslie H. Gelb in testimony before the Senate Defense Appropriations Subcommittee this year, reached even more pessimistic conclusions. Gelb's calculations were based on the realistic assumption that the Soviets would not rely on their bomber force alone but use submarine cruise missiles and surface-to-surface antiship missiles as well:

The Soviet Union would, in all probability, launch a large number and variety of missiles against our carriers. Assuming the carrier defenses against this attack could destroy as many as 80 percent of the incoming missiles (and this is a very optimistic assumption), the probabilities amount to a virtual certainty that our carrier would take about a dozen hits. . . . Recent tragic experience with the *Forrestal* and *Enterprise*—where in each case an accidental firing of one of our rockets led to many deaths and extensive damage by fire and explosion—indicate how little it might take to put a carrier out of operation and force it to retire.

And some analysts suggest that these calculations are conservative, that even one well-placed hit might put a carrier out of action. They note that carriers have to be moving into the wind at a fast clip to permit normal flight operations and that one hit alone might prevent this. They also note that the Soviets might use incendiary cluster bombs as the warheads of their cruise missiles and that one such missile could wipe out most of the aircraft sitting on the carrier's deck. Even more conservative is the complete omission of the torpedo threat.

None of these arguments are new, however. The carrier debate has raged for years, with little apparent effect within the Navy itself. The Navy admits the increasing vulnerability of its carrier force, but refuses to admit that the danger point has been reached. It cites the defenses of the carrier against possible attack. It notes that all carriers present mobile targets, and that nuclear carriers have unlimited endurance at high speed. And it cites the extensive protection features, such as armor flight decks and torpedo side protection systems, designed into our latest carriers.

Critics of the aircraft carrier fail to recognize that the more numerous the Soviet fleet, the more attractive aircraft carriers are in quickly reducing the overall effectiveness of this force. Only the aircraft carriers provide the opportunity of quickly overcoming this threat.

Therefore, the Navy requires adequate numbers of the most capable aircraft carriers we can build to meet the threat of world-wide naval power. If the carrier force level were cut down to the level proposed herein, it probably would be true that the Soviet forces could concentrate their attack against such a small force. The adoption of such an unwise proposal, however, would relegate the United States Navy to at least second class status, which would be contrary to the statement made by its sponsor only four days earlier from the floor of the United States Senate:

"I want to make it absolutely clear that the Senator from Wisconsin and virtually all the Senators who may join us in proposing some reductions do not want to see a United States of America second militarily. We feel very strongly that we must have a military force that can match and meet and prevent any kind of aggressive action by the Soviet Union against this country or the interests of this country."

This is the first mention of the source that provided anti-carrier material. It is from "Setting National Priorities: The 1972 Budget," sponsored by the Brookings Institution. The foreword notes, ". . . it also examines in some depth the defense programs relating to tactical air forces, tactical nuclear weapons, naval forces, and strategic nuclear forces." The foreword continues, "To produce a volume of this size, with its many tables and numerical references, in a short period of time incurs serious risk of factual errors."

This book is the source of anti-carrier material being presented piecemeal to the World's greatest deliberative body as possibly erroneous evidence attributed to numerous unidentified sources.

The manner in which the Brookings publication "examines in some depth" is demonstrated by "one such calculation" and "another calculation" which follows—each a variation of the same opinion by members of Brookings Institution—differing only in the added degree of vagueness in the second example.

Taking the first "purely illustrative and highly simplified model," accepting the author's percentages and his 300 Soviet air-to-surface missile capable bombers, and assuming the Soviets would perform thus, we find:

Twenty-five bombers expended per carrier times; 14 carriers in today's force equals 350 bombers lost; 50 more than their whole force of 300.

But even supposing the Soviets decide to expend their entire air-to-surface missile force against the carriers leaving none for other targets on land or sea, the following results are obtained from the Brookings numbers:

25 bombers attack, minus 10 shot down by fighters armed with at least six missiles each but with an incredibly low 40% chance of shooting down a bomber in a single engagement equals 15 bombers remaining with ASMs that are 80% reliable times 80, equals 12 missiles that work minus 9.6 missiles shot down by our SAMS (12 times 80%) which apparently can't shoot at bombers, as the fighters apparently can't shoot at cruise missiles, equals 2.4 missiles that might hit some ship in the force.

Considering the large number of ships in a task force, their multiple defenses, their passive and active electronic deception and jamming capability as well as the capability of the carrier to absorb damage if hit, Brookings offers very desirable odds for a strategist who is looking for a way to eliminate the Soviet air-to-surface missile force with small risk.

"Another calculation" by Mr. Gelb also of Brookings is so imprecise as to amount to nothing more than echo of the previous opinion.

The delivery of incendiary cluster bombs as cruise missile warheads is certainly a possible future option for the Soviets but does not appear compatible with currently predicted guidance systems. The problems confronting a torpedo attacker have been discussed previously.

All military systems are "vulnerable" if any enemy devotes sufficient resources to locate, identify, track if sea-based, and attack the system. The term "vulnerable" is vague and argumentative and should not be the basis for force level decisions. Aircraft carriers have demonstrated a very high survivability rate at all levels of conflict.

Against virtually all threats the aircraft carrier depends significantly upon its mobility. An aircraft carrier cruising at 17 knots can be anywhere within an area of some 25,000 square miles in three hours; if prewarned, a carrier can maintain higher speeds—in the area of 30 knots—for sustained periods. Thus, an enemy cannot pre-target a carrier for an attack of any kind; he cannot say that 10 o'clock tonight or at noon tomorrow or Sunday he will

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I am simply not persuaded by these arguments. Little confidence should be placed in a carrier's 30-knot speed as a means of preventing detection of its position—particularly in view of the tremendous increase in underwater noise generated at this speed. Moreover, the carrier can maintain this speed for extended periods only if it foregoes the protection of its slower escorts and while not conducting flight operations. As far as carrier protection features are concerned, great progress was made during the course of World War II, but developments since have been much slower, since there was really little more left to do.

I am firmly convinced that our carriers are already sitting ducks for the kinds of multiple attacks the Soviets could mount against them. And whatever the situation which exists today, it will clearly be worse yet when the new nuclear carriers already under construction finally enter the fleet.

After the above conditions are met, the enemy may attempt to attack the carriers. The primary threats to aircraft carriers are anti-ship missiles fired from hostile aircraft, ships, and submarines.

The carrier, by operating at sea has a clear "radar horizon" of open sea that facilitates radar detection of approaching threats. During periods of crisis or when in range of a hostile threat the carriers normally keep aloft E-2 radar warning aircraft that further extend the "radar horizon" several hundred miles.

Underwater detection is provided by screening surface ships and submarines operating with the carriers, and ship-launched helicopters and, from specific carriers, fixed-wing ASW aircraft. In certain operating areas, such as the Mediterranean, land-based patrol aircraft provide general reconnaissance and ASW patrols.

Thus, a carrier is able to detect an approaching threat—air, surface, or submarine—take evasive and, if necessary, defensive actions.

As the attacking force approaches a firing position the carrier and her escorts can counter with their own weapons. Against missile-carrying aircraft the carrier would employ fighter-interceptors and the escorts can engage the aircraft with long-range surface-to-air missiles.

attack. He cannot predict where the carriers will be; even if he could maintain continuous and reliable tracking, at the planned attack time the carriers could be outside the range of his striking forces, especially if they are aircraft or submarines.

In contrast, the location of all land airfields are known to an enemy and they can be pre-targeted for a first-strike attack.

Advanced detection methods such as satellites and long-range search aircraft improve the capability of detecting ships. Yet these systems are limited by weather, darkness, tactical evasion, electronic jamming, and electronic emission control.

Assuming a surface force is located, the enemy has the additional problem of identifying which ship is the carrier. In contrast to the tight, circular formations of World War II with the carrier always in the center, modern carrier task force formations cover hundreds of square miles, often with the carrier in random position. This coupled with extraneous sea traffic—for example there are some 2,000 merchant ships in the Mediterranean Sea on a normal day—make specific identification of the carrier both difficult and necessary.

Once positive identification of the carrier is made the target data must be transmitted to the attack force. Under certain circumstances this data transmission will provide warning of a possible attack. Further, unless the attack is immediately forthcoming, the carrier must be trailed or redetected and the target data updated.

Surface ships can be engaged by carrier fighter and attack aircraft with air-to-surface missiles and bombs. Carrier escorts have a limited anti-ship missile capability with their surface-to-air missiles and soon a number of these escorts will receive the Standard, and subsequently Harpoon, anti-ship missiles.

Submarines can be attacked by carrier-based helicopters and ASW aircraft, ship-launched ASW weapons of escorts (torpedoes, ASROC) and by escort-based helicopters (LAMPS).

If geographically available, land-based patrol aircraft also supplement the ASW capability and can be armed with anti-ship missiles.

Should the attacking forces survive to launch their missiles, the carrier can electronically intercept the missile with EA-6 electronic warfare aircraft or shoot down the missile with fighter-aircraft. The F-14/Phoenix weapon system will have considerable capability in this regard.

As surviving missiles approach the carrier task force they will be engaged by point defense surface-to-air missiles launched from the carrier and escorts, by decoys that will distract the missiles, and by the planned Vulcan-Phalanx rapid-fire gun system. In addition, the carrier can maneuver at high speeds to reduce its vulnerability.

If an enemy missile should evade this in-depth defense and strike the carrier the amount of damage sustained by the ship will depend upon the point of impact and the type and size of the missile.

The modern aircraft carrier has an armored flight deck that can withstand severe damage. The effectiveness of armored flight decks was demonstrated in World War II when British aircraft carriers were repeatedly struck by Japanese suicide planes (kamikazes) and generally were able to resume flight operations as soon as the debris could be cleared away.

Today's armored-deck carriers are even tougher. This was demonstrated by an accident on the nuclear carrier *Enterprise* in 1969 when nine major caliber bombs exploded on her flight deck. This was the equivalent of several cruise missiles scoring direct hits. Yet the ship could have resumed air operations within a few hours. At no time was her speed or maneuvering capability impaired.

The modern carriers are armored and have internal damage-control compartmentation to reduce the effect of torpedo explosions. Obviously, after a sufficient number of missile hits at vital points the carrier could be put out of action for a time although the probability of being sunk is remote.

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## II. THE PROBLEM OF RESUPPLY

Nonetheless, I would like to turn briefly at this time to one element of the carrier vulnerability problem which has received too little attention to date. The vulnerability of carriers on station against the Soviets is bad enough. But the vulnerability of their logistics systems and the carriers themselves in the process of being supplied is actually a good deal worse.

The Navy itself has recognized as much.

First, Admiral Holloway on the comparative aspects of the problem; during the CVAN-70 hearings last year:

"All ships are vulnerable to the anti-ship missile. Most vulnerable are the unarmored tankers, ammunition ships, and troop carriers which support our overseas allies and our own deployed forces. Also vulnerable are our attack carriers, but due to their high speed, protective armor, and self-defense capability, attack carriers are the least vulnerable of any of our forces at sea."

Next Admiral Rickover on the actual magnitude of the supply ships' problems, in testimony earlier this year to the Joint Committee on Atomic Energy:

*The World War II experience:* "I am sure you remember the large number of tankers sunk in World War II by German U-boats—submarines that were much slower and far less capable than those the Soviets have today. Moreover, Germany started the war with only 57 submarines. The United States lost over 130 tankers in the Atlantic Campaign, mostly to German submarines. By mid-1942 the situation was desperate. So many tankers were being sunk that the supply of military fuel to Europe and the Pacific was threatened. Then, too, the deciding factor in our defeat of Japan—also an island empire—was the ability of United States submarine and air forces to interdict the flow of oil from overseas to the Home Islands; this strangled Japan's industrial and military effort and brought about her collapse.

*Tankers then and now:* "During World War II we had a large number of small tankers. Most tankers were of 10,000 to 15,000 tons full load, with the largest about 25,000 tons. Therefore sinking a tanker at that time did not have anywhere near the impact as would be the case if one of the large tankers we have today were sunk. Presently, many tankers are over 100,000 tons, and plans are being made to build tankers of 500,000 tons and larger. One such tanker carries many times the oil of the World War II tankers; also they offer a much larger target and so can be sunk more easily.

*Present military implications:* "The greatest vulnerability of surface warships results from operating restrictions required to conserve propulsion fuel and to supply the propulsion fuel. The refueling ships must steam at slow speeds and on fixed courses. They would be "sitting duck" targets for attack by torpedo or missile firing submarines. Further, the fuel oil must be brought to the warships by tankers which themselves are slow targets vulnerable to enemy submarines and air attack.

"As I see it, in a war the Russians would immediately sink the tankers, which would immediately shut off oil supplies to Western Europe and to our oil-powered forces at sea. It would then make no difference what supplies we tried to get across. Without propulsion fuel modern armies are powerless. In a short time prepositioned fuel would be used up and we would be facing overpowering odds . . . Ships with short cruising radius will not survive a war with the Soviets."

These are rather forthright statements and it is important to recognize the purpose for which they were made. Actually, they form the backbone of the Navy's argument that any future carriers we build—and their escort ships as well—should be nuclear-powered rather than conventional models.

Nuclear ships, the Navy argues, are not dependent on external fuel for their own propulsion. They can transit the oceans to a new station at high speed and without refueling. They can hold these stations without the periodic reductions in a task group's readiness which would be occasioned by refueling. Tanks otherwise used to store carrier and escort fuel can carry aircraft fuel instead. And the higher speeds of nuclear ships reduce vulnerability and increase target coverage.

But while the Navy points out the great difficulties of resupply operations at sea in order to shore up its case for more nuclear-powered surface ships, it fails to call any attention to another implication of these difficulties.

Nuclear-powered carriers may not need refueling to propel themselves, but they must be supplied with aircraft fuel and ammunition if they are to provide any punch in the first place. And the supply problems here are every bit as grave as the tanker problems to which the Navy admits.

There is no single answer to the question of how long a carrier can go without being resupplied with aircraft fuel and ammunition. Nuclear carriers have twice the capacity for aircraft fuel and 50 percent more for ammunition compared with conventional carriers. Any carrier's consumption rates are obviously going to depend on the intensity of the operations conducted.

But in conflicts involving the Soviet Union the operations would be intense, perhaps approaching one sortie per day at maximum gross weight of ammunition and fuel for each aircraft on the carrier. Even granting the differences between carriers, the simple fact of the matter is that no carrier could hope to keep operations going under these conditions for more than a few days at a time!

The problem of resupply must be looked at in perspective. First, the Soviets have an equally or even more severe problem, particularly with respect to weapons. Each USSR unit carries a maximum load out of only six to eight surface-to-surface missiles. This compares to the 1,000 weapon carrying aircraft sortie capability of the large CVAs.

The U.S. Navy also has a well developed and tested underway replenishment (UNREP) organization and capability. The UNREP ships travel in protected task group formations which either create their own submarine sanitized areas under the protection umbrella of carrier based fighter aircraft or retire and rendezvous with CVAs in more permissive areas where the threat is manageable.

Certainly we could expect to lose some resupply ships, but many would get through. Particularly since above stated auxiliary ships are protected by escorts in task groups. As the war progresses the threat forces are attrited and barriers are put in place at the choke points.

The history of the WW II Atlantic campaign was not carried far enough, stopping in mid-1942. The experience of that war shows that the German submarine was finally removed as a menace by the coordinated efforts of air (land and sea based) and surface ASW units which were finally deployed in sufficient numbers to do the job. It is only the prospect of having far too few forces that causes doubt that we could win the battle for control of the sea lines of communication to Europe in a NATO war with the Soviets.

True.

One of the primary advantages of nuclear propulsion as discussed in Joint Senate-House testimony and subsequent hearings is the extra volume *not needed* to store propulsion fuel for the ship. Within this saved space there is stored enough *additional* aircraft fuel and aircraft ordnance to permit the nuclear carrier to transit (if not already on station) at high speed to any combat area, fight its way in if necessary, and sustain high tempo combat operations with its internal supply of combat consumables for a longer period than its conventional counterpart.

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The precise time involved is not important, but its relative shortness is critical. After only a very short time, the carrier would be in need of resupply, and its logistics system—composed of under-way replenishment ships, tankers, and ammunition boats—would be subject to all the difficulties of other surface shipping. These supply vessels would move slowly, having to be refueled, and without the many defensive systems protecting the carriers themselves.

The implications are devastating. Even if we could succeed in protecting our carriers through multi-billion dollar investments in sophisticated defensive gear, we would still be unable to get through to them the supplies needed to permit continuation of the offensive operations they provide. The front door might be guarded, but the back door would still be ajar.

And suppose that a few supply ships did get through, Navy statements above notwithstanding. Our carriers would have to reduce their own readiness in order to be supplied. They would have to leave their stations, move to a replenishment area out of range of land-based enemy aircraft, and then slow down for the actual transfer.

At this point they would still be in range of Soviet submarines, with both their acoustic homing torpedoes and their cruise missiles. It is clear from published sources that these missiles, touted by the Navy as the most serious threat to the carriers, can be launched from a submerged position, many miles away, on the basis of intelligence received. With the missile traveling at the speed of sound probably undetected before launch (we can't have ASW planes everywhere at the same time), it poses a formidable threat indeed.

### III. FLEET DEFENSE AND THE F-14

Much more could be said about the vulnerability of attack carriers. But where does the F-14 fit into this basic picture?

The Navy's interest in providing its carriers with a means of defense which would permit their use in high intensity—even nuclear—conflicts with the Soviet Union dates back a good many years. In the 1950's the main concern was Soviet employment of their new nuclear capability against the carriers.

It was clear even then that a single nuclear weapon delivered anywhere in the vicinity of a carrier would wipe out an entire task force. The Navy desperately wanted a weapon that would destroy 100 percent of the Soviet's missile launching bombers—then the chief threat—in a massed attack against the task force. The original proposal was called Eagle-Missileer and work was started on it in 1958. The F-14 is a rather straightforward outgrowth of that work.

The Missileer was a low performance, long loiter aircraft capable of functioning as a missile platform, and its objective was the simultaneously tracking and firing of six missiles against the postulated threat of massed Soviet naval bombers. The Eagle was the missile it would launch.

Eagle-Missileer was cancelled in 1961 due to technical infeasibility, and a similar verdict was soon pronounced on the use of carriers in any future nuclear wars. But the Navy never abandoned its basic concept for the missile. As our conventional forces were beefed up in the early 1960's, the Navy resubmitted its requirement for an anti-bomber fleet air defense missile to protect the fleet against the new threat of non-nuclear bomber attack in the performance of its tactical air support role.

The tests at Bikini indicated the toughness of even the old pre-war carriers lacking the protective features designed into today's carriers. For example, the old *Saratoga* having survived World War II damage from 2 torpedoes, 4 Kamikazes and 2 bombs, was located slightly over a mile from Surface Zero at Bikini. She suffered slight damage from fires, some wooden parts of the flight deck burned. Planes standing on the flight deck did not suffer and there was slight deformation of the superstructure and stacks.

Little consideration was given by anyone at the time to the dog-fighting capabilities of the new plane. The F-111B was regarded simply as an interceptor. The main advantage it offered over the Missileer was a significantly increased speed and acceleration capability which was intended to enable it to get into its intercept position more quickly than the old plane. The Phoenix itself could shoot everything out of the sky, the Navy said, so forget maneuverability.

It would not be unfair to say that the Navy first became concerned with the dogfighting capability of the F-111B when it saw this as an opportunity to kill the plane and get a true Navy aircraft of its own. Working together with several aerospace companies, such as Grumman Aircraft Company—then a subcontractor to General Dynamics on the F-111B—it encouraged the design of new airplanes which would still carry the Phoenix missile but also be better dogfighters than the F-4 Phantom, then and now our first-line Navy fighter.

The Navy has always attempted to ensure ship survival under all expected threat conditions. In the mid to late 1950's, the Eagle-Missileer system was considered a sound defensive concept. In 1960, because of its subsonic speed, the Missileer was adjudged to be too single purposed and insufficiently adaptable to offensive operations. Its cancellation was in no way connected to "technical infeasibility".

In 1961, it became apparent that the Navy could produce a high performance, versatile fighter with much smaller and lighter avionics and missiles that would accommodate all expected threats for the foreseeable future. This was made possible by virtue of a practical variable sweep wing arrangement plus advances in avionics and missile technologies. Unfortunately, despite its resistance, the Navy was forced to merge its requirements with the dissimilar ones of the Air Force. It was apparent from the outset that the result of this merger, the F-111B, would not be the desired versatile fighter. It is important to note that the Eagle missile, more than 40 percent heavier than Phoenix, had 100% heavier avionics than the F-14's AWG-9. Had the Navy been allowed to develop its own fighter instead of the F-111B design practices would have produced a well balanced aircraft with required dog fighting capabilities. This was done in the case of the F-4 and is being done in the F-14. The success of the F-4 and its adoption by our Air Force as well as our allies attest to the efficiency of Navy methodology.

The Soviet's nuclear capability had been considered as early as the 1964 Bikini tests. Here the Navy gained invaluable data on which to base new hardness requirements for ships. New construction major combatants, as well as aircraft carriers, have since been hardened to assure a high degree of survivability against anything but a direct hit by a nuclear weapon.

Appropriately enough, the new missile was named the Phoenix, and until 1968 it remained tied to the ill-fated F-111B airplane. This is neither the time nor the place for a complete analysis and apportionment of blame for the TFX fiasco, but a few words are necessary to place in context the decision to proceed with the F-14.

Whatever the wisdom of Secretary McNamara's insistence on a single plane to meet the Air Force's desire for a fleet of interdiction bomber and the Navy's desire for a fleet of air defense interceptor, the Navy was opposed to the F-111B from the outset. One of the initial concessions it extracted was the right to incorporate in the new plane both a new version of the cancelled Eagle missile and the cancelled TF-30 engines which had been developed for the Missileer.

The Navy tried to undertake development of a multi-mission fighter, the VFAX, in the 1966-68 time period. This project, dropped in the paper stage, could not out-perform the known threat or the F-4J in aerial combat. The Navy had two options at the time the VFAX was dropped: (1) Modify the F-4J to increase its capabilities, or (2) begin development of an air superiority fighter, the VFX. The latter was chosen because the F-4J could not be adequately modified to increase its capabilities. The VFX, at the time of contract award, was designated the F-14A.

It has been extremely difficult to obtain recognition that the F-14 has been designed, first and foremost, as an *air superiority* fighter with performance exceeding any projected threat aircraft of the 1970's through the 1980's. This design has never been compromised during its development. The F-14 has been designed not as a multi-mission fighter, but as a balanced weapon system, emphasizing *system* as contracted to an airplane only. The distinction between the two is of paramount importance in understanding the

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The improved capabilities of alternative planes—and the technical problems with the F-111B—were argued vigorously in testimony on Capitol Hill, and in 1968 both the Senate and House Armed Services Committees deleted all funds for the F-111B from the budget. Working feverishly, the Navy then saw to it that a contract with Grumman for the F-14 was rushed through before the Nixon Administration could carefully review it after taking office.

The F-14 is thus the *third* Navy plane to carry the Eagle/Phoenix missile and to be powered by a version of the TF-30 engine. And it is *still* primarily a fleet air defense interceptor. After the F-111B was killed, the Navy never seriously evaluated the possibility of incorporating a Phoenix fleet air defense missile capability in a first-rate fighter aircraft. But this was then and remains now a technical impossibility, as I hope to explain in a few days. Unfortunately, our need for a first-line carrier based fighter to replace the F-4 is a good deal greater today than in either 1958 (when the F-4 was itself in development) or 1968.

Another thing which has changed since 1958 is the nature of the Russian threat to our carriers. What was envisaged then was a dramatic increase in the number of Russian naval bombers, the threat against which the Phoenix was designed. While there is extreme doubt whether the Phoenix could handle the Russian bomber threat which exists today, that threat has never expanded as predicted for the past ten years. As House Appropriations Committee Chairman George Mahon, noted in 1968: "The bomber threat against the fleet, as you know, has been predicted by Navy officials for some time. It has, of course, not developed to date."

What has developed is the many faceted threat described earlier. It is worth evaluating the role of the Phoenix in the spectrum of defenses we have now erected against this threat to see why it would almost surely be ineffective.

The Phoenix is a long-range air-to-air defensive missile, which the Navy claims will be capable of destroying "multiple targets in a heavy electronic countermeasures environment in all weather conditions." It will be guided by the F-14's AWG-9 fire control system, which is also designed to handle six single shot Sparrow missiles.

According to the Navy, the Phoenix already has an enviable test record on which to stand, with a success record of approximately 70 percent in the 40 or so firings to date. This claim deserves some rather careful scrutiny.

In the first place, Navy statistics do not include the substantial number of unsuccessful firings in which the missile never left the launch rail because the launch system failed prior to the actual launch. These failures, which should obviously be included on any realistic scoresheet must be carefully distinguished from the much smaller number of recorded "no test" firings—firings in which the missile was launched but failed to hit its target due to defects in the test conditions not related to the missile system itself.

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air superiority mission requirements. A misunderstanding of the distinction sometimes leads to the invalid assumption that the air superiority role can be satisfactorily performed by a "light weight, simplified, airplane" whose operational attributes are noted only in terms of its low gross weight.

The fleet air defense role of the F-14 is accomplished utilizing removable pallets for carriage of the Phoenix missiles. This "missionizing" concept does not exact any weight, size or complexity penalties to the basic air superiority F-14.

Air-to-ground capability of the F-14 is not a dictating design requirement. Such a capability exists, to a limited degree, as a "fall-out" from the other governing design features of the F-14. The fact that the F-14 can carry air-to-ground ordnance does not in any way compromise the airframe or system design for its primary air superiority mission. With the demise of the unacceptable F-111B in 1968, Requests for Proposals (REP) were forwarded to five contractors with the ultimate contract award issued to the Grumman Aircraft Corporation in February 1968.

In order to minimize developmental costs, and help insure a minimum risk program, the F-14A does make maximum and judicious use of the technology gained during the development of the F-111B. This procedure has also permitted the F-14 to reach first flight 22 months after contract award, a feat believed to be unmatched in the development of any other comparable weapon system.

No attempt was made by the Navy to rush the contract through before the Nixon Administration could take appropriate review action. An orderly flow of data was presented to the Congress through established procedures in support of the F-14 program.

The F-14 is the result of a Navy competition among five contractors. From inception, the F-14 was designed as an air superiority fighter around four Sparrow missiles and a 20mm. gun. The F-14 is an optimized combination of speed, acceleration, maneuverability and radius of action and includes a weapons control system with multiple weapon options. It is *indeed* a first-rate carrier fighter, specifically designed to accomplish the missions of a carrier fighter. No other aircraft or weapons system in design now or within the current state-of-the-art can better accomplish the carrier fighter mission against the increasing Soviet determination to counter our fleet.

The F-14 air superiority fighter is a weapon system that can shoot down long-range multi-raid aircraft and missiles as well as engage enemy fighters in close-in combat. Weight reducing miniaturization of avionics, balanced with airframe and engine design, has eliminated performance penalties formerly associated with multimission fighters. In the F-14 one percent of the aircraft weight makes it possible to use Phoenix, Sparrow, Sidewinder, Agile, a gun and air-to-surface weapons. A large part of that weight is in removable pallets not used for the Dogfight configuration.

Navy performance estimates of the F-14A and F-14B have been substantiated by an independent National Aeronautics and Space Agency assessment made at the request of Dr. John S. Foster, Jr., Director of Defense Research and Engineering. It was further concluded the multi-mission performance estimates were attainable without degrading the pure fighter capability.

From time to time, missile carrying Soviet bombers fly over or near units of the U.S. fleet. Although detected early and intercepted, these overflights make clear this threat does exist. New Foxbat, Fiddler, and Flagon fighters have long-range escort capabilities with advanced avionics and missiles, adding to the threat.

Surface-to-surface, as well as air-to-surface missile threats also exist. They will certainly become more advanced. The F-14 Phoenix system in addition to its fighter capabilities, will provide a significant capability to counter the Soviet submarine-launched cruise missile threat. A look-down shoot-down, capability against small multiple targets has been successfully demonstrated during development, and clearly indicates a capability against such attack.

The Phoenix is not launched from a rail, it is ejected.

The launch systems used to date have not failed prior to actual launch. The launch system failed subsequent to launch during the four "no tests" the Navy has reported in the firing record. This launch system was unique to the F-111B design and necessary corrective action was a part of the F-14.

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Moreover, all the tests conducted to date have been engineering tests, held in a laboratory-controlled environment, and almost all have been against single targets with artificially augmented radar signals and little or no maneuvering capability. Operational tests, under conditions representative of actual combat experience, have yet to begin. Due to the incredible amount of concurrency in the whole F-14 program, these operational tests are not scheduled to be completed for another several years, by which time any decision on the F-14 will long since have been made.

Finally, this terribly artificial test program has itself been very limited in scope. Virtually all of the test firings to date have been tests of the old AWG-9 Phoenix system developed for the F-111B. The new version for the F-14 has more than one-third less weight and has been completely redesigned for tandem seating and to accommodate the Sparrow missile.

And despite the Navy's claim that the system will be capable of near simultaneous launch against up to six widely separated targets, no more than two simultaneous firings—even of the old version—have been attempted at any time to date. Thus it is difficult to evaluate the argument of some critics that the AWG-9 tracking capacity would be swamped if it ever attempted to fire six missiles simultaneously in the presence of one or two dozen targets on the radar scope. Yet even in the last multi-shot test, one of the two missiles missed its target.

But one need not dwell on the scarcity of test data on the Phoenix. It is really quite similar to other air-to-air missiles which have entered our inventory in the past several years. Some of these missiles had initial test records every bit as "promising" as the Phoenix but exhibited serious deficiencies when used in Vietnam. Our experience with the Sparrow missile is instructive in this regard. It is a radar guided missile like the Phoenix, but somewhat less sophisticated and expensive. (The present version of the Sparrow costs \$40,000 per shot, the Phoenix \$400,000.)

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Tests to date have been conducted on the Pacific Missile Range under actual conditions. Tactical significance has been a consideration in nearly every PHOENIX launch mission. The missions covered a large part of the launch envelope—low-altitude and high-altitude targets, maneuvering and non-maneuvering targets, long and short ranges, subsonic and supersonic launches. Twenty of the 36 missions were "look-down" missions with the target below the launch aircraft. Eighteen of the 42 missiles were launched at targets with less than 5 square meters radar cross-sections. Three missiles were launched at unaugmented BQM-34A target drones, which have roughly the same dimensions as a STYX Cruise Missile and a cross-section of about 0.25 square meters on the nose. Eight missiles were launched at unaugmented QT-33 droned airplanes with a radar cross-section of about 2.25 square meters. Seven missiles were launched at unaugmented QF-9 droned airplanes. Two missions against QF-9s were maneuvering target missions. The QF-9 cross-section is approximately 3.5 square meters. For reference purposes, the cross-section of the F-4 is greater than 10 square meters. All test launches are conducted under as realistic conditions as possible and with a view toward gathering required data to determine true PHOENIX missile capability.

The repackaging of the AWG-9 for the F-14 and the resultant weight reduction of the system has not significantly affected the interface with the Phoenix missile. All previous missile flight data is valid, since the postlaunch functions provided by the AWG-9 remain essentially unchanged. The prelaunch functions have been tested using the new system by performing over one hundred launch-to-eject cycles while carrying Phoenix missiles in captive flight on a TA3B aircraft with the production version of the F-14 weapons control system installed. Missiles will be launched from the F-14 system early in 1972.

In actual evaluation tests conducted in September 1971, on the Pacific Missile Range, tracks were maintained and displayed on 12 airborne targets simultaneously. The targets were divided into three groups approaching from three different directions at different speeds and altitudes. Four different types of aircraft were used in the raid. Attackable targets are assigned a launch priority by the Weapons Control System computer for all missiles aboard. The computer will select the targets with the closest range and highest closing rate to be launched against first. The operator may override this assignment and designate any target as "next launch." He could, however, launch six missiles at targets sequenced entirely by the computer regardless of how many additional tracks are displayed on the radar scope or maintained by the computer.

Optimum resource utilization and funding limitations require that evaluation and acceptance of the Phoenix missile for Fleet use be a responsible combination and correlation/extrapolation of live tests, laboratory tests, and sophisticated simulations.

Testing to date has shown three-on-three capability, by launch of two missiles and pseudo launch of a third. This exactly tests the AWG-9 and missile capability for three-on-three, since additional targets only load the AWG-9 (as was done in the test). Each missile in flight is guiding to its own target and is independent of other missiles in flight at the same time. Extensive analytical simulations, the parameters of which have been verified by test, satisfactorily verify six-on-six capability.

To date, all system modes and features of the Phoenix missile have been demonstrated, individual missiles have been assigned to a wide variety of target conditions and encounters. Committing six R&D missiles to a previously verified condition was not considered cost effective. Actual testing of the six-on-six capability will be performed with pilot production missiles to reduce costs and confirm design and will be conducted in a Navy only test.

The dual launch record is as follows. Six missions have been conducted, with two considered as "no tests" for failure unassociated with the Phoenix missile. The remaining four missions were successful or partially so. None of the failures were attributable to having two missiles guiding simultaneously. In no way do the failures cast doubt on the multiple-launch capability of the system. Of the eight missiles fired under dual launch conditions five have guided to a successful intercept, a 62.5% success ratio.

Radar guided missiles in Southeast Asia, (particularly Sparrow) have experienced problems in five distinct areas: (1) missile reliability; (2) aircraft weapon control system radar, and computer accuracy and reliability; (3) launch envelopes—many missiles were launched outside their guidance envelopes; (4) fuze effectiveness; (5) launcher reliability. Consideration of these factors has been continually emphasized in the design, test, and evaluation of the Phoenix Missile. In addition, the Phoenix has been designed and integrated with an adequate aircraft environmental control system to minimize the potentially damaging effects induced by typical carrier operation.

## (1) MISSILE RELIABILITY

Through means of the on-board digital computer, all six Phoenix Missiles carried on each F-14 can be thoroughly tested in flight. This test, called MOAT, Missile-on-Aircraft-Test, takes less than 20 seconds to effectively test each missile. Design and test of many Phoenix Missiles to date demonstrates the overall missile reliability requirement will be met or exceeded in Fleet use.

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## (2) AMCS OPERATION

Proper operation of the Weapon Control System (AWG-9) is assured through use of BIT (built-in-test) similar in operation and performance to the MOAT described previously. In dogfights, experience has shown that present operational aircraft radars may lose lock or intentionally break off to avoid being unfavorably engaged by another enemy plane. To overcome this problem, the Phoenix Missile has a self-contained guidance mode, this permits the F-14 crew to launch and leave, providing one added degree of flexibility and safety.

## (3) LAUNCH ENVELOPE

The Phoenix provides a launch zone more than four times as large in range as any other operational air-to-air weapon. The AWG-9 digital computer is used to generate steering commands and to predict when the F-14 is in a region that will satisfy missile guidance launch requirements. The digital program will accurately compute and display missile launch envelopes even in a maneuvering dogfight environment. Thus, the possibility of launching outside the missile envelope causing unsuccessful missile intercept is remote.

## (4) FUZE EFFECTIVENESS

Most fuze problems in Southeast Asia were associated with non-directive semiactive radar fuzes tied to the missile radar guidance system, requiring illumination by the launch aircraft's radar. There is no protection provided from firing prematurely on false targets. The PHOENIX missile fuze has taken these problems into consideration and corrective design features have been incorporated.

## (5) LAUNCHER RELIABILITY

Of all the launching failures experienced in Southeast Asia, approximately one-half were because of the launcher and one-half of those resulted from lack of motor ignition after missile separation. A new launcher has been developed and integrated into the F-14 airframe. Problems, such as corrosion and handling in the Fleet environment, are being overcome in the new design.

In the test of forty-two guided missiles and three powered separation missiles, one motor ignition problem occurred. The design has been altered and verified to preclude recurrence of the problem.

The Phoenix can be used any time the operational commander deems necessary. Dramatic improvements in both identification of radar blips and the routing of air traffic through radar/navigation techniques can quickly be introduced which would assure the Phoenix has demonstrated excellent performance under launch conditions not requiring standoff.

One problem the Sparrow has had has been its inability to distinguish between friendly and enemy targets. It has been designed for launch at a range of roughly 15 miles, well beyond the range of visual contact. Unfortunately, its radar system can pick up aircraft blips at this distance, but can't tell who the blips belong to.

This has had a significant effect on use of the Sparrow in Southeast Asia. Despite the fact that it was designed for stand-off launch, orders have been in effect prohibiting its stand-off use at times when friendly aircraft might be present. Until billions of dollars had been spent, nobody realized that we wouldn't be able to fire at will on nonresponding radar blips—because they might be Laotian airliners flying to Hanoi or Air Force planes not tied in to the Navy's communications system. And part of the reason for the Sparrow's poor record under *visual* launch conditions has been the fact that many of these launches were from inside its minimum effective range.

Another problem of the Sparrow has been its poor reliability—its failure to even launch and fly. The artificial nature of its initial test program has been only partly responsible. More important has been the fundamental complexity of design which made it unable to withstand rigorous combat handling procedures.

When conditions did permit its use and it was able to be fired, the Sparrow and its radar search system may have scared away as many enemy aircraft as they found. The explanation is simple. One of the problems of all airborne search radars and active radar missiles is that they broadcast their position for miles around, thus alerting enemy aircraft to their presence.

Moreover, these airborne radars have an effective search pattern only in a very narrow cone directly in front of the airplane and cannot locate more dangerous and undetectable targets flying elsewhere. As a result, enemy aircraft guided from the ground have been able to avoid this narrow search pattern and pop up unsuspected and undetected on the tails of our aircraft.

When we have in fact acquired enemy aircraft (almost always visually) they have often been able to outmaneuver the Sparrow by hard turns at normal combat g's. This has been the result of inherent physical limitations in the maneuverability and response times of the missiles themselves.

Finally, the Sparrow has shown itself susceptible to simple electronic countermeasures which degrade its performance.

The reliability of the AIM-7E/E2 has not achieved the goals set for the missile. However an aggressive reliability program during the past 2 years has appreciably increased Sparrow reliability. Sparrow production monitoring tests since July 1969 have demonstrated better than an 82 percent reliability. Improved reliability has been built into the AIM-7F as a result of solid state construction and a unique firing mode.

Any time U.S. aircraft are flying over hostile territory, detection by enemy radars is assumed. This was especially true in North Vietnam, where a vast radar and intelligence network was in operation. It therefore made no difference if the aircraft's radar was on. Protection is the reason for escorting strike aircraft with fighters. If the enemy is "scared away" by the presence of friendly radars, the mission has been accomplished.

It is not true that the AWG-9 radar search pattern is limited to a very narrow cone directly in front of the airplane. The cone has a very wide scan angle and can be searched by both sensors (radar and infrared) either slaved together or searching different volumes.

Against a small fighter target, the effective horizontal scan pattern is more than 150 nm wide and 100,000 ft. high at maximum range. When penetrating enemy territory with a scan pattern of this dimension, the probability of detecting all approaching enemy aircraft is very high. Escort studies conducted indicate that several F-14 maneuver choices are available to provide "all-around" coverage.

The current AIM-7E-2 and advanced AIM-7F have sufficient maneuvering capability to guide and intercept enemy aircraft maneuvering at normal combat g's (5-7). This has been demonstrated by both missiles.

The Sparrow has not shown itself susceptible to simple countermeasures. Electronic countermeasures and counter-countermeasures have greatly influenced military warfare in recent years. It is extremely unwise to publicly discuss the countermeasures capability of a missile which is presently in the U.S. inventory.

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The actual performance record of the Sparrow in terms of targets killed per firing remains classified, but this much can be said. Due to the target differentiation problem, it simply has not been used much of the time under the conditions for which it was designed. And when it has been used, its demonstrated performance has been only 10% as good as the performance originally expected.

There is every reason to believe that the Phoenix will fare no better and might fare worse. Much of what has just been said is directly applicable, but let me cite a few particulars.

First, one of the advertised advantages of the Phoenix is its significantly longer range than the Sparrow. (According to the DMS Market Intelligence Report, "Phoenix was initially intended to have a range of more than 200 nautical miles, but has since been scaled down to an estimated 80 n.m. range.")

Yet tests conducted by Hughes Aircraft Corporation, manufacturer of the Phoenix system, confirm that it has no capability against maneuvering targets except over the shorter stretches of its range. Beyond a certain point, the tests showed, the Phoenix rocket motor burns out and it cannot get the maneuver energy needed to keep up with a target which can quickly change directions:

Second, hardware tests at the Naval Weapons Center's Corona Laboratory have shown that the Phoenix can be effectively countermeasured by simple low power techniques.

Third, a study has been conducted which indicates that the Phoenix will have severe reliability problems due to many of the same complexity of design features which have made the Sparrow unable to withstand rigorous combat handling procedures.

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It is possible but extremely difficult to predict all eventual situations. The AIM-7E version of the Sparrow missile was originally designed for use against bombers, before the Soviets produced in quantity and exported the short-range highly maneuverable MIG's to their Satellites. Previously, including the Korean action, guns were the principal air-to-air weapon. The Korean action resulted in a 10 to 1 U.S. kill ratio using guns. Guns underwent the same development and refinement processes as missiles are today. For instance, the "dogfight" version of the Sparrow (AIR-7E-2), a modified design to cope with the air combat maneuvering environment, was just coming into the inventory in 1968. It was never used against the MIG's in Vietnam. The success rate of Sparrows would have been significantly better had the AIM-7E-2 been available. The AIM-7F, an advanced Sparrow, has a dogfight capability incorporated into the design. Current test programs demonstrate superior performance over the older AIM 7-E-2.

The Navy has every reason to believe that Phoenix will achieve desired performance. The statement concerning reliability was answered previously.

The Navy Type Specification (TS-3007) and the original Specific Operational Requirement, dated 1961 concerning the Phoenix missile, requires a 60 nautical mile aerodynamic range. However the Phoenix has already successfully intercepted a target from a launch range of 76 nautical miles.

Targets can be expected to use violent maneuvers in an attempt to escape air-to-air guided missiles. These tactics have proven to be effective against the SA-2 Russian surface-to-air missiles and the older U.S. air-to-air missiles that are maneuver limited and have exceptionally small launch zones (such as the AIM-9B/Side-winder).

The Phoenix Missile has benefited from the experience in Southeast Asia by being provided with a large launch zone, quicker response to target maneuvers and modern fuze with a large warhead. Recent studies by the Navy and contractor demonstrate that these capabilities provide the Phoenix with the ability to counter evasive target maneuvers up to 8 g's at twice the range of the Advanced Sparrow (AIM-7F). This superiority results from the higher energy in the Phoenix at intercept, and the more efficient tail control design that conserves energy during missile maneuvers.

An important factor in the evasive target maneuver tactic is the question of how will the enemy know when to commence evasive action after the Phoenix Missile is launched in a track-while-scan mode, the AWG-9 radar does not stop its scan to illuminate the target, but continues to sweep, illuminating all targets in the scan pattern.

The AWG-9 digital computer aids in the solution of the maneuvering target problem by providing steering signals and accurate launch zone displays to optimize the probability of launching inside the missile's envelope in a maneuvering environment.

Contractor and Navy tests have been made on the entire Phoenix Missile and elements within the missile, using projected 1980 ECM threats and experimental ECM devices specifically conceived to defeat the missile's circuits. The weapon successfully copes with all these ECM techniques.

An important item in the initial Navy specification for the Phoenix Missile was the requirement to operate in the severest ECM environment. To that end, the Navy developed a comprehensive threat definition, design, test, and evaluation program that would continually monitor the Phoenix capability versus the expected ECM environment. The Naval Air Development Center (NADC) was tasked to update the ECM threat description on an annual basis, using the latest intelligence data and information based on U.S. ECM technology. The Naval Ordnance Laboratory Corona was tasked to conduct an independent test of the Phoenix ECM capability. Their purpose was to determine system capability in not only the defined ECM environment, but using their detailed knowledge of the complete Phoenix system, to design and build special experimental ECM devices that might defeat the system. The Naval Missile Center/Point Mugu (NMC) was tasked to monitor the ECM tests at Hughes and supply ECM gear that represented the best that the enemy could be expected to produce.

Hughes was, and is, required to conduct ECM tests on the early breadboard system, the first flyable models, the pilot production and production models, and after every significant design modification. After each series of tests, the information gathered is used to incorporate minor modifications in either the software (AWG-9 digital computer) or the missile's own built-in logic to insure no degradation across the complete ECM spectrum. A new series of laboratory and flight tests are scheduled this fall to reconfirm the system's ECCM (Electronic Counter-Countermeasure) capability. To date, it is the opinion of NADC, NWC Corona, NMC, and Hughes, no system has ever been designed or as thoroughly tested with as much consideration to ECM. The results indicate that the Phoenix Missile System in a tactical environment will have no significant ECM weakness.

In summary, the missile, through its inherent design and coupled with the highly capable AWG-9 Weapon Control System, promises to be virtually immune to the predicted enemy countermeasure threat.

The studies referred to essentially point out ways and means to correct design and operational deficiencies of Phoenix and earlier missiles so that Phoenix will not suffer from rigorous combat handling.

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Fourth, the very nature of the F-14's dual role as fighter aircraft and fleet defense interceptor aggravates the target discrimination problem, i.e., distinguishing friendly aircraft from foes. About the only time a long-range Phoenix launch could be used to protect the carrier is when there are no friendly attack aircraft or F-14 escorts carrying out tactical air operations from the carrier. But one of the main reasons for having and protecting carriers in the first place is to conduct such operations!

Opinions differ as to whether a solution to this identification problem will be found, but there is no demonstrated solution yet in sight. And even if a secure and reliable communications system were established between our own airplanes, it would still be very risky to fire at will against unresponding radar blips in all theaters. Crowded areas like the Mediterranean, for example, would still contain friendly aircraft not tied in to our communications system. The E-2C (essentially a Navy AWACS) might keep track of some of their movements, but it is far from foolproof and terribly vulnerable.

These deficiencies would be serious enough if the Phoenix had nothing but Russian bombers to defend against! But they would be magnified if it were pitted against the expanding Soviet cruise missile threat, to say nothing of the highly maneuverable fighter aircraft which would be well within range of a carrier in the Mediterranean.

As far as cruise missiles are concerned, there must be doubt in the first place whether the Phoenix would have the maneuverability to correct for errors in its estimates of their direction and velocity. And even if it were successful in meeting its design specifications against high speed, low flying targets with small radar cross sections, the F-14 would have to be in a narrow cone directly ahead of the missiles if it were to see them at all.

The search patterns of airborne radars, it should be noted, is especially limited in the look down mode. And it is also significant that the more clutter suppression one designs into such a radar, the more vulnerable it will be to countermeasures.

But let's suppose that these problems were solved! The Russian bombers might still be able to defeat the system by a simple choice of tactics. A simple example, without specific numbers, will suffice to demonstrate the point.

Any weapon development is an evolutionary process. The lessons learned in Vietnam combined with modern technology are being reflected in the latest air-to-air missile designs. For instance, the Sparrow, originally designed against a bomber threat which has existed since the 1950's and is even more formidable today, was marginally successful against the highly maneuverable Soviet Mig in Vietnam. However, the "dogfight" version of the Sparrow was only introduced in mid-1968 and never used in Vietnam.

Phoenix missiles have been handled and loaded aboard aircraft by naval enlisted personnel. Repeated handling and environmental tests of this sort have shown that the missile is rugged and no damage results from rigorous handling. In addition, digital computer processing now gives a better correlation of actual missile envelopes in a real time display for the aircrew. In addition, the digital computer provides improved training and operational capability. The Phoenix, expected to be as reliable in combat as it has been in development, currently has a success ratio never before achieved in air-to-air missile development.

Phoenix is required not only in the defense of attack carriers and other elements of the fleet but is also needed wherever a protective air umbrella is required. There are solutions to visual identification problem for all Navy fighter missions.

The visual identification rule increases the probability of friendly aircraft losses since the enemy will likely launch his weapons without visual identification before friendly aircraft can employ their own weapons. Hostile ground control intercept (GCI) and long-range radar detection capability provide effective vectoring for enemy use of standoff weapons against our aircraft. In the wartime situation where friendly aircraft are lost to enemy air-to-air missiles or friendly surface targets are threatened by standoff missiles fired from beyond the visual range, the visual identification rule will be changed. Therefore, the whole discussion of visual identification becomes academic.

During the early phases of the Vietnam conflict, the rules of engagement required mandatory visual identification prior to launch of our air-to-air missiles against enemy aircraft. Later, the Navy developed a command, control, and communication capability to obtain, without visual contact, positive identification of all friendly aircraft in a war zone. The unprecedented surveillance capabilities of the AWG-9 radar/IR sensors, coupled with the data link will make the F-14 a natural extension of this successful Command and Control environment.

Navy air-and-surface Tactical Data Systems will receive all F-14 sensor information for direct use in the network. In addition, the F-14 weapon system itself will include provisions for positive identification of friendly airplanes.

These unique capabilities, exercised with appropriate doctrine, will satisfy the positive air control and identification requirement to employ the Phoenix Missile in support of the fundamental missions of the attack carrier. At the long ranges desired for initial Phoenix launches, identification and "clear to fire" will be available. After attrition at standoff ranges, engagements at short range with remaining hostiles may, depending on the particular situation, require visual identification. Phoenix will have equalized the threat at long range to permit efficient use of short-range weapons in a close-in visual identification encounter.

The E-2C is one element of the Command and Control System and to assert that the E-2C mission is to keep track of all friendly aircraft in a positive identification situation is misleading and incorrect. The E-2C is protected by the same fighter aircraft that protect the carrier.

The Phoenix missile system capability versus the cruise missile threat has been examined and tested in realistic test environments. Important parameters that must be considered in countering the small, fast, low altitude threat are radar look down capability, system detection and tracking ranges, radar scan area, system response time and the number of missiles in the air simultaneously. Maximum required missile maneuver capability is not determined by the cruise missile threat, but is based on engagements versus highly maneuverable enemy fighters turning at a maximum rate.

The Phoenix system possesses a multi-shot pulse doppler capability, large transmitter power and antenna gains, flexible selection of wide radar scan areas both in azimuth and elevation, rapid firing solutions in the AWG-9 digital computer and rapid AIM-54A missile response to correct errors in launch position and target heading changes. The total system will provide the fleet with a weapon system capable of countering the expected cruise missile threat whether launched from bombers, surface vessels or submerged submarines.

Verification of actual missile performance was attained in several successful firings conducted against small, unaugmented drones smaller both in radar cross-section and physical dimensions than the expected cruise missile threat.

The AWG-9 radar has been specifically designed to overcome the look-down deficiency and countermeasures vulnerability of older radars. The Phoenix missile system has demonstrated the capability to look down and shoot down into clutter in the most sophisticated countermeasures environment.

Two fighter squadrons of F-14 airplanes will be deployed aboard each attack carrier. Each squadron will be equipped with 12 F-14's. When operating in areas where tensions are high and an air attack could be initiated against the carrier, an air defense pos-

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We will have only a limited number of F-14's aboard a carrier and only a handful—with a maximum at 6 Phoenix missiles each—will be in the air at one time. Against these F-14's the Soviets could concentrate a significantly larger number of naval bombers, since the bombers could strike at a time of their choosing and would not be on serial airborne alert. These bombers could then be deployed in waves, the first bombers exhausting the limited number of missiles in the air and the next wave moving in on the carrier before reinforcements reached the scene. The tactics would be aided, moreover, if the bombers were able to maneuver out of the way when warned that a Phoenix was coming, if they were preceded by more maneuverable fighters, if they carried the jamming equipment we already know works, or if a few submarine launched missiles were used to create a diversion.

There is one other related point. If a war at sea ever did break out between the Soviet Union and the United States, it would probably be initiated by a surprise Soviet attack on our carriers, at a time when their defenses were low. We have worked very hard since the dawn of the nuclear age to minimize the chances of any direct engagements with the Soviets, and it is very unlikely that we would initiate one. Such an engagement would probably come, therefore, only if we miscalculated the Soviet response to one of our actions or if the Soviets made an irrational and unprovoked move of their own. Under these surprise attack conditions we could expect only a small fraction of the F-14's aboard a carrier to be either in the air or serviced for immediate use.

I have purposely saved till last a discussion of the staggering costs of the Phoenix and its fire control system. When the missile first rose from the ashes in 1962 and became a part of the F-111B program, total development costs, according to DMS Market Intelligence Report, were estimated at \$175 million. They have now risen, the Report says, to well over \$500 million and development is far from complete.

More worrisome are the likely production costs of the Phoenix, already estimated at \$400,000 per shot, without any allowance for deficiency correcting modification costs. Another factor which could drive costs upward is a smaller than anticipated Phoenix buy. Published estimates of the buy have ranged from a low of 1,400 to a 3,700 high, with the lower part of the range associated with the small F-14 buy which is probably inevitable even if the program continues.

It cannot be stressed too much that the cost of one F-14's six Phoenix missiles, even at the \$400,000 price, would be \$2.4 million. That is the approximate price for three Mig-21's and for one of our own F-4 fighters! And this would be in addition to the \$16 million price tag on the F-14 itself!

Actually, the high costs of the Phoenix would do more than affect our pocketbooks. They would also have an adverse impact on the already poor effectiveness of the missile.

For one thing, these high costs would inevitably affect Navy training programs for the Phoenix, just as training programs for the Sparrow have been affected by its comparatively cheaper costs. With the costs of each Phoenix firing approaching a half million dollars, very few Navy aviators would be allowed even one training

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ture would be set. This posture would vary between Deck Launched Interceptors (DLI) and airborne Combat Air Patrol (CAP) or a combination of both in proportion to the threat.

The Navy has conducted many studies using many different techniques and many different people. Over the course of these studies a wide variety of tactics have been tested. The typical approach is to begin with realistic tactics based on Soviet *anti-carrier exercises that have been observed*. From these base-case tactics, variations are devised to determine if other tactics would be better for the Soviets to use. Results are obtained for the base-case as well as worst case variations to both U.S. and Soviet capability.

Study results have consistently confirmed that Phoenix-equipped supersonic aircraft are significantly better than those equipped with Sparrow missile systems. The superiority of Phoenix relative to Sparrow increases as the threat becomes more severe. A current Navy study has as one of many scenarios a case such as suggested where waves of Soviet Backfire bombers attack a carrier task force. The bombers are preceded by Foxbat fighters with radar-guided air-to-air missiles and are also protected by sophisticated jamming equipped aircraft. The results show that the F-14 is at least three times more effective than aircraft armed with the improved Sparrow 7F. Further, F-14 with Phoenix is the only aircraft/weapon system that can kill enough enemy bombers and air-to-surface missiles (ASM) so surface-to-air missile (SAM) ships can effectively cope with those missiles penetrating the F-14 defenses.

When submarine launched cruise missiles are considered, the F-14 with Phoenix is still significantly superior to the Sparrow equipped planes.

It is in these environments that the effectiveness of the multi-shot F-14/AWG-9/Phoenix system is of most value by providing a maximum defense capability per airplane launched. The increase in capability thus provided over the single-shot F-4 or any single shot fighter is measured in *orders of magnitude*. The issue taken that a saturation attack on a carrier could penetrate a Phoenix defense barrier is quite true—a determined saturation attack on any target will eventually succeed. The real point of significance is *how the cost to the enemy to penetrate to the target will escalate when faced with multishot Phoenix-equipped F-14's over that with single shot fighters*. In situations such as this it is readily apparent that the "effectiveness" portion of the cost/effectiveness parameter is of utmost importance.

Assuming that all Phoenix missiles aboard the carrier had been fired at incoming raids, F-14 still retains the capability of employing Sparrow, Side-Winder, and 20mm. Cannon.

A study conducted by the Naval Air Development Center determined that Phoenix has three times the capability at twice the range against a highly maneuvering target. It emphasized that targets flying at extremely high altitudes have very limited maneuvering capability, and bombers or escorts flying at lower altitudes are little match for the F-14.

As stated before, the Phoenix missile is designed to operate in an electronic countermeasure (ECM) environment; its multiple guidance phases and multiple control frequencies make it effective against all predicted ECM techniques.

The Phoenix missile development costs in the R&D program were \$144M. An additional \$20M will be spent subsequent to the development program for continued monitoring of the F-14/Phoenix interfaces and testing of the missile capabilities with particular emphasis on ECM.

The AWG-9 development program for the F-111B cost \$266M. Upon cancellation of the F-111-B by Congress a dedicated effort was made to take maximum advantage of the advancement in Air to Air Radar technology the system represented.

To meet the new air superiority fighter roles, including dog-fighting, that the F-14 would fulfill the system was modified at a cost of \$129M to fire Sparrow 7E, 7E-2, 7F, an internal cannon, Sidewinder and meet the tandem fighter cockpit requirement of the F-14.

The production cost of the Phoenix missile for the present Navy program of 3,370 missiles is 322 thousand dollars, and includes costs of correcting deficiencies and is based on the contractors option prices for the missiles. The above cost includes all Government Furnished Equipment for the missile, testing including production monitoring, support equipment and data, spare parts, training material, production tooling, and Navy repair facilities equipment.

It would seem that the cost of a Phoenix missile load would be more meaningfully compared to the cost of the targets a Mig-21 escorted bomber raid might destroy rather than comparing the missile cost to that of a Mig-21.

Military aircraft are designed to destroy military targets without regard for the cost of the target. Air-to-air missiles are designed to destroy military aircraft and cruise missiles. The F-14 and Phoenix are designed to maintain air superiority over the oceans and over the beaches of our allies.

Traditionally, fighter pilots and radar intercept officers (RIO's) have predicted their confidence in the capability of particular weapon systems to achieve the desired task in combat by the successful or unsuccessful results obtained in actually firing the weapon involved, be it missiles or guns. This is to the pilot proof that all elements in the system have performed the task for which they were designed. Today, considering the relative expense of sophisticated weapons, the economics of the situation demand

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shot. Most of their training would consist of dry runs, where they locked on targets with the AWG-9 system and then pressed the button which in battle would launch the Phoenix. There would be some value in this limited training, but it would not inspire confidence for combat use.

Moreover, it is doubtful whether any purchase within the 1,400 to 3,700 range now contemplated would provide us with the number of missiles combat could realistically require. A buy of 2,000 missiles, for example, would give us only one full load for 300 F-14's, with 200 extra for training and spares. One full sortie per plane is not a very comfortable margin. Looked at another way, these 2,000 missiles would be wholly expended if 12 planes a day flew fully loaded sorties in a 30-day conflict with the Soviets—even if all the missiles somehow could be rushed to the scene!

I recognize that these calculations make no allowance for the fact that on many sorties some or all of the missiles would not have to be fired. It is highly unlikely, however, that all unfired missiles would actually be brought back on board the carrier. There are two aspects to this problem.

The first aspect concerns the degradation of its already limited dog-fighting capability which the F-14 would suffer if it attempted to engage in aerial combat carrying a full load of Phoenix missiles. Navy planning for the F-14 fully recognizes that the extra weight and drag of these missiles would significantly degrade the plane's maneuverability. Accordingly, the Phoenix is designed to be carried in readily removable pallets, attached to the plane's fuselage. When programmed for a dogfighting mission, neither these pallets nor the missiles would be carried. And when they were carried for fleet defense purposes and a dogfight situation arose, they could be dropped in the ocean to maximize fighter capability.

This last prospect is rather disturbing. In the Mediterranean, for example, it would not be possible to operate out of range of land-based fighter aircraft when configured for the fleet defense mission. Under these circumstances, the F-14 could be set upon by enemy fighters at any time. When this occurred, the prospect is that \$2.4 million worth of missiles—more than the likely cost of the enemy aircraft itself—would be quickly released to the ocean depths.

The second aspect of the problem is more serious. Notwithstanding Navy statements that F-14 "design specifications require that any combination of fuel and unexpended ordnance up to a total of 10,000 pounds can be brought back aboard the carrier," there remain serious doubts about the ability of the F-14 to land on a carrier with a full Phoenix load.

For one thing, Navy pilots have an understandable aversion to landing on a carrier with a dangerous ordnance load, especially in bad weather conditions, and might be tempted to lighten up.

Moreover, the weight of six Phoenixes and their pallets has been publicly estimated at between 6,000-7,000 pounds, which reduces to 3,000-4,000 pounds the margin of error remaining. This margin is reduced even further if allowance is made for necessary fuel landing reserves, dogfight missiles, and the cannon pallet, and it could be eliminated altogether by weight increases on the plane. It is worth noting in this regard that the Navy is already projecting a 700 pound weight increase for the F-14, an increase which will be slightly more significant without the "B" engine, given its own lesser weight than the "A". Any further weight increases, perhaps necessitated by modification work, could easily break the camel's back.

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every effort be made to insure the same confidence level with a minimum expenditure of weapons.

Live missiles fired for training are planned to evaluate total weapon system performance, including fuze function and warhead effectiveness, that cannot be accomplished without real launches against airborne maneuvering targets.

It is planned to expend a sufficient number to maintain an acceptable level of confidence in missile performance.

In addition, advances in Built-in Testing (BIT) and Missile on Aircraft Test (MOAT) capabilities, through the employment of a very high capacity, high speed digital computer, provide rapid assessment of the entire AWG-9 system and a vast majority of AIM-54 missile readiness.

Finally, sophisticated trainers will provide a level of training to the pilot and RIO in a controlled environment that will assess the crew's performance without actually firing a missile. One of these trainers has been delivered and is now in operation at the Naval Missile Center, Point Mugu. The AWG-9 has also been designed and built with an in-flight training mode in which ten to twenty, only limited by design ingenuity, combat problems can be programmed into the weapon control system computer. During the training mission against simulated airborne targets, the MCO and pilot may perform all of the normal armament control functions, including the initiation of a simulated launch. Appropriate cockpit indications are displayed including a "hot trigger" indication. These training simulations can be called up as desired by the flight crew, either in flight or on the carrier deck.

In summary, each pilot/MCO team will fire one missile in a training environment, the requirement for additional firings being off-set by superior BIT/MOAT checkouts as well as innovative ground and in-flight training devices.

The CVA with the F-14 weapons system is part of a balanced striking force that depends upon various armaments to destroy the enemy threat. Normally, targets within a certain range from the CVA are assigned to the surface ships escorting the carrier for destruction. These ships are armed with surface to air missiles, surface to surface missiles, and Naval guns. The air arm of this strike force is responsible to attrite only a certain number of targets at a greater range from the CVA. Therefore, any number of targets in a threat would be destroyed by a balanced Naval force.

The number of Phoenix missiles to be procured is determined in accordance with these factors in mind.

Twelve fully loaded (six Phoenix) sorties represent 72 missiles, a number that approximates those required to counter the admittedly pessimistic fleet-air defense threat quoted from Mr. Leslie Gelb's testimony. Thirty such operations, as mentioned, represents an incredible USSR threat. Furthermore, not all fleet air defense fighters need to be loaded with six AIM-54's, in many cases a mixed load of Phoenix and Sparrow missiles will be employed.

In the fleet defense mission the F-14 can carry 6 Phoenix missiles to maximize the full capability of the weapon system. It would be unrealistic to assume that the F-14 would be surprised into a dog-fight role because of the inherent detection capabilities of the AWG-9 system and the friendly GCI environment in which the combat air patrol operates. If for some unforeseen reason the F-14 was engaged by unfriendly fighters it would not jettison its Phoenix missiles, but use them as an offensive weapon, for the missile has a very good close-in dogfight capability.

The Navy F-14 is designed for air superiority. There has been no compromise in air superiority performance because of the fleet air defense capability. The air superiority mission requires dogfighter performance superior to the threat at distances compatible with the Navy attack aircraft to be escorted.

The fleet air defense capability resulting from the air superiority mission emphasis is achieved by external fuel tanks and adding the Phoenix missiles to the fighter fuselage with easily removed pallets. Thus, both Navy mission requirements are met without adversely affecting the design for the primary air superiority mission and without conflict in design emphasis and overall mission priorities.

The F-14's present weight will enable it to land on a carrier while carrying a full Phoenix load. The F-14 combat weight with a full six Phoenix load is 57,982 pounds, the landing weight of the aircraft is 49,732 pounds and at that weight the approach speed is 137 knots. This is 5 knots less speed than used for carrier approaches by F-4 fighter aircraft today in a similar mission. The F-14 will be fully capable of landing aboard with any combination of fuel, missiles, and internal cannon, whatever the tactical situation requires, with a comfortable margin of safety.

Navy pilots have routinely brought air-to-air missiles back aboard ship during night and bad weather for the past six years. There is no reason to believe Phoenix will be considered any different.

Finally, it can be safely stated the aircraft remains within 2% of design weight, a remarkable achievement in the development of tactical aircraft.

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## III. THE POLICY IMPLICATION

Mr. President, the vulnerability of the attack carrier has reached the point where it is as obsolete today for a war at sea with the Soviet Union as the battleship proved to be for World War II. The carrier could not stand up to a concentrated Soviet attack against it. And even if it could, it could not be resupplied to carry out its offensive operations.

Nor is there any evidence that the more than 10 years old yet still untested Phoenix missile system could give it a new lease on life. The Phoenix probably cannot handle the limited threat against which it was designed, let alone those facets of the overall anti-carrier capability of the Soviets which have been expanding in recent years.

These considerations do not mean that we should retire all our carriers from the force. Only the Soviet Union possesses the spectrum of threats capable of jeopardizing the carriers. China could not do so, nor could the lesser powers against which we might be involved. All these countries have a small and obsolete bomber threat, a few old and noisy submarines (about 30 in the case of China), and possibly some new Soviet-provided patrol boats with their Styx missiles. They would also have some new fighters exported by the Soviets, but these could best be defended against by a new light-weight fighter of our own.

If we made the needed decision to size our carrier force for use in conflicts involving these countries, it would reduce to nine the force level required. This force level would allow one carrier to be continuously on station in the Mediterranean and two in the Pacific, or vice versa. And each of these deployed carriers could be re-inforced during a crisis by one or two of the back-up carriers. In a war time situation, an even larger number could be rushed to the scene.

Such a decision would also permit a drastic reduction in the large number of programs now underway to protect the carrier, programs which make no sense except in terms of the Soviet anti-carrier threat. Consider for a moment some of the presently ongoing programs designed to provide carrier protection against the Russian cruise missile threat alone:

- The Condor missile, which can be fired from attack aircraft at long range against ships, patrol boats, or surfaced submarines;
- The Harpoon missile, which is being developed to do the same job from our surface warships and from aircraft;
- The E-2C long range detection aircraft;
- The S-3A carrier-based anti-submarine warfare aircraft;
- The Lamps helicopter which will operate from escort ships;
- The Aegis surface-to-air missile system;
- The Improved Point Defense Missile System;
- The Close-in Weapon System;
- Advanced electronic warfare systems such as Shortstop and of course,

The F-14 and the Phoenix.

Many of these programs—some with problems of their own—would not be needed to protect our carriers in non-Soviet engagements. In other potential conflicts, we could rely on a much less complex but probably more reliable set of defenses. The primary elements of these defenses would be simple electronic countermeasures, anti-aircraft guns, and existing shipboard surface-to-air missiles. We might also want to keep reliable modifications of a few other systems in which we have invested so heavily.

As far as defensive missiles are concerned, it is important to recognize that any reasonably reliable shipboard missiles have a significant advantage over their airborne counterparts. They would not be chasing elusive aircraft and missiles on their way to other targets, but would instead be located with the targets themselves and have the much easier task of intercepting directly incoming missiles. We could complement these shipboard missiles with a fleet air defense capability, but we would not need the F-14 or Phoenix. We could if we wanted use the F-4 and the Sparrow. But all we would need against the few obsolete bombers of other countries is a good new fighter with anti-aircraft guns and reliable missiles like the Sidewinder.

If steps of this kind were taken, significant economies could be realized and funds made available for other high priority Navy programs, such as submarine fleet expansion and programs to reduce the carrier dependence of our surface Navy itself. It makes little sense and is highly dangerous to keep concentrating our surface forces around an increasingly vulnerable focal point. Some means must be found to disperse those forces if their abilities are to be preserved.

## A FINAL CAVEAT

I have discussed the problem of carrier vulnerability and the failings of the Phoenix in such detail for three reasons.

First, the fleet defense mission is central to the basic rationale of the F-14. What the Navy has wanted for almost 15 years is an airplane from which to launch the Eagle-Phoenix to protect its carriers. The Missileer, the F-111B, and the F-14—all have been fleet defense interceptors above all else. Just how poor a fighter the F-14 is I'll explain in a few days. Its fleet defense syndrome is *why*.

Previously discussed.

Previously discussed.

As previously discussed, these points allude to the concession of naval supremacy to the Soviets, leaving no area of the world to employ our fleet against a third country without confronting the Soviet fleet which has established a world-wide presence.

It would seem that Soviet weaponry employed by a third country is not as frightening as it was in the anti-carrier scenario with the Soviet Navy. The array of modern, Soviet-supplied weaponry in Egypt, North Vietnam, and Korea today is evidence of what we will face in the future from third countries if we concede supremacy of the seas to the Soviets.

Any future conflict will most probably be fought with the ships in the active inventory. A force of only 9 carriers with 3 deployed leaves 6 in reserve. If each of the 3 deployed carriers is reinforced by 2, the reserve of 6 is depleted, leaving none to rush to the scene in war time. Of course this limitation would be in keeping with the proposal that we not prepare ourselves for any kind of aggressive action by the Soviet Union against this country or the interests of this country.

All weapon programs are for the purpose of improving the entire Navy's capability to control the seas and protect the sea lines of communication—not just aircraft carriers. If the carrier force were to be cut to the dangerous level proposed, even a *greatly increased* level of effort and expenditure in these areas would be insufficient to compensate for the loss of sea control capability. The observation also assumes third country stagnation in weapons development and military capabilities. Additionally, none of these systems, without aircraft carriers, can accomplish the collateral mission of the Navy—projection of power ashore.

In any non-Soviet potential conflict the "enemy" will most probably have and utilize Soviet equipment of varying sophistication. It is probable that this "enemy" will, in some future conflict, acquire Soviet anti-ship cruise missiles as has the UAR. A portion of the Soviet capability today may well be the capability of other non-friendly countries in the future.

The fact that it is far better and easier to shoot down the launch platform before it launches its missile(s) is ignored. The all-aspect Phoenix and Sparrow missiles permit them to intercept incoming aircraft or missiles in the same manner as shipboard missiles. The destruction of aircraft and missiles by fighters many miles from the carrier reduces the number of missiles penetrating the defenses and decreases sharply the probability of a missile hit.

Today's surface force disposition cannot be confused with the familiar pictures of tightly spaced formations in World War II where short range guns were the ship's only protection against an attacker who had managed to get past the fighters. The tight groups of ships provided mutual protection with their over-lapping arcs of fire, similar to the tightly spaced B-17 formations, a tactic almost invalidated by the missile age.

The dispersed and varying dispositions of our surface forces today makes the enemy's problems of location and identification of each element not only extremely difficult but dangerous.

The primary mission of the Navy is to gain and maintain control of the seas through the coordinated combat actions of all Navy forces while denying such use to an enemy. The aircraft carrier and the F-14 are vital parts of the overall effort, providing the highly mobile and far reaching umbrella of air superiority above the seas necessary to conduct successful naval surface operations, and to support our own and allied forces. The mobile umbrella of air superiority can cover an area of more than a million square miles, and when projected inland also provides essential protection for forces ashore and the carrier based strike aircraft supporting those forces.

SENATOR PROXMIRE'S SENATE SPEECH, SEPTEMBER 14, 1971—Continued

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Second, I wanted to explain in full what I think is a basic truth—that any money spent on air-to-air missile defense against the Soviet anti-carrier threat will be money down the drain. It will be money diverted not only from important domestic programs, but from other defense programs which could serve our interests better.

Third, the fleet defense emphasis in the F-14 program is symptomatic of a far more pervasive problem in the Navy today. There are many other items in the Navy budget at this time which make no sense at all except in terms of the Soviet anti-carrier threat. Money spent on them may be wanted too. We should keep this in mind as other carrier-related issues keep coming before us.

But I would like now to make a final caveat. If, despite all the evidence of its futility, we still want to provide air-to-air missile defense of our carriers against the Soviets, we don't need the F-14 to do it. There are other ways which would be equally (in)-effective, far less expensive, and which would not rob us of the first-rate Navy fighter our security may require at this time.

One approach would be to put the Phoenix itself on the A-6 one of the Navy's interdiction aircraft. This option was seriously considered by the Navy during the dying days of the F-111B. It might well have been chosen if so much emphasis had not been placed on the F-111B's own inability to carry the Phoenix and still be a fighter in the attempt to finish it off.

The A-6 would be similar to, but an improvement over, the old Missileer. It has all the range, loiter and payload capabilities needed in a fleet air defense interceptor. It would be able, in all probability, to loiter longer and to carry even more than the six Phoenix missiles carried by an F-14. The only possible advantage of the F-14 would be the greater acceleration it could provide. It is supersonic, while the A-6 is subsonic, so it would get into its intercept position faster. It is doubtful, however, that this advantage would ever matter. The F-14 itself would have poor acceleration with a full external Phoenix load, poor enough that it is highly doubtful that an F-14 not already on station could be brought to bear in defense against a fast bomber raid. The key to such a defense would be loiter time on station and here the A-6 would get the nod.

We already have a great many A-6's. We have been buying them for almost 10 years and 12 of the latest version, the A-6E, are included in this year's budget. The basic cost of an A-6 inframe, without avionics, is under \$3 million.

We could buy more A-6's for the fleet air defense role. With the AWG-9 avionics system substituted for the avionics now on board, the cost would be about \$6-\$7 million per plane.

Or we could change avionics packages on some of the planes we now have. Another thing the Navy doesn't need is more interdiction aircraft. It already has about twice as many aircraft supporting the interdiction mission as it has fighters aboard its carriers, despite the limited pay-offs of interdiction.

This restructuring of its aircraft mix would also solve any deck crowding problems which might result if we were to add both A-6 interceptors and a new fighter to the carrier air group. The real source of the crowding problem in any event is no longer the aircraft deck space available, but an inability to house the large number of maintenance personnel needed to handle the increasingly complex and difficult to maintain expensive new aircraft we like to buy.

Another approach would be to rely on the Sparrow missile for fleet air defense. It might actually be better for the job than the Phoenix.

I spoke earlier about the performance record of the Sparrow in Vietnam. It should now be noted that Raytheon Corporation, manufacturer of the Sparrow, is at work on a completely new version—the AIM-7F—which hopefully will solve some of its problems. The new version is expected to have fully twice the maximum range of the old, as well as a shorter minimum range to permit use under conditions when the presence of friendly aircraft prevent its stand-off launch. It will be solid state and will fly dormant until activated just prior to launch in an attempt at better reliability (its ability at least to launch and fly). And it is hoped it will have much greater capability against maneuvering or high-speed enemy targets. These points should be kept in mind in comparing the capabilities of the two missiles.

COMMENT

This is in consonance with the belief that the U.S. will not engage Soviet Naval Forces except in a nuclear exchange.

This was previously discussed in detail and demonstrates once more the thinking that if we had no aircraft carriers Soviet weaponry would not threaten the rest of our naval forces.

Extensive studies have demonstrated that the F-14/AWG-9/Phoenix weapons system can *effectively* accomplish the assigned missions and that there is not a cheaper system that can approach its performance.

During the late 1950's the A-6 was considered as a Missileer candidate and rejected because of severe limitations of space, payload capacity and performance. It would have taken a complete redesign of the A-6 to make it a reasonable but hardly optimum Missileer. In the mid 1960's various versions of the A-6 were considered as interim back-ups to the F-111B pending the introduction of a new fighter. All A-6 versions that were studied were found to be markedly inferior and less cost effective than even the F-111B.

The implication that A-6's in the current inventory might be used in the fighter role appears to show a lack of appreciation of the magnitude of the changes involved. The more attractive versions of the airplane in the contractors anti-air warfare study in 1968 incorporated new engines, a larger wing and increased landing strength, in addition to the weapon system changes. New production models would undoubtedly be more economical than modification, even if the suggestion that surplus aircraft existed were true. Most important, the motor for the Phoenix or any missile would have to be greatly enlarged making the missile very large, one of the objections to Eagle-Missileer. The energy imparted to the Phoenix by the F-14 is required to give it the long range and high speed target kill capability.

Reconfiguration of the AWG-9 to match the A-6's side-by-side crew arrangement, and redesign and testing of the A-6 to make it usable as a fighter would require \$100 M in development funds over a 3-year period. The mixture of A-6 with Phoenix and F-4/Sparrow to replace the F-14 would cost more, take longer, and provide less capability.

The A-6 with Phoenix cannot do the job against high-speed penetrators. First, long-range cruise missiles or supersonic escorts require supersonic intercepts to provide large launch zones which are relatively insensitive to the direction of approach. Second, supersonic bombers would reach their ASM launch point before the subsonic A-6 launched from the CVA could get within missile range. Third, if the escorts chose to dogfight with the interceptor, the A-6 would be no match. Fourth, the A-6 could not be used to escort strike aircraft, so the deck-space required for escorts would not be available.

The advanced Sparrow, or AIM-7F, will be superior to the rest of the Sparrow family. It will have greater range and solid state technology has been incorporated to assure greater reliability. It should be noted that the F-4J will remain in the Navy's inventory for a number of years. Development and introduction of the AIM-7F is a part of the evolutionary process conceived to improve the F-4J's capability to counter the Soviet threat. But the Sparrow cannot provide an acceptable kill probability against high altitude-high speed raids or air-to-surface and surface-to-surface threats to ships at sea.

As has been previously stated, targets can be expected to use violent maneuvers in an attempt to escape air-to-air guided missiles. These tactics have proven to be effective against the SA-2 Russian surface-to-air missiles and the older U.S. air-to-air missiles that are maneuver limited and have exceptionally small launch zones (such as the AIM-9B/Sidewinder).

The Phoenix missile has benefited from the experience in Southeast Asia by being provided with a large launch zone, quicker response to target maneuvers, and a modern fuse with a large warhead. Recent studies by the Navy and contractor demonstrate that these capabilities provide the Phoenix with the ability to counter evasive target maneuvers up to 8g's at twice the range as that of the advanced Sparrow (AIM-7F). This superiority results from the higher energy in the Phoenix at intercept, the more efficient

SENATOR PROXMIRE'S SENATE SPEECH, SEPTEMBER 14, 1971—Continued

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The Phoenix would appear to have two advantages.

The first is its significantly longer range. This advantage is greatly minimized, however, by the fact that the Phoenix has poor capability against maneuvering targets, especially over those stretches of its range which are beyond the maximum of the new Sparrow.

The Phoenix also has a simultaneous multiple-shot capability which the new Sparrow lacks. But here too the advantage may be small. The AWG-9 fire control system, by the Navy's own admission, cannot launch six Phoenix missiles at sufficient speed that six might be simultaneously in the air. And even this has never been demonstrated.

Moreover, a simultaneous multiple-shot capability is more a function of an aircraft's fire control system than a function of the missile itself. And AWG-10 contractor, Westinghouse, has already completed Navy-funded design studies of new F-4 fire control systems designed to accommodate the new Sparrow. One design would replace the present AWG-10 analog system with a more reliable digital version, the AWG-14. Another would simply give the present AWG-10 system a simultaneous multiple-shot capability.

Range and simultaneous shot capability aside, the advantages would lie with the Sparrow. It would be more maneuverable over its range. It would not have to be dropped into the ocean if a dogfight developed, but could be used in theory as a dogfight weapon. And it would cost only one-fourth as much, so we could afford to buy a few more.

The new Sparrow could be carried on either of two planes. As indicated, there are new F-4 fire control systems which could handle it. And it is already earmarked for use on the F-15, which might well be adaptable for carrier use.

These, then, are clear alternatives to fleet air defense against the Soviets. I do not mean to endorse them. I have already made clear my basic feelings in this regard. But they are available and if we want an anti-Soviet fleet air defense system, we don't need the F-14 to get it. In fact, these alternatives have three clear cut advantages over the F-14, in addition to costing far less.

## COMMENT

tall control design that conserves energy during missile maneuvers, a larger warhead, and a unique fuse design.

An important factor to the evasive target maneuver tactic is the question of how will the enemy know when to commence evasive action against the Phoenix missile? When the Phoenix missile is launched in a track-while-scan mode, the AWG-9 radar does not stop its scan to illuminate the target, but continues to illuminate all the targets in the enemy formation. Success in F-14 mission can be achieved by not only killing targets, but causing them to waste fuel and range by conducting unnecessary and wasteful evasive maneuvers. While doing this, they can't launch missiles or reach their targets.

The AWG-9 digital computer aids in the solution of the maneuvering target problem by providing steering signals and accurate launch zone displays to optimize the probability of launching inside the missile's envelope even in a maneuvering environment.

In actual AWG-9 evaluation tests conducted in September 1971 on the Pacific Missile Range tracks were maintained and displayed on 12 airborne targets simultaneously in the track-while-scan mode. The targets were divided into three groups approaching from three different directions at different speeds and altitudes. Four different types of aircraft were used in the raid. Attackable targets are assigned a launch priority by the Weapons Control System computer for all the missiles aboard. The computer will select the targets with the closest range and highest closing rate to be launched against first. The operator may override this assignment and designate any target as "next launch." He could, however, launch six missiles at targets sequenced entirely by the computer regardless of how many additional tracks are displayed on the radar scope or maintained by the computer.

Optimum resource utilization and funding limitations require that evaluation and acceptance of the Phoenix missile for Fleet use be a responsible combination and correlation/extrapolation of live tests, laboratory tests, and sophisticated simulations.

Testing to date has shown a three-on-three capability, by the launch of two missiles and the pseudo launch of a third. This exactly tests the AWG-9 and missile capability for three-on-three, since additional targets only load the AWG-9, as was done in the test. Each missile in flight is guiding to its own target and is independent of other missiles in flight at the same time. Extensive analytical simulations, the parameters of which have been demonstrated by test, satisfactorily verify six-on-six capability.

To date, all system modes of the Phoenix missile have been demonstrated and individual missiles have been assigned to a wide variety of target conditions and encounters. Committing six R&D missiles to a previously verified condition was not considered cost effective. Actual testing of the six-on-six capability will be performed with pilot production missiles to reduce costs and confirm design and will be conducted in a Navy test.

The dual launch record is as follows. Six missions have been conducted, with two considered as "no tests" as a result of failures not associated with the Phoenix missile. The remaining four missions were successful or partially so. None of the failures was a result of two missiles guiding simultaneously. In no way do the failures cast doubt on the multiple-launch capability of the system. Of the eight missiles fired under dual launch conditions five have guided to a successful intercept, a 62.5% success ratio.

Simultaneous multiple-shot is considered impossible largely because the crew can only commit one missile for each pull at the trigger. The radar and missile contractor could develop a two Sparrow near simultaneous launch capability but it would be very costly and would not appreciably improve the present Sparrow capability and certainly could not approach the F-14/AWG-9/Phoenix six-on-six capability.

The design referred to was not conceived to accommodate the new Sparrow, but rather it advances the state-of-the-art in computer technology by replacing analog with digital processing. This would improve the "dogfight" capability of the F-4J by better displaying the envelope of the Sparrow, whether AIM-7E2 or AIM-7F, in "real time." Increased reliability is also inherent in the design. Although the Navy is investigating the digital version for the F-4J, it has yet to make a decision on incorporation of the system. The AWG-9 already contains both the improvements in reliability and the digital computer.

All of the issues mentioned have been commented on previously.

The new Sparrow (AIM-7F) can be carried on the present F-4J, the F-14, and the F-15, without regard for new fire control systems; although the F-15 will have a new fire control system.

As has been repeatedly stated, the F-14 with the AWG-9/Phoenix is the only aircraft either in being or under development which can meet the Navy's needs.

The achievement of long-term air superiority requires the proper combination of system performance in order to provide tactical options to meet the changing environment. The balance achieved in the F-14 between performance, system integration, and a two-man crew provides superior performance plus a long-range, stand-off missile capability. A two-man crew provides tactical flexibility in a

SENATOR PROXMIRE'S SENATE SPEECH, SEPTEMBER 14, 1971—Continued

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COMMENT

To the extent timing were considered critical, it should be noted that both the A-6/Phoenix and F-4/2 Sparrow alternatives could be deployed ahead of the present schedule for the F-14.

More important, if we were reasonable, these alternatives would give us an opportunity to conduct realistic operational tests of both the Phoenix and the new Sparrow before billions of dollars were committed on the missiles themselves or on any plane designed to use them. The F-14 alternative simply won't permit this, tied as it is to a hopelessly concurrent contract schedule.

And I am convinced that realistic operational tests would only confirm what I have suggested here—that the Phoenix could be easily outmaneuvered and hopelessly countermeasured, while proving totally unreliable in the field.

Nor am I very sanguine about the prospects of the new Sparrow. It was originally expected to enter production this year, but it has encountered sufficient disasters even in its artificial engineering test program to be kept in development for more debugging. It is also certain to cost at least \$100,000 per missile—much less than the Phoenix, but more than twice as much as the old Sparrow.

Most important of all, these alternatives would not rob us of the new air superiority fighter the Navy and our security may badly need. That's my subject for next time. I'll try to prove in a few days that the F-14 costs the most yet has the poorest performance of all the fighter options that we have.

#### ORDER OF BUSINESS

Mr. TALMADGE obtained the floor.

Mr. NELSON. Mr. President, will the Senator yield for 10 seconds in order that I may make a unanimous-consent request?

Mr. TALMADGE. I yield to the Senator from Wisconsin provided I do not lose my right to the floor.

#### ORDER TO PRINT S. 2007, ECONOMIC OPPORTUNITY AMENDMENTS OF 1971, AS PASSED BY THE SENATE

Mr. NELSON. Mr. President, I ask unanimous consent that the Economic Opportunity Amendments of 1971, S. 2007, which was passed by the Senate on September 9, 1971, be printed as passed by the Senate.

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

#### MILITARY PROCUREMENT AUTHORIZATIONS, 1972

The Senate continued with the consideration of the bill (H.R. 8687) to authorize appropriations during the fiscal year 1972 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to

prescribe the authorized personnel strength of the Selected Reserve of each Reserve component of the Armed Forces, and for other purposes.

Mr. TALMADGE. Mr. President, as the distinguished chairman of the Armed Services Committee knows, by June of 1973, Lockheed will complete production and delivery of all C-130's to be built under existing contracts with the U.S. Government and friendly foreign nations.

Lockheed expects that in 1972 foreign countries will place additional C-130 orders. However, because the leadtime for ordering basic material and components is approximately 22 months from the time that orders are placed, production of these aircraft could probably not begin until 1974. Therefore, there will be a period of several months during which Lockheed's C-130 operations will be idle.

Since neither Lockheed nor any other company could suspend a production line of this magnitude for such a period of time, the company would be forced to completely shut down the C-130 production.

This would pose serious problems in terms of national security and employment in my State. We already know that U.S. Government C-130 requirements extend through fiscal year 1976 and that no replacement for the C-130, the only

variable ECM environment. The F-14A utilizes the TF-30-P-412 engine, the most advanced engine that has been developed to date. The AWG-9 is the most advanced and versatile fire control system being developed in the free world, and to our knowledge in the Communist world as well. Minimum weight is achieved through the structural arrangement and use of newest state-of-the-art materials. The F-14 will maintain long term air superiority capability through easily achievable evolutionary changes. While pure airplane performance might be increased by sacrificing carrier suitability, strength or other features, the F-14 is the best performing air superiority fighter that can be developed at this time to meet overall Navy requirements.

An A-6 capable of employing Phoenix has been fully investigated by the Navy. With modifications an A-6 could be adapted to a 4 Phoenix system, but would take 3 years from go ahead and would not have the performance required to launch Phoenix at the long range required to counter the high speed high altitude threat.

Phoenix tests to date have been conducted under extremely realistic, demanding operating conditions and have duplicated many of the situations that the missile will be expected to encounter.

The Phoenix R&D program has been extremely successful. To date 27 of 42 development missiles have guided to either direct hits or lethal near misses. These include hits by one missile fired at a range of 78 miles, two missiles fired only seconds apart and guided simultaneously at two targets with 10 miles separation, one missile fired in the active mode for the "close-in" situation and a look-down missile at a small low flying target simulating a cruise missile. The Phoenix to date has demonstrated every design performance requirement. In addition Phoenix will have the ability to counter a target maneuvering at 8 "G" at twice the range of the new Sparrow. We have not been able to countermeasure the Phoenix effectively ourselves and we know the missile.

The new Sparrow AIM-7F should prove to be highly reliable with its solid state circuitry and improved fusing and will be compatible with the F-4J. The missile was returned to R&D because it was not ready for production. When it proves ready for production it will be bought. The present schedule calls for fleet introduction in September 1974. Fly away costs will be \$60,000 per missile. The Sparrow AIM-7E2 will remain the primary weapon on the F-4J until that time.

F-14 costs are a result of our economy and advanced technology required to counter the threat. The airplane has been designed to counter the extremely complex threat posed at the extremes of the altitude, speed and ranges of modern airplanes. As has been explained no other airplane possesses even a minimum acceptable capability.

aircraft we have which is capable of operating in a tactical airlift role, is planned for at least 10 years. Obviously, a source must be continued to satisfy future needs for both new aircraft and maintenance of the more than 1,200 C-130's now in operation throughout the world.

Furthermore, a shutdown of operations at Air Force plant No. 6 would throw some 3,600 Georgians out of work in an area in which unemployment has already reached serious proportions.

For these reasons, a shutdown of the production line at Air Force plant No. 6 would be, at the very least, unfortunate. Unless, however, the U.S. Government takes positive action to procure 15 C-130's in fiscal year 1972, production of this airplane cannot be sustained beyond June of 1973.

As the distinguished chairman knows, the other body authorized the procurement of 15 C-130's but this item was deleted by the committee. For the reason of keeping 3,600 Georgians employed, and for the reason that it will be in the interest of this country's security that new aircraft and replacement and component parts for that aircraft be readily available to our Government and friendly foreign countries, I hope that my friend, the distinguished chairman of the Armed Services Committee and other Senate conferees will give this matter

very careful consideration when they go to conference with Members of the other body.

Mr. STENNIS. Mr. President, in response to the statement and inquiry of the Senator from Georgia, I can readily assure him that we will give special consideration to this item in the conference, as he has stated, and also any effects along the line the Senator has mentioned that differ from what they were when we passed on the matter. I remember clearly that the question did come up about an order from a foreign country and the question about the line being kept open. So we will go into this item and we will give it consideration.

Mr. TALMADGE. I appreciate the assurance of the chairman of the Armed Services Committee to give serious consideration to it. Since the leadtime for ordering component parts for new aircraft is about 22 months, I think the chairman and the conferees will agree it is vital to keep the production line going and not let it be completely shutdown.

Mr. STENNIS. The Senator certainly has a valid point, and we will look into it.

Mr. President, I yield the floor.

Mr. GOLDWATER. Mr. President, near the close of business yesterday, the Senator from Wisconsin (Mr. PROXMIRE) and I became engaged in a colloquy relative to the F-14, the new Navy fighter. During the course of that discussion the Senator from Wisconsin referred to a paper from the Pentagon which stated that with leading edge flaps, the F-4 would be a superior airplane to the F-14.

That interested me, because I am interested in the F-4 and the F-14. I finally found what I think is the paper he referred to. It is a report made in October 1969, by the Naval Air Test Center, "Final Report, Military Evaluation of the F-4 Wing Leading Edge Slats."

I dislike to clutter up the RECORD with technical data, but because there is going to be an argument about the F-14 and its deficiencies and importance, I would like to discuss the conclusions very briefly by reading from them:

#### CONCLUSIONS

##### GENERAL

64. The installation of the wing leading edge slats has significantly improved the maneuvering capability of the F-4 airplane.
65. Longitudinal stability when compared to that of the basic F-4 airplane has been degraded throughout the flight envelope tested.

They are the general conclusions. Here are the specific conclusions:

##### SPECIFIC

66. Airplane performance was improved over that of the basic F-4 airplane in that:
- a. Lift limited turning performance was significantly improved (paragraphs 50, 51, and 61).
- b. Maximum A/B thrust limited turning performance was improved throughout the flight envelope tested (paragraph 47).
- c. Onset buffet occurred 5-6 units AOA higher than the basic F-4 (paragraphs 38 and 60).
- d. Excess thrust characteristics were improved at angles-of-attack above 10 units (paragraph 44).

67. Stall characteristics were improved over those of the basic F-4 airplane in that:

- a. Onset buffet occurred at 17-18 units AOA with flaps up (paragraph 36).
- b. Buffet intensity was reduced throughout the flight envelope tested (paragraph 33).
- c. Artificial stall warning (rudder pedal shaker) was more effective (paragraph 38).
- d. Directional stability was apparently increased at high angle-of-attack (paragraph 29).

68. Tracking capability was improved over that of the basic F-4 airplane (paragraph 60).

69. The test airplane was less susceptible to loss of control than the basic F-4 (paragraphs 29, 36, and 62).

70. The static longitudinal stability characteristics of the test airplane (configured with the prototype slat installation) in approach configurations preclude mission accomplishment with a satisfactory degree of safety (paragraph 19).

71. The maneuvering longitudinal stability characteristics preclude mission accomplishment with a satisfactory degree of effectiveness (paragraph 23).

72. Approach airspeeds were essentially unchanged from those of the basic F-4 airplane (paragraph 53).

73. The stall margin of the J79-GE-17 engines was inadequate for satisfactory engine operation during low airspeed, high altitude, high angle-of-attack flight (paragraph 57).

One conclusion was reached that the Navy disagrees with respect to the air speed being changed from the basic F-4 airplane. These tests were held on land. None of the tests were made over water or made of the carrier takeoff or carrier landing. The very fact is that the addition of these slats can, for maneuvering purposes, with the three-position flap control from the cockpit, add 1,000 pounds of weight, which would add dangerously to the weight with respect to the speed of the airplane on final approach, so that the Navy does not feel the carriers could safely handle them.

As I have said, this study was made back in 1969. The F-14 has come into being since that time. The conclusions had been reached by the Navy already in its limited test flying. It must be remembered that the first test aircraft crashed, and they had about 10 hours on the air frame on the second aircraft, but the F-14 is a better airplane in all instances except one. Let me read:

The F-14A has significantly better dogfight performance than any F-4 version, even in the slow-speed turning arena:

- 40% better in Turn radius.  
21% better in Sustained "G".  
21% better in Acceleration.  
20% better in Rate of Climb.  
21% better in Roll performance.

I know the hour is late, and I do not want to detain the Senate with a lot of aeronautical jargon, so I ask unanimous consent that the full opinion of the Navy on the comparison of the F-14A with the F-4J be printed at this point in my remarks.

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

#### SLATTED F-4J vs. F-14A

The story of the Slatted F-4 is an interesting one. Both the Navy F-4J and the Air Force F-4E are deficient in a slow speed turning dogfight. This has required specific

tactical restrictions when fighting the MIG 17 and 21. By bolting on a slat to the leading edge of the F-4 for evaluation purposes, the slow speed turning capability of an F-4E's performance was improved in the slow speed arena.

To produce a technically feasible slat installation for the Air Force and German F-4, a two-position slat (either "in" or "out") is being developed. That two-position slat installation will not permit safe carrier landings for the Navy F-4J where landing speeds are critical. A three-position slat is required for the Navy F-4J. That minimum installation is not the "simple addition" of a slat. It is essentially a new wing. The installation of a slatted wing for the carrier F-4J is costly and adds slightly more than 1000 lbs, half a ton, to the overall non-payload weight of the airplane.

The only performance area where the slatted F-4J is better is in a slow-speed turning fight. In all other mission areas it is degrading to performance in a thousand pounds degrading.

The F-14A has significantly better dogfight performance than any F-4 version, even in the slow-speed turning arena:

- 40% better in Turn radius.  
21% better in Sustained "G".  
21% better in Acceleration.  
20% better in Rate of Climb.  
21% better in Roll performance.

Mr. GOLDWATER. Mr. President, I ask unanimous consent that a letter written by the Deputy Secretary of Defense, Mr. Packard, to Senator PROXMIRE on this problem be printed in the RECORD at this point in my remarks.

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

THE DEPUTY SECRETARY OF DEFENSE,  
Washington, D.C., September 3, 1971.

HON. WILLIAM PROXMIRE,  
U.S. Senate,  
Washington, D.C.

DEAR SENATOR PROXMIRE: Thank you for your August 9th letter on the F-14 aircraft program. The interest and concern of the Congress in the acquisition of the F-14 weapon system is appreciated. As a result of speculation regarding possible cost growth in the F-14 this program has been subjected to a very careful and thorough review by the Department of the Navy, by the Defense Systems Acquisition Review Council, which is my management group that addresses these problems, and by myself. In addition, I testified before the Senate Armed Services Committee on July 14th in depth concerning the concept and progress of the F-14 in an effort to insure that they and, in turn, the entire Congress are fully informed and satisfied on all facets of the program.

In responding to your specific inquiries, I feel that it would be convenient to refer directly to the numerical listing in which your questions were stated:

1. As you have stated, the Senate Armed Services Committee restored all F-14 procurement funds on a basis that 48 production aircraft would be purchased with Fiscal Year 1972 funds. I have been provided assurance by the Grumman Aerospace Corporation that they will build 48 F-14A aircraft for the Lot IV contract price.

2. It is hoped that final necessary Congressional action to permit the discharge of the obligations of the United States Government under its existing contractual arrangements will be completed in timely fashion. The Department of Defense will take such action utilizing the funds made available under the Continuing Resolution as may be necessary to accomplish this and, as in the past, will keep the Congress informed

through the appropriate committees. \$232 million is the current estimate of funds required to exercise the Lot IV option with Grumman by October 1st.

3. I am sure you recognize that the matter of termination costs is very involved, and depends on the conditions and timing of the termination. The answer changes as each day goes by; determination of appropriate figures is highly dependent on the time and circumstances under which termination is effected. We do not contemplate the need for any such action, however.

4. Should the Government find it impossible for the Grumman Aerospace Corporation to continue to perform under the existing contract, the Government and Grumman have adequate protection in Public Law 85-804, as implemented by Section 17 of the ASPR Regulations. In this unlikely event, we would assure that the appropriate Committees of the Congress are kept informed.

5a. I do not believe it to be prudent to speculate now on economic forecasts as they relate to the F-14 contract beyond Lot IV. The Navy has initiated a "should-cost" review of the F-14 program which is expected to provide data for a valid assessment of the contractor's costs and assist in reducing these costs if necessary. Also, it will provide a baseline for continuous attention to the costs of this program. These actions will permit us to take appropriate steps should contractor losses appear to imperil the Grumman Corporation in the future.

Any contractor loss that may occur during production of Lot IV aircraft is not projected now to be serious enough to threaten the viability of the Corporation or to warrant renegotiating the Lot IV contract.

b. Although the program has a degree of concurrency, progress in development of the F-14 is satisfactory and I am of the opinion that it is not in the overall best interests of the Government to require renegotiation of the existing contract to reduce that concurrency. The Navy examined this option in great detail and I agree with their findings that retention of the existing contract best protects the Government's interest.

c. The Navy, my own staff and the appropriate Congressional staffs have monitored and will continue to monitor the disbursement and expenditure of all funds appropriated for the F-14; I see no danger that the FY 72 funding will be insufficient for the full purchase of 48 aircraft.

6. I have approved the Navy plan to orient the F-14 program to the A model aircraft. As you know, much of the Advanced Technology Engine is being developed for common use by the Navy F-14 and Air Force F-15. When the development status of the Navy version of this engine and financial considerations warrant, we will consider its introduction into the F-14 program.

7a. Defense Department planning envisages procurement of 301 F-14's at this time. Additional procurement of F-14's will be reviewed at appropriate times in the future.

b. The alternative of using an improved F-4 was examined very carefully but was ruled out because we cannot put the Phoenix system on the F-4 without getting into a very unsatisfactory design and expensive modification program. Were we to put Phoenix/AWG-9 on the F-4, the resultant heavier modified aircraft would still be greatly out-ranged, out-accelerated and outclimbed by the F-14A, and we could not have the growth potential available in the improved F-14B engine.

bii. At my direction, adaptation of the F-15 for use on carriers is currently under study by the Navy.

biii. The Navy is in process of identifying future aircraft requirements for the prototype program. If we move in the direction of a light Navy fighter, we would still need to decide on its applicability to the CVA's, sea control ships, or both.

In summary, the Navy F-14 Fighter Program is achieving the goals that were set out three years ago. An advanced Soviet fighter, bomber and missile threat was clearly emerging at that time. Subsequent events have validated the Navy's concern that the Soviets are embarked on an ambitious program to wrest control of the seas from the free world. There is no other U.S. aircraft in inventory or under development which can meet the totality of the Navy's need for sea control and force projection. This is a most important program for the Navy and for the Defense Department as well. I urge your support. You may be sure that the Department will keep the Congress informed of the progress of the F-14 program.

It is hoped that the above information will be of use to you and your staff. The Navy Staff will be pleased to provide any additional details of the F-14 program as you may desire.

Sincerely,

DAVID PACKARD.

Mr. GOLDWATER. Mr. President, I ask unanimous consent, to complete the F-14 presentation today, that the study entitled "F-14 Briefing Notes" be printed at this point in my remarks.

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

#### F-14 BRIEFING NOTES

1. Contracts Status
2. Advanced Technology Engine Status (F-14B)
3. Flight Test Status
4. Major Problems
5. Aircraft IX Tasks
6. Number of F-14A Aircraft by 1 January 1972

#### CONTRACTS STATUS

1. Authorization received to date:	
Lot I: F-14A, R.D.T. & E., 6 A/C:	
Funding received.....	\$399.9M
Funding due.....	1.1M
Supp. funding received.....	3.7M
Lot II:	
F-14A, 6/AC: Funding received.....	115.1M
F-14B, R.D.T. & E., 2 A/C:	
Funding received.....	21.7M
Funding due.....	7.2M
NAMT: Funding received.....	14.7M
Support: Funding received.....	39.8M
Lot III:	
F-14A, 26 A/C: Funding received.....	224.4M
OFT: Funding received.....	14.5M
Support: Funding received.....	36.1M

#### F-14B STATUS

The F-14B development has had a major schedule slippage because of rescheduling of engine deliveries. The F401 engine encountered fan and compressor efficiency problems. The Pratt & Whitney Aircraft proposed corrective design changes impact the initial engine deliveries as follows:

X401 Ground Test Engine, was June 1971; is October 1972.

Y401 (PFRT) Engine, was March 1972; is December 1972.

F401 (QT) Engine, was February 1973; is September 1973.

By TWX, NAVAIR officially informed Grumman of the above engine delays and requested that by 27 August Grumman submit a revised Flight Test Plan and its associated cost impact.

Two Flight Test Plans are currently being studied, one plan utilizes Aircrafts No. 2 and No. 7 as previously planned and has a BIS in November 1974, while the other plan adds a third test aircraft and has BIS in May 1974. Both of these plans propose first flight of a prototype F-14B in April 1973. The previously proposed testing of a Hybrid F-14B with one TF30 and one X401 engine has been cancelled because now only one X401 engine for ground test purposes will be delivered.

The Grumman F-14B development effort has been drastically reduced in view of the engine delay. Anticipated August corporate

F-14B manpower expenditure will be approximately 90 men as compared to a previously anticipated budget of 347 men.

Production of Aircraft No. 7 as an F-14B has been halted and the F-14B only parts put in storage. F-14A and B common parts will be utilized on Aircraft No. 11. Production of Aircraft No. 7 will be resumed late next year.

It should be noted that while the Navy is accepting 401 engine delivery delays in order to obtain improved engine performance, the Air Force is proceeding with the existing performance deficient configuration of their F100 and no delivery delays. Consequently, the F-15 first flight date of July 1972 remains unchanged and the first flight of a 401 engine in the F-14 has slipped from September 1971 (Hybrid configuration) to April 1973.

For detailed schedule information refer to memo dated 11 August 1971, J. W. Coursen to M. Pelehach/J. Rees, "Restructured F-14B Program (Based on Revised Engine Delivery Schedule)".

#### FLIGHT TEST STATUS

Number 2 F-14A has flown 18 flights totaling 36.7 hours with the planned monthly flight rate of 12 hrs./month exceeded. Overall vehicle evaluation is as follows:

Approach Characteristics: Good to excellent. 77 Mirror approaches, 45 with APC. CL at approach alpha as predicted. Problems: High Lift airframe buffet and unsatisfactory stick geometry. At NPE I improvements incorporated.

Engine/Airplane Compatibility: Generally excellent. Mach .75; 40,000 ft. Self clearing, low engine stall M .6; 20,000 ft. MCB will eliminate.

Cruise Performance: S. R. Slightly below Spec. (3.5%) using A/C #2. A/C #1X Tests to be production representative.

Flying Qualities: Static and dynamic stability and control parameters agree with predictions and satisfactory in approach and cruise.

Systems: Generally excellent. Problems: Wheel brake controllability and ECS. A/C #1 taxi tests show brake improvement. Changes to ECS on A/C #2 and 1X to be flight tested.

Number 1X F-14A has flown 3 flights totaling 5.5 hours. Highlights of these flights are as follows:

On the second flight, the wings were swept to 45° manually through the central air data computer.

Touch and go landings were performed in actual carrier approach attitudes with outstanding flying qualities. (Old style nose high, banked attitude approaches were made to point of touch down.)

On the third flight, the wings were swept to 68° and maximum speed achieved was M .76.

#### AREAS OF CONCERN

Areas of concern are categorized as follows: Hydraulics, Overwing Fairing, Tail Clearance, Speed Brakes, Hi-Lift, Stability in Phoenix Configuration.

Hydraulics—Grumman pushed technology with the use of an all titanium pressure and return line hydraulic system. This titanium hydraulic system in the F-14A is 200 lbs. lighter than an all steel hydraulic system used in past fighter designs. In addition, the pump capacities were increased by a factor of two times over the F-111B and about four times over the F4 aircraft. This resulted in smaller diameter tubing (hence less weight) because the hydraulic fluid traveled significantly faster. In addition, because two pumps were used (one per engine) instead of four as on the F4, significantly fewer hydraulic lines crossed the centerline of the aircrafts thereby reducing vulnerability. Another important feature of the F-14A hydraulic system is the use of mechanical fittings (cryofit) which result in a "dry" hydraulic system—a first in Naval Aviation.

After the loss of aircraft No. 1, Grumman

changed all one-quarter and three-sixteenths inch lines to steel and increased wall thickness because steel in the small diameters is more forgiving from a production assembly point of view. In addition, lines were re-routed to reduce significant bends and pump cavitation was eliminated. The backup module was redesigned and the pilot was given both manual and automatic control of the backup module in the cockpit.

Subsequent to these design changes and successful flight testing, a "pin hole" leak was discovered in one of the bends in larger diameter titanium pressure lines. This "pin hole" leak was attributed to the quality of the cold drawn titanium tubing, the manner in which it was bent to a radius and subsequent fatigue at the bend under pressure.

Both the NAVPRO and NAVAIR desire an all titanium hydraulic system. In order to get aircraft into the air with the minimum of time and risk, it was decided to use steel in the pressure lines of the flight system, backup module and speed brakes with the standard "leaky" fittings and pre-stress the combined pressure system titanium lines to 1400 psi (over 4 times max. design pressure). The pre-stressing increases the fatigue life of the titanium lines.

All Lot III and subsequent aircrafts will use annealed titanium tubing in all combined and flight pressure lines with mechanical fasteners.

**Overwing Fairing**—Grumman originally proposed an overwing fairing constructed of titanium and aluminum honeycomb; however, during transonic wind tunnel testing, it became apparent that the proposed design was not inherently stiff enough to counter expected air loads. A "flight test" overwing fairing design was proposed with external stiffeners (fences) and tested. Since the loads were not fully known (to be determined from flight test) a conservative weighty design (150 lbs. heavier) was built and successfully operated subsonically. During aircraft 1X testing, airloads will be measured in-flight and the design of the overwing fairing modified thereby saving weight.

**Tail Clearance**—If the tail clearance angle of the F-14A is compared to past Navy aircraft with and without tail bumpers, it appears that the F-14A is on the "dividing line". The F-14A with DLC stowed and speed brakes extended does not meet the specification tail clearance of 6 in. with a  $\pm 7^\circ$  pitch attitude variation. The problem is further complicated with DLC in the neutral position, since the pitch attitude penalty is slightly more than  $3^\circ$ .

Only through more flight testing will the actual tail clearances of the F-14A be established with and without DLC engaged. There is evidence that the F-14A will not require DLC in its final configuration due to excellent approach characteristic and handling qualities. Only through thorough flight testing will the value of DLC in the F-14A be determined (in the F8, DLC is very useful).

**Speed Brakes**—The speed brake modification has been incorporated on aircraft 1X and 2 and has been successfully flight tested on aircraft #2. During the design development phase, it was found that the static margin in the 6 Phoenix power approach configuration was negative. By modifying the upper speed brake from a rectangular shape to a "butterfly" shape, the static margin was significantly improved. Although the static margin is still below specification limits, further flight testing in the 6 Phoenix configuration should indicate acceptable levels of stability and trim.

**Hi-Lift**—A Hi-Lift wind tunnel investigation was undertaken by Grumman to fulfill a NAVAIR desire to improve maximum lift coefficient and reduce angle of attack (thereby increasing tail clearance angle and eliminate potential tail strike). The study was completed successfully and the results submitted to NAVAIR. A pivoted double slotted

flap was selected as the most likely flap arrangement since it provided more maximum lift coefficient than the present F-14A pivoted single slotted flap at  $3^\circ$  less angle of attack. The pivoted double slotted flap could use much of the existing hardware of the present F-14A design. However, further flight testing will bear out the necessity of such a flap change.

**Stability In Phoenix Configuration**—As previously mentioned, the dive brakes were modified to improve the static margin of the F-14A in the 6 Phoenix configuration. The resulting static margin with the new dive brake configuration is still below specification levels; however, further flight testing will indicate satisfactory stability and trim levels. Should these levels appear questionable, a simple-sheet metal tail flap can be added to the non-structural, inboard portion of tail trailing edge to determine the improvement in static margin with 6 Phoenix onboard.

#### AIRCRAFT 1X

Aircraft 1X will be used to "open" the speed envelope of the F-14A such that at NPE I Navy pilots will be able to fly the F-14A to M=1.8. More specifically its tests will be as follows:

FQP, Flutter  
NPE I  
Inlet Surveys  
NPE II  
Stability Augmentation System Failure Modes  
Inlet, Autopilot Checkout  
Vibration & Acoustics Checkout  
Hydraulics Demonstration  
NPE III  
Separation Testing  
A/G Separation Bulldups  
Tasks cover time period from August, 1971 through May, 1973.

*Flight test aircraft by January 1, 1972—A/C and test*

- 2 Low Speed Performance, FQ, Spins
- 1X Speed Build Up
- 4 Hughes AWG-9 System
- 3 Structural
- 5 Grumman AWG-9 System
- 6 Missile Separation/Equipment Demo
- 8 Aero Performance Demonstration
- 9 Hughes AWG-9 System
- 10 Carrier Suitability

Mr. GOLDWATER. Mr. President, before I yield the floor, I have been rather amused and intrigued by some of the comments made relative to the B-1 and the North American handling—I might say the North American-Air Force handling—of the B-1 contract, and the progress made.

Mr. President, I have visited many aircraft plants in my life, particularly as a Member of the Senate, to see how programs are going. I have never seen such a well balanced Air Force-management team as the one that is handling the B-1; and, contrary to some of the reports we have heard on this floor, the program is in excellent shape. It is just about at the price level that we thought it would be at this time. It has not had great increases, and we do not expect great increases, in spite of the fact that inflation continues to run a little rampant in this country.

Mr. Barry J. Shillito, the Assistant Secretary of Defense, recently completed a visit to the North American plant in California, and he has submitted a memorandum to Secretary Packard on that visit which I think should be read by Members of the Senate as we prepare to go into debate, which will certainly in-

clude another effort to destroy this much needed carry-on bomber.

With this report is a clarification of the funds requirements for the continuing development of this aircraft. I ask unanimous consent that the letter and the funds requirements be printed in the RECORD at this point.

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

ASSISTANT SECRETARY OF DEFENSE,  
Washington, D.C., September 11, 1971.  
Memorandum for Secretary Packard  
Subject: North American Rockwell/B-1

As you know, I had the opportunity to spend a little time at North American Rockwell last Wednesday and did briefly cover the B-1 program in the time available. While it is early in the program, it was possible to gain a number of impressions. A few of these are:

Within the next year, about 80% of the Los Angeles Division of North American will be B-1. The balance of the Division's operations will be about 2,000 people.

The Air Force is very deeply involved in the contractor's day-to-day operations—possibly as involved as has ever been the case on a major Defense program. No major decisions as regard this program are made without Air Force awareness and participation, as necessary. The Air Force participates in the weekly program management meetings and all make or buy decisions.

The Air Force has collocated a significant percentage of the SPO in the middle of the contractor's operations.

The management arrangements and type contract, involving complete engagement, have led to a significant decrease in paper, reports, etc. Recurring reports, for example, have been cut from over 300 to under 40.

The percentage of supervisory personnel as related to the total has come down significantly. It presently is 6.5% of the total. This includes the company's program management personnel.

One of the most interesting things deals with the average monthly salaries to members of the technical staff. In today's environment, this has been hard to maintain at a level rate, let alone cut. However, due to significant cutbacks that North American has had, plus the availability of experienced technical people in the area, the average monthly salary for technical staff members has been cut from \$1400 to \$1183 since the second quarter of 1970.

During July, overhead rates in the Los Angeles Division were cut by over \$5 million.

There have been over 100 engineering changes to date. This is not abnormal for a program of this size. The thing that is abnormal, however, is that the time for processing these changes has been cut in half. It is also abnormal to note that only 6 of these changes have not been definitized. To me, this was very impressive and results from the constant contractor—Air Force involvement in managing the program.

The mock-up is progressing well and appears to be about 6 weeks from completion.

The first award fee review of North American was recently completed. Conceivably, having visited the company shortly after this review improves one's impression in that this review was undoubtedly a very thorough candid assessment of the operations. The company and the Air Force appear to have significantly benefited from this.

The only problem that warrants mentioning is the fact that the company is aware of the need to stay on top of the aircraft weight situation. This was mentioned in briefings and informally by a few of the company officials. Their cognizance of this at this stage of the program is, in itself, healthy. A

point that warrants recognizing is that with the constant day-to-day Air Force-company involvement, we must concern ourselves with assisting the SPO in minimizing the number of additional major group reviews that take place as regard this program. Each of these reviews is time-consuming and costly. Twenty-one have been conducted to date. Attached for your information is a summary recap as to the 1972 fund requirements (versus the '73 fund requirements) and how these funds will be distributed.

(S) BARRY J. SHILLITO.

#### FUNDS REQUIREMENTS

[In millions]

North American Rockwell, LAD.....	\$265.3
Wind tunnel.....	13.0
Engineering design.....	63.3
Test specimens.....	59.0
Verification testing.....	46.0
Tool design and fabrication.....	35.5
Subsystems development.....	48.5
Air vehicle fabrication.....	-----
General Electric: Engines.....	80.7
Other Government costs.....	24.3
Total.....	370.3

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

Mr. BYRD of Virginia. Mr. President, it seems likely that an effort will be made to override what the Senate did yesterday in regard to the chrome amendment to the military procurement bill. The distinguished chairman of the Committee on Foreign Relations has indicated that he will present legislation to knock out of the military procurement bill section 503.

That section is simple and clearcut. What the section says is that the President of the United States may not prohibit the importation of a strategic material from a free world country if the same material is being imported from a Communist-dominated country.

The Senate yesterday debated that matter at considerable length. The roll was called, and the Senate, by a vote of 46 to 36, sustained the position of the Committee on Armed Services. That position, Mr. President, is that it is not logical for the United States to be dependent on Communist Russia for a strategic material.

I want to say I am rather pleased that the chairman of the Committee on Foreign Relations does plan to open up this subject again, because I think the more the American people can understand what is being done to them, the more likely the people will be to support the position of the Senate Committee on Armed Services.

It was 5 years ago, Mr. President, that the President of the United States, by unilateral action, decreed that Americans could not trade with Rhodesia. A complete embargo was put on trade between the United States and Rhodesia. During that 5-year period, it was not until yesterday that a vote was taken in either House of Congress in connection with this vital matter.

The action of the President of the United States was a unilateral action on his part. Congress did not participate in it. I am sorry the chairman of the Committee on Foreign Relations is not present at the moment, because I was under the impression that he, probably fore-

most among Members of the Senate, was anxious that the Senate take back some of the power that it has given to the President of the United States in the past.

I think it is high time that Congress express itself on the issue of this unilateral action taken by the President 5 years ago.

Mr. President, a short while ago, in this Chamber, the chairman of the Committee on Foreign Relations said that he wanted to open the question up as a favor to the administration, because the administration does not approve of section 503, which the Committee on Armed Services wrote into the military procurement bill.

Those who have been interested in section 503, those who have been active in its behalf, with specific reference to the chairman of the Committee on Armed Services, the Senator from Mississippi, the Senator from Nevada (Mr. CANNON), the Senator from Texas (Mr. BENTSEN), and the Senator from Virginia—all of us have stayed on this floor and plan to stay on this floor day after day until this military procurement bill is disposed of, in order to help the administration on these vital defense matters, to help the administration obtain approval of this \$21 billion military authorization bill.

We are doing that because we think it is in the best interests of the Nation, and we are also doing it as a service, to help the administration. So I would certainly hope, as one who has agreed, together with the distinguished chairman of the committee, to spend hour after hour on this floor in regard to this military appropriation bill, that the administration will not now come down here and try to sabotage us on a very vital and important section of this procurement measure.

Yes, the chairman of the Committee on Foreign Relations says he is doing this as a favor.

He wants to knock out this section as a favor to this administration.

Mr. President, the Senator from Mississippi, the Senator from Virginia, the Senator from Texas, the Senator from Nevada, and other Senators on that committee are devoting hours and days to fighting the battle of the administration for these military appropriations, which we consider essential if we are to have a strong national defense.

I feel it rather unusual, shall we say—I might think of a different word to use in a moment—that the administration or part of that administration comes down here in an effort to sabotage our efforts. It is no fun to stay here in the Senate day after day and hour after hour. I have the honor to represent 5 million people in the State of Virginia. I like to get out and see those people sometimes. Being close to Virginia, dozens and dozens and dozens of people come to my office all the time, and I want to see them. Being close to Virginia, the phone calls that come into my office are numerous, and I want to talk with as many people as I can.

So I am not anxious to stay on the floor all the time and look after the administration's military defense appropriation measures. I am willing to do it.

But I do not think very kindly about having the same administration come down here and attempt to sabotage the vast majority of the Committee on Armed Services on a vitally important part of this military procurement bill.

Here we are, Mr. President, being asked by the Government, by the executive branch, to appropriate \$21 billion for new weaponry. The matter was considered by the Committee on Armed Services, and a reduced sum was requested. The request was more than \$21 billion. We made some economies in it which we felt could be made without jeopardizing national defense, but the bill now before the Senate totals \$21 billion.

To me, it is completely illogical to vote \$21 billion of the taxpayers' money and then continue our policy of being dependent on Communist Russia for a vital war material—a vital material necessary for nuclear submarines, for jet aircraft, and for many other items of military necessity.

The chairman of the Committee on Foreign Relations has made the assertion that the inclusion of section 503 is detrimental to the United Nations and that that is the purpose of it. I want to say that, so far as the Senator from Virginia is concerned, that is not the purpose of this proposal. The purpose of this proposal is to attempt to protect the United States in regard to a vital defense matter. I think the time has come to give more consideration to the United States.

I feel rather keenly toward the United Nations. I came back from the Pacific in World War II, in 1945, on the same day that the United Nations was organized; so, over the years I have felt a sort of rapport with that organization. I had hoped that here was a world organization created to maintain peace, so that persons like myself would not be called upon to go overseas to fight in future years. So I had been a supporter of the United Nations.

I must say that it is not exactly the same United Nations now that it was 26 years ago. When it was organized, there were 51 members, all with a long history of self-government of one type or another. They were established nations. Today, we have 126 nations in that world organization, many of which are new nations and have not gained the experience and have not had the opportunity to learn the art of government.

Be that as it may, throughout the years, the Senator from Virginia has been a supporter of this world organization. So it certainly is not the purpose in any way to be detrimental to the United Nations.

I think that the primary concern of a U.S. Senator should be for the United States itself.

I think it is highly desirable that the Senator from Arkansas, the chairman of the Committee on Foreign Relations, intends to present proposed legislation—which he can do at any time—to amend the military procurement bill in regard to section 503. I think the more debate we can have on this matter, the better off the country will be. So I look forward to additional debate on this subject. Many extraneous issues will be brought

into it, which I think is not too desirable; but, be that as it may, that cannot be helped.

I was pleased yesterday, in showing how widespread the support is for this proposal—which was written into the bill by the Armed Services Committee—to insert in the RECORD a very significant telegram from the head of the steelworkers' union in Pennsylvania, saying that unless this amendment is kept in the bill, unless this proposal is enacted into law, the specialty steel industry, as he expressed it, in Pennsylvania and throughout the United States will no longer exist.

What is going to happen to the jobs of those people? We need jobs in this country. We have unemployment. With the tremendous price that the Soviet Union now requires us to pay for chrome coming into this country, it is far more difficult for our domestic industry to be competitive, and we are losing markets. As the director of district 19 of the United Steelworkers stated in his telegram yesterday, unless something is done about it, the specialty steel industry in Pennsylvania and throughout the United States will go under. That is just one of the many ramifications.

Yes, I think it is desirable and nice to give consideration to the attitude and views of the United Nations. But I think the No. 1 problem in regard to military defense is what is in the best interests of the United States. That is what the Senate should give foremost consideration to, in my judgment.

Thus, Mr. President, I welcome further discussion of this matter and assume that the chairman of the Committee on Foreign Relations will, in due course, present an amendment to the procurement bill which will lead to further discussion.

#### SCHOOL BUSING

Mr. BYRD of Virginia. Mr. President, I was most interested to read the Philadelphia Inquirer today. Under date of today, September 24, the newspaper quotes the Republican candidate for mayor of that city—I happened to meet him some years ago, although I have not seen him in years, but he impressed me very well at the time—that if he is elected mayor:

There will be no busing to achieve racial integration while I'm Mayor of Philadelphia. Black parents don't want it. White parents don't want it. We'll spend that money to teach the kids how to read and write properly.

That is what Mr. Thacher Longstreth, candidate for mayor in the city of Philadelphia said.

Now, Mr. President, to my mind, that further dramatizes that the question of compulsory busing to achieve racial balance is not a regional question or a Southern question. It is not a black question. It is not a white question. It is a question of sound commonsense.

Philadelphia is not a southern city. It has a substantial black population, but it is not a southern city in any sense of the word. It is a northern-eastern city. Yet in that city, the candidate for

mayor says, that if they elect him mayor, there will be no busing of school children for the purpose of creating artificial racial balance, that black parents do not want it, that white parents do not want it, and let us use that money to teach the kids how to read and write properly.

Mr. President, that is what we should be doing with our educational funds. We should be spending them to teach our children how to read and write, how to do mathematics, how to understand history, the many different cultures in the world, and so forth, and not squander the money on the dubious sociological experiment of taking children from one end of the community to the other, and vice versa, merely for the purpose of creating a so-called racial balance.

Mr. President, I mention this today on the floor of the Senate because, too often, the question of busing is regarded as a Southern question and oriented to the South. However, I think that people everywhere resent such a foolish program. It is highly significant, I think, that in the city of Philadelphia, one of the two candidates for mayor and I think, perhaps—I do not want to state that for the RECORD, because I am not certain, but I think perhaps that the other candidate also said that if he was elected mayor he would not permit the busing of schoolchildren for that purpose.

I hope that the Department of HEW in Washington is beginning to understand that the people of this country are becoming much exercised about the harassment they are being subjected to by officials in the Department of HEW here in Washington, D.C.

I was interested to note the words of President Nixon not long ago, when he came out forthrightly and unequivocally against busing.

I think it is up to Secretary of HEW Richardson to see that the President's orders are carried out in regard to the busing problem. I would like to see him use the words of Ron Ziegler, the President's press secretary, to those officials or persons in the Department of HEW who are not willing to follow the President's program of no busing, and let them either be transferred to other duties or present their services elsewhere.

The President has spoken. These appointees are his appointees. I think that the executive branch, now that the President has spoken, has an obligation to see that the officials in their departments do not go around the country harassing the people and forcing little children to be bused all over communities for the sole purpose of achieving an artificial racial balance.

Mr. President, if they are not willing to do that all over the country, to keep their harassment away from all areas of the country, I certainly want them to keep their harassment away from the State of Virginia anyway. They have been harassing the State of Virginia too much.

Just a couple of days ago, the superintendent of education of the county of Albemarle—Thomas Jefferson's county, whose people still believe in individual liberty and freedom, just as Thomas Jefferson did, who do not like to

be pushed around by people from Washington telling them what to do—wrote me a long letter which I am going to place in the RECORD in a few minutes, pointing out how unreasonable the Department of HEW people are, and what kind of demands they are making on that fine county, which borders the city of Charlottesville. Charlottesville is the home of the University of Virginia and Albemarle County surrounds it. It is located in the Piedmont section of the State. There are very few university towns anywhere—if any—that can compare with the charm of that historic community which was long the home of Thomas Jefferson.

Even though it was a long time ago, Thomas Jefferson instilled into the people of Albemarle County, as well as the people of the State of Virginia generally, a spirit of independence, a desire for individual liberty.

Accordingly, I take my stand, along with the school board of Albemarle County and the superintendent of education there, in expressing resentment at the harassment they are being subjected to by officials in the Department of HEW.

I hope that Secretary Richardson—and I want to put into the RECORD in a few minutes a letter I wrote him—will take as his No. 1 priority the cleaning out from his Department those who are going contrary to the President's views on the question of compulsory busing and who, in many cases, are harassing the people of this Nation.

Incidentally, I would much prefer to see Secretary Richardson devote time and attention to that problem than I would see him devote so much time to trying to push so quickly through the Congress a new welfare proposal which proposes to double the number of people on welfare. The proposal lacks work incentives. The costs will be terrific. I think the proposal should be fully aired and fully discussed. There should be ample hearings in the Finance Committee. There should be considerable debate on the floor of the U.S. Senate before this measure is enacted.

It is a program that, once it is put into effect, will be in effect a long time. Instead of having something in the neighborhood of 150,000 or 120,000 people on welfare in a State such as Virginia, Virginia would have some 400,000 people on welfare. And the same would be true throughout the various other States.

When we total the number of people in all of the States, if this new program is enacted, it will just about double the number of people that are presently drawing public assistance.

So instead of pushing this program, I would like to see the Secretary of Health, Education, and Welfare direct his attention to keeping the officials of his Department from harassing the people of our Nation.

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

Mr. BYRD of Virginia. Mr. President, I am pleased to yield to the distinguished and able Senator from Louisiana, the chairman of the Committee on Finance.

Mr. LONG. Mr. President, I agree with

what the Senator is saying with respect to the harassment of his people, which ought to be brought to an end, and I also agree with what he is saying about pressing for undue haste in the consideration of a program that the Senate Finance Committee has great difficulty in agreeing to because of the prospect of paying out many billions of dollars to people not to work.

Some of us are convinced that if this program were put into effect, in short order the costs would increase to many billions of dollars each year. The Department of HEW told the Finance Committee that Federal welfare costs would total \$19 billion if H.R. 1 were enacted. And the cost would rise, because we could not very well defend an income maintenance program that purported to maintain the level of income below the poverty level. Those who are fighting for this program will have to insist that they would like to pay a lot more money. It is only a matter of time before they will raise the guaranteed income level to the so-called poverty level.

Mr. President, I have made a quick calculation that the program would mean that the average man and wife who pay taxes—and there are 70 million taxpayers in the country—would be paying more than \$500 a year in taxes just to pay Federal welfare costs.

Mr. President, I submit that we are paying enough money to people not to work now without adding to the tax burden for that purpose. We ought to pay money to people for working and not pay it to them for not working.

Mr. BYRD of Virginia. Mr. President, I agree with the chairman of the Committee on Finance. I want to say that the Senator from Louisiana has done a magnificent job in presenting facts to the public in regard to this proposed new legislation. Incidentally, I have heard a great deal of very fine comment on the speech which the Senator from Louisiana made before the Governors' Conference in San Juan, Puerto Rico. I did not have the privilege of hearing that speech because I was here in Washington. However, I have received very fine comment on that speech from a number of sources.

I think it is so important that the people understand this bill, this gigantic bill, this bill that is so difficult to understand, this complex bill. Sitting in the committee day after day, it is difficult for us to understand. So we can well judge how difficult it must be for the individual citizen to understand.

The Senator from Louisiana is rendering an extremely important service to the people of our country in his speeches in which he points out the various aspects of this gigantic piece of legislation.

Mr. LONG. Mr. President, if the Senator would yield further, there is a parallel between our welfare mess and the education mess. To a large degree, both of them are created down there in the Department of Health, Education, and Welfare.

As the Senator knows, the world knows when people talk about the welfare mess they are talking about the program of Aid to Families with Dependent Children, and to a large degree they are talking about a lot of the ill-advised regulations that are ground out in the Depart-

ment of Health, Education, and Welfare, such as the requirement that even when a welfare cheater is found ineligible to be on the welfare rolls, the payments must continue until a hearing is held. The Department even wanted to require that a lawyer be made available. And lawyer paid for by the Government. During the period of the appeal, the person is of course drawing welfare benefits to which he is not entitled. After the appeal, after it is established that the person was not entitled to the money, the Government still cannot recoup the taxpayers' money that was fraudulently paid out to begin with.

That is the kind of situation that people think of as part of the welfare mess. As the Senator knows, none of that situation would be corrected in the bill—in fact some of it would be written into law. All of the ineligible people would continue to draw benefits from the taxpayers of this country until after the matter had been appealed, and the taxpayers would have to pay for that appeal. What does that do but provide an incentive for a person to cheat the Government when the Government has to pay for the lawyer and for the appeal and then if the Government succeeds in the case, the person keeps the money he gained by cheating the taxpayers.

Mr. BYRD of Virginia. Mr. President, it is a powerful incentive, it seems to me. As I recall it, when the new welfare bill was first brought in, the proposal was to let someone come down and fill out a form and then be on welfare without any investigation at all.

As I understand it, the committee has been able to force the Department to make a change in that proposal so that they can no longer let people be on welfare by merely signing a piece of new paper if the new legislation is enacted.

Mr. LONG. Mr. President, to show the Senator how idiotic it is, as a deathbed request, we might say, former Secretary Cohen, the day before he left the Department of Health, Education, and Welfare, issued a regulation aimed at ordering every State in the Union to put these welfare applicants on the rolls merely by virtue of the fact that they filled out a form and mailed it in.

Mr. BYRD of Virginia. Does the Senator mean that they did not have to establish any need?

Mr. LONG. They would not have to furnish proof. The welfare agency would simply rely on the applicant's word. The person would fill out a simple form, state he is entitled to the money, and answer a few questions, and the answers might be totally incorrect. So far our evidence is that at least 10 percent of these self-certifications are completely invalid, that the people are not entitled to the payments.

The former Secretary of Health, Education, and Welfare, Mr. Cohen, signed this deathbed regulation aimed at requiring the States to put on the rolls everyone who said he should be entitled to benefits on his own certification, without checking into it.

Now, the Ways and Means Committee of the House has finally seen what the Committee on Finance in the Senate saw.

The Committee on Finance in the Senate said that recipients should not be put on the rolls on their own certification; that someone would have to look into the matter to see that the facts are correct.

We said that these self-declarations should not be accepted to place people on welfare. The Ways and Means Committee in the House agreed in that they said the new law should be that these people would be investigated before they are placed on welfare rolls.

So the Ways and Means Committee of the House said it is wrong, the Committee on Finance of the Senate said it is wrong, and HEW agrees to change it. Notwithstanding all that, they are still requiring the States to put people on the welfare rolls on their own certification, even though all the evidence is that any State that does that is going to go broke doing it.

Mr. BYRD of Virginia. And many are. Mr. LONG. They are loading up the welfare rolls. Even if they do find the people were ineligible, they are required to hold hearings before they can take them off the rolls.

They wanted to require by regulation that the person must be provided with a lawyer for his appeal, on account of his own erroneous statements and that payments must continue until the matter is finally decided, which might be several months or a year later, and in the meantime all this money is received by the person without the person being entitled to a penny of it.

Let some veteran who fought and bled in Vietnam receive 5 cents more than he was entitled to receive and they will sue him and get back every nickel, while at the same time people on the welfare rolls receiving money fraudulently are kept on the welfare rolls even after they are found to be on the welfare rolls fraudulently. It is not required that \$1 be recouped even if the whole thing was a fraud from the first day.

Mr. BYRD of Virginia. That is an astonishing thing. I know it is accurate, but it is astonishing that our Government could be operating in such a fashion.

Mr. LONG. It makes one wonder why they do not find a single man in that Department with commonsense, instead of encouraging everyone to load on the welfare rolls, letting them keep the money they received, continuing the payments while the appeal is made, urging that a Government lawyer be provided to prosecute the appeal, paying the lawyer for a case that should not be appealed, and paying the benefits all of the time that the matter is dragged through appeal, even though the person might be worth \$100,000 and drawing \$10,000 a year and not entitled to the first nickel.

Mr. BYRD of Virginia. Does that not help explain why the Federal Government is \$30 billion in arrears?

Mr. LONG. Of course, it does. Furthermore, to go back to the subject of the harassment the Senator was talking about. If one used commonsense, all he could conclude from the original Brown against Topeka case is that a child is entitled to go to the school near-

est his home and that it is discrimination to deny that right.

Now, we are confronted with people contending that children must be bused from here to kingdom come to achieve some sort of racial balance that neither the whites nor the blacks desire. It is the same type of upside down silly thinking in the Department of Health, Education, and Welfare which meets itself coming back that causes so much distress on the part of the people of this country.

Can the Senator explain to me why, when the people who created the welfare mess come in and ask to reform it by making it more of the same, but only twice as expensive, we should pursue that logic instead of taking it away from them and putting it in the hands of someone who knows what he is doing?

Mr. BYRD of Virginia. This new proposal would be not welfare reform, but welfare expansion.

Mr. LONG. Or welfare exaggeration.

Mr. BYRD of Virginia. Yes, or welfare exaggeration. That is a good way to express it. There are 16 members of the committee, and I can only speak for myself. I would hope that the committee would take enough time on this bill. It is not going into effect immediately. The President does not want to put it into effect until 2 years from now. I hope the committee would take enough time so that each member of the committee can fully understand it and so that the Senate and the American people can understand it.

I do not see any reason to rush through the matter if it is not going into effect until July 1973, and the President does not want it before then. I see no particular reason to rush through it to the extent that we do not know the full ramifications of it.

In addition, I understand that HEW wants to push it through right away. Do they want to take priority over the President's economic program? We have much unemployment in this country. The President is trying to get inflation under control. He recommended a new tax package, and he will come up with other recommendations after the 90-day freeze. Do we want to put all that aside for a bill that will not be effective for another 2 years or until 1973?

Mr. LONG. They should call it the welfare explosion bill. That is what it would do. It would explode the number of welfare recipients. If we are going to pass a tax package before we get to that bill to try to provide more opportunities for investments and to create jobs, we would do well to take a careful look to see if in connection with that we could not further expand job opportunities.

For example, I have in mind to give a tax deduction to a working mother so she could hire someone to look after the house while she tries to increase her own job opportunities. Of course, the Senator from Georgia (Mr. TALMADGE) has a proposal that we considered last year for a tax credit for employers hiring a welfare recipient and keeping that person at the job for a year. Anything we can do along the line of encouraging work and job opportunities should take precedence over this matter of guaranteeing a \$2,400 income for not working.

As the Senator knows, once we start by giving them \$2,400 a year plus medicated, there would not be a single session of Congress before it would be lifted to the so-called poverty level. When they brought in the welfare explosion bill, they apologized that the benefits were so low.

They felt you ought to at least guarantee everybody an income for not working so he would be above the poverty level. If that is put into effect, sooner or later, if we are going to guarantee everybody a minimum standard of living without working, we will have to get him out of poverty. It would be only a matter of time, probably one session of Congress, before we would be forced to vote to guarantee \$3,900 for a family. That would not satisfy them.

While we were considering last year's welfare measure, they were shouting "\$5,500 or fight. Kill, kill, kill." We will hear those shouts again this year, only this time it will be "\$6,500 or fight. Kill, kill, kill."

Once you start yielding to that sort of thing, it is only a matter of time before you have to go beyond that to get them above the so-called poverty level, or redefine "poverty" so that everybody is in poverty unless he is making \$6,500, or redefine "prosperity" to mean that unless one is making \$12,000, he is not in prosperity and should be brought up to that point.

By the time you get the National Welfare Rights Organization recommendation into effect, guaranteeing everybody, including single people and married couples, a level of benefits up to \$6,500 for a family of four, we will have 112 million on the welfare rolls, which is more than 50 percent of the entire population of the country. That is the direction in which we will irretrievably go once we decide that we are going to guarantee everybody a desirable standard of living whether he works or not.

Mr. BYRD of Virginia. When we establish that principle, there is no end to where it leads. Would it not become a political football in each campaign, each candidate trying to outbid the other as to how much to increase the welfare payments?

Mr. LONG. Of course, it will. By the way, if we put that many people on welfare, we will never have 70 million jobs as we have now. People making less than \$6,500 will long ago have given up their jobs, because work requires toil and sweat, and receiving the \$6,500 would not require one to work.

If we assumed that the labor force would not be diminished—which is an erroneous assumption, in my judgment—by the time we got around to taxing 70 million people who did pay income taxes, we would have to increase every taxpayer's tax by \$1,000 if he were single, or \$2,000 per family, on the average, which would apply only to those who work.

Mr. BYRD of Virginia. That would be an increase over and above the taxes they are now paying?

Mr. LONG. Yes. An additional \$2,000 for a married taxpayer, on the average, and \$1,000 for the single taxpayer, on the average.

Mr. BYRD of Virginia. I think many of our wage earners feel they are overtaxed now. This would be a smashing tax increase.

Mr. LONG. The Senator knows that when you have 70 million people on the taking down end, you would not have 70 million taxpayers, because why would you want to put people on welfare at \$6,500 and then charge them an income tax on the welfare payment? So, theoretically, those on the taking down end would not be on the putting up end. So it would naturally mean there would be a great reduction in the number of income taxpayers available to pay taxes.

Mr. BYRD of Virginia. The increase which the Senator has mentioned, it seems to me, would be additional reason why the committee should act with some care and take a reasonable amount of time in finding out just how far reaching this proposal is.

The Senator from Louisiana mentioned the question of busing. He was not in the Chamber when I read a short paragraph, but I want to read it, because it is of some significance. This is from the Philadelphia Inquirer of today. It was in a speech made by one of the major candidates for mayor of Philadelphia. Here is what he said:

There will be no busing to achieve racial integration while I'm Mayor of Philadelphia. Black parents don't want it. White parents don't want it. We'll spend that money to teach the kids how to read and write properly.

It seems to me that that is how funds appropriated for education purposes ought to be used—for education to teach children—and not used for sociological experiments in carting children hither and yon.

It seems to me that it is interesting and significant that this quotation did not come from a southern city or southern political leader, but came from a large northern city, the city of Philadelphia, and presumably, if he is a major candidate for the important office of mayor, he is a man of some consequence. Presumably he is well in tune with the feeling of the people of that city, which, I emphasize is not a southern city. That statement has considerable significance, and I wanted to get it in the RECORD.

Mr. LONG. I thank the distinguished Senator for bringing this matter to our attention. I fully agree with what he has said here. If he desires to have my remarks appear at the conclusion of his remarks, I shall be glad to ask unanimous consent that they do so.

Mr. BYRD of Virginia. I would like them to come just where they did come. I am grateful to the able and distinguished Senator from Louisiana. I want to say again I think he is rendering this Nation a great service in making these facts known.

Mr. President, I have a few insertions, and then I shall yield the floor.

Mr. President, I ask unanimous consent to insert in the RECORD at this point a letter from Clarence S. McClure, division superintendent, Department of Education, County of Albemarle, Va. I ask unanimous consent to then insert a letter written by me, dated September 20, to the Secretary of Health, Education,

and Welfare, Mr. Richardson, inclosing Mr. McClure's letter.

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

DEPARTMENT OF EDUCATION,  
Charlottesville, Va., September 10, 1971.  
Hon. HARRY BYRD, JR.,  
Winchester, Va.

DEAR Mr. BYRD: On September 7, 1971, I had occasion to meet with Congressman J. Kenneth Robinson to discuss certain actions of the Department of Health, Education and Welfare which are described below. I thought that you also should be advised of this situation, and the Albemarle County School Board has asked that I request that you take whatever action you deem appropriate in a case such as this.

On July 16, 1971, I received a telephone call from Mr. N. E. King of the Department of Health, Education and Welfare suggesting that according to information programmed in a computer Albemarle County was in violation of the Swann decision unless we submitted a plan for further desegregation of the Albemarle County School System. The specific action that Mr. King said needed to be taken was

(1) improve the black-white ratio of students at the Stone Robinson School,

(2) distribute black teachers in the system evenly among the schools,

(3) accomplish a racial balance at the Yancey School and reduce the number of black teachers in that school.

Apparently Mr. King was using an old report which indicated that Stone Robinson School had sixty percent black and forty percent white. He seemed surprised when I told him that we had added to the Stone Robinson School and to the school district and that our ratio now is more than sixty percent white and less than forty percent black. I also assured him that we had made some progress in redistributing the black teachers we have among the schools and that I was attempting even now to make further changes that would better the distribution. With regard to the Yancey School he indicated that five black teachers in such a small school (fourteen faculty members and approximately 200 students) was not in proper proportion. I informed him that we had three not five black faculty members but at the request of black members of that community we had plans for five blacks for the 1971-72 school year. I also told him that if he thought it necessary I would make an attempt to transfer one of those teachers to Stony Point, the only school in the county which had no black faculty members. The school I refer to here is a very small elementary school which has only seven regular faculty members. We now have one black teacher there. In concluding this conversation with Mr. King I asked that he submit his order for further desegregation to me in writing.

On Saturday, July 24, a letter was delivered to my office from Dr. Eloise Severinsson, Regional Civil Rights Director of the Department of Health, Education and Welfare. Since our office is not open on Saturday, this letter was opened on Monday, July 26, 1971, and as you can see by the enclosed copy of that letter, we were instructed to submit a plan to accomplish full compliance with the law no later than July 28. I immediately wrote Dr. Severinsson indicating that I was not in a position to submit a plan on such short notice but that I would take the matter up with the School Board as soon as I could get them together. Since we were at the height of the vacation season I decided to call each School Board member that I could contact and tried to get some feeling of how they would respond to the suggestions of HEW. The consensus of this informal poll was that the

Board members felt that we have a unitary school system and that busing children from Yancey to Scottsville and from Scottsville to Yancey to achieve racial balance would not improve the education of any children involved. At our next meeting the Board officially affirmed this position. The next communication I had from HEW came as a phone call from Mr. N. E. King, and I told him the position that the School Board had taken and asked what the next step of HEW might be. He responded that he did not know. The only other correspondence that I have had with HEW is a letter dated September 2, 1971, which is attached, indicating that enforcement proceedings have been recommended.

Albemarle County has been making continuous progress over the past six years in reaching the point where today it can be said that we have a unitary school system. Our school district lines have been drawn without racial bias and reflect the makeup of the various communities served by the eighteen schools in Albemarle County. It happens that Yancey School is in the middle of a predominantly black community where a large number of its students live within a radius of one mile of the school. Prior to the involvement of HEW in this matter, the people of Albemarle County were working harmoniously together and making progress in solving our problems. That is not to say that we had no differences between the blacks and the whites. There were differences but the lines of communications were open, the blacks were being heard, and I can say that my office was responding to the grievances expressed by the blacks. Since HEW's involvement, a few black leaders are leading a fight to see that the demands of HEW are met.

I do not believe that the action which the Department of Health, Education and Welfare is taking is in line with the position that President Nixon took recently on the matter of busing.

Thank you for your interest in this matter.

Sincerely,

CLARENCE S. MCCLURE,  
Division Superintendent.

SEPTEMBER 20, 1971.

Hon. ELLIOT L. RICHARDSON,  
Secretary, Department of Health, Education,  
and Welfare, Washington, D.C.

MY DEAR Mr. SECRETARY: Enclosed is a letter I recently received from the Superintendent of Education for Albemarle County, Virginia. In this letter, Mr. McClure recites certain recent occurrences in the course of his department's relationship with HEW's Office of Civil Rights.

At the heart of this matter is the demand by your Department that the County of Albemarle undertake further bussing of school children to achieve a mathematical and artificial racial balance. Dr. Eloise Severinsson has demanded that the 200-pupil Yancey School be paired with the elementary school at Scottsville, Virginia. In addition, there are other demands which would place an unreasonable hardship on the far flung school system of this county, which has a population of 37,800 spread over an area of 740 square miles.

I am outraged at the tenor of the correspondence between various officials in HEW and the Albemarle School authorities. In particular I refer to the fact that HEW has decided that it alone can rule whether a school system, which is not in any way involved in litigation, is in compliance with a Supreme Court decision—a decision which in fact dealt with the public schools of North Carolina.

Secondly, it is perfectly obvious that the Philadelphia Regional Office was not even in possession of accurate data concerning Albemarle County; in fact the actual racial ratio

in one of the schools in question was precisely the opposite from the assumptions of the Regional Office.

Finally, I believe that it is high time that you took positive action and removed Dr. Eloise Severinsson from any position from which she can continue to issue meddlesome demands upon the educational system of Virginia. I have communicated with your office in the past on this subject and have indicated to you the overwhelming proof that this lady has far overstepped her legal bounds. Other Congressmen have done the same. Her letter of Thursday, July 22, which demanded by July 28 a plan which would contain voluminous statistical data, is the epitome of bureaucratic arrogance.

Albemarle is not involved in any litigation regarding the operation of its school system, yet according to Mr. McClure's memorandum of September 10, which is attached, Dr. Severinsson's assistant, Mr. N. E. King, is attempting to propagate litigation by contacting various citizens of the area.

I invite your attention to this case especially since it both antedates and postdates the President's statement of August 3. In view of the President's statement of August 3, I would assume that the Department of Health, Education and Welfare acknowledges that it does not have the authority to require forced bussing of school children. In addition, responsible personnel in HEW should be aware of the fact that the Congress, has, on three occasions, expressed its disapproval of the whole idea of bussing to achieve racial balance.

Mr. Secretary, this incident, along with recent pressure brought by Dr. Severinsson upon the Accomack County, Virginia School Board, convinces me that the President's clear-cut disavowal of the forced bussing concept is being ignored by personnel in the Civil Rights Office of HEW. Only recently, I read that you agreed with the stand of the President; therefore, I would hope that immediate, forthright action is taken to assure that members of your department begin to comply with the directions of their superiors.

Mr. Ronald Ziegler said on August 11: "Those who work within the government are going to be responsive; those who are not responsive will find themselves involved in other assignments or quite possibly in assignments other than the federal government."

Would it not be well to start with Dr. Severinsson?

Mr. Secretary, the educational systems of the Commonwealth of Virginia are attempting to cope with an intolerable situation forced upon them by constantly changing and contradictory demands for unitary school systems. I would think that the role of the United States Department of Health, Education and Welfare would be one of assistance and not one of continuous harassment.

I hope that you will take the needed action to insure that this form of harassment is brought to a halt.

Sincerely,

Mr. BYRD of Virginia. Mr. President, finally, I ask unanimous consent that an article by James J. Kilpatrick which appeared in the Washington Post of Thursday, September 23, be inserted in the RECORD. This article deals with a speech made by the distinguished majority whip of the Senate, the able Senator from West Virginia (Mr. BYRD), who discusses the problem of public education and, as he always does, he discusses it with clarity and with vision. I think the distinguished whip is one of the finest and able persons with whom I have been associated.

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

**A DRASTIC RESPONSE TO A DRASTIC ERROR**  
(By James J. Kilpatrick)

It has been an exercise in futility, these past 17 years, for a Southerner to raise his voice against any requirement having to do with the desegregation of public schools. He is licked before he starts. It is as if John Roche of General Motors were to expound an objective view of Ralph Nader.

Sen. Robert C. Byrd, though he was born in North Carolina, suffers from no such bill of attainder. He was reared in the Yankee hills of West Virginia. He has devoted his life to public service in that distinctly non-Southern state. Byrd holds a rating of 65 from the AFL-CIO Committee on Political Education, which puts him in a class with such moderates as Mathias of Maryland and Case of New Jersey. He won his post as assistant majority leader with liberal support.

Byrd's speech of Sept. 3 in Houston, before the national convention of Young Americans for Freedom, thus qualifies as the expression of a veteran lawmaker whose personal or political motives cannot be challenged. His devastating attack on what he terms the "madness" of compulsory busing is clear and convincing.

Simply on its merits, apart from the law, mass busing strikes the West Virginian as a "senseless" waste of money. He deplors its effect upon the cities: "When the children are going to be hauled willy-nilly away from their homes and neighborhoods, it lessens the chances for improvement of the inner-city schools which are most in need of improvement."

Far from enhancing "quality education," in Byrd's view, busing tends to destroy education—especially for the black children whose needs are paramount. He sees only "increasing mediocrity in education" as a consequence of the "nonsensical obsession these days with racial quotas." Byrd flatly denies the contention that forced integration will teach children of different races to live in harmony together. "Polarization of the races is intensified when neighborhood and school identities are destroyed."

Byrd is a lawyer. He has steadfastly supported the Supreme Court's landmark decision of 1954, holding that children cannot lawfully be assigned to schools by reason of their race. He continues to defend that proposition. But he looks at the court's recent line of decisions, upholding the busing of children by reason of their race, and he sees a perversion of the 14th Amendment. "What a distorted, twisted interpretation of the equal protection clause!"

In Byrd's view, "the equal protection clause forbids segregation but it does not command integration." That distinction seems to him fundamental. He agrees with the court—the court of 1954—that a state violates the Constitution when it undertakes to treat children differently because of the color of their skin. He is thus baffled by the court's 180-degree turn: Now the states are told they must treat children differently because of the color of their skin. This is lunacy, says Byrd; and many will agree.

What is to be done? "Voices must be raised throughout the country which will move this nation's highest tribunal to the realization that its position . . . is going to impair public support of the public school system and will continue to produce chaos in the public schools." But Byrd acknowledges that the court has been unanimous in its racial opinions. Mere protest, however widespread and eloquent, may accomplish little.

One takes a long breath. Constitutional amendment is like matrimony, not to be entered into lightly. Yet amendment may now offer the only effective recourse. Since his speech in Houston, the assistant majority

leader has endorsed a resolution sponsored by Sen. William E. Brock, R.-Tenn., and eight others. It would write this into the Constitution:

"No public school student shall, because of his race, creed or color, be assigned to or required to attend a particular school."

That is Senate Joint Resolution 112. It demands prayerful thought. As the "madness" spreads beyond the South, to California, to Michigan, to Indiana, perhaps the Judiciary Committee will hold hearings on the resolution's drastic response to drastic error.

**SULFUR SITUATION**

Mr. LONG. Mr. President, there continues to be great cause for concern in the condition of the domestic sulfur mining industry. Eight sulfur mines in Louisiana and Texas have been shut down since 1969, hundreds of jobs have been lost, and production has been significantly reduced. Companies producing sulfur as a principal business in this country have been dealt severe injury and they have long since quit exploration for new sources of sulfur.

A year ago, when I introduced a bill—S. 4075 of the 91st Congress—to limit importation of sulfur, I said that unless corrective steps were taken, we would witness the drying up of the domestic sources of sulfur upon which the Nation now relies. That is still the situation and I continue to be very much concerned.

A principal reason for the current sulfur problem has been the pricing policies of western Canadian producers forcing into U.S. markets, which were already fully supplied, large amounts of sulfur recovered from sour natural gas. The volume of these imports is pertinent—an annual rate exceeding 900,000 tons—but more significant is the prices at which the sulfur is being sold. The most recent price I have seen published by the Alberta Oil and Gas Board shows an f.o.b. Alberta price in June 1971 of \$7.62 a ton as compared to \$38 in June 1968. A study conducted by Arthur D. Little, Inc., and filed with the Tariff Commission shows that this price is actually significantly below the true costs of producing the sulfur. What seems to be happening is that the Canadian producers are in effect subsidizing the sale of sulfur through the high prices they are getting for natural gas. Putting it another way, the United States purchases of Canadian natural gas are making it profitable for Canadian gas and sulfur producers to drive our sulfur industry out of business. Domestic sulfur producers either have to meet the price of the foreign sulfur or lose the customer. It is an intolerable set of circumstances for our sulfur producers and the signs are that it can get a lot worse as Canadian natural gas production—and with it, sulfur production—continues to rise.

Now, the Canadian authorities are not unmindful of this situation and I would like to insert in the RECORD at this point a letter I have received from the Secretary of Commerce, along with the text of an announcement by the Minister of Mines and Minerals of the Province of Alberta:

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

THE SECRETARY OF COMMERCE,  
Washington, D.C., August 26, 1971.

Hon. RUSSELL B. LONG,  
U.S. Senate,  
Washington, D.C.

DEAR SENATOR LONG: As you may recall from my letter to you of July 14, 1971, we have been vigorously exploring possibilities for achieving a more orderly marketing of Canadian sulphur and to this end we have been engaged in discussions with Canadian Government authorities and with representatives of the domestic Frasch sulphur industry. As a result of these and other efforts, the Province of Alberta in Canada has recently moved to curtail sulphur shipments with the aim of bolstering the current sagging market price.

In a policy statement July 22, 1971, the Minister of Mines and Minerals of Alberta outlined an inventory control scheme to go into effect on January 1, 1972. Producers of sour gas sulphur will be issued inventory control guidelines indicating on a monthly or quarterly basis the amount to be added by each producer to existing stockpiles. Depending upon the experience with its guideline control program, the Provincial Government may consider legislation to create a sulphur marketing agency; it is hoped that under this program of regulated inventory control, about one-half of next year's output of approximately 7.5 million long tons will be withheld from the market. Although details of the Albertan policy are still to be finalized, the full text of the Albertan Government policy statement has just become available, a copy of which is enclosed for your information.

As the bulk of the Canadian production is centered in Alberta, it is to be hoped that this unilateral action by that Province will help U.S. Frasch producers who have been facing a growing imbalance in supply versus demand, resulting principally from expanded output of sour gas sulphur.

Sincerely,

(S) MAURICE H. STANS,  
Secretary of Commerce.

Enclosure.

**ALBERTA GOVERNMENT POLICY STATEMENT  
ON ALBERTA SULPHUR INDUSTRY  
INTRODUCTION**

Sulphur in the form of hydrogen sulphide is a commonly occurring constituent of Alberta natural gas. The concentration of hydrogen sulphide varies from trace amounts to over 30 per cent but in all cases it must be removed before the gas can be marketed. If the amount of sulphur in the produced gas is more than a few tons per day, the hydrogen sulphide in addition to being extracted must be converted to sulphur. This is necessary both for conservation and for pollution control reasons. Alberta is an involuntary producer of sulphur—its production is not related to the market demand for sulphur—but is controlled by the nature of our gas reserves and the demand and sales of gas.

During the past two decades, there has been a dramatic rise in the production of sulphur in the Province of Alberta. Production increased from a few thousand long tons per year in the early fifties to some 350,000 long tons in 1960. In the past decade Alberta sulphur production has increased 12-fold, being almost 4.2 million long tons in 1970.

Two factors have led to the substantial growth in Alberta sulphur production. The increase in demand for Alberta gas, primarily in Eastern Canada and the United States, has resulted in many more sulphur extraction plants being built to process additional volumes of gas. Also most recent new gas discoveries have been in the foothills regions of the Province where gas contains more hydrogen sulphide.

Alberta sulphur production will continue to increase rapidly over the coming years

with the continued high demand for natural gas and more drilling in the foothills regions. A number of independent forecasts all suggest that sulphur production in Alberta will exceed eight million long tons per year by 1973 or 1974 and will be about 10 million long tons per year by 1976. Nearly all of the forecast production for the early future years is from existing processing plants or plants now under construction so the forecast may be considered highly reliable to 1974 and fairly accurate to 1976.

#### WORLD DEMAND AND SUPPLY

The major use of sulphur is in the manufacture of sulphuric acid, which in turn is a basic industrial raw material, particularly in the chemical, fertilizer, pulp and paper, and metal industries. For this reason, world consumption has paralleled the industrial growth over the past twenty years. Western world consumption of sulphur in all forms grew from some 11 million long tons per year in 1950 to almost 18 million long tons per year by 1960. The rate of growth has averaged about 5.5 per cent per year over the past decade, resulting in 1970 consumption in excess of 29 million long tons. The consumption of sulphur in the western world is expected to continue its recent history of growth in the coming years.

The total western world demand for sulphur is supplied from several sources. These include sulphur produced from the Frasch mines of the United States and Mexico, sulphur recovered from natural gas, sulphur from pyrites, sulphur from mined ores, and sulphur recovered from pollution abatement programs including the clean-up of gases from smelters and from refineries processing sour crude oils. Alberta sulphur normally does not directly compete in the market with sulphur recovered from pyrites, smelter gas, native ores or sour crude oil. Also sulphur from natural gases in the United States finds its own separate market. Sulphur from all these sources is usually sold locally and recently has amounted to slightly more than 50 per cent of the total western world sulphur demand. This leaves a "net brimstone demand" of less than one half of the total western world sulphur demand to be supplied from United States and Mexican Frasch production, sulphur recovered from natural gas in France, Polish exports to the western world, and sulphur recovered from natural gas in Alberta. The recent history of sulphur marketing from these sources has shown a substantial decline in exports of Frasch sulphur from Mexico and United States and a substantial increase in exports by Alberta and in exports to the western world from Poland.

Problems in forecasting both the total consumption and the production from these many other sources make it difficult to predict the future net brimstone demand and the prospects for marketing Alberta sulphur. These uncertainties result in forecasts of net brimstone demand ranging from ones that show substantial increases to forecasts reflecting decreases. However, since production from other sources, particularly from pollution abatement programs, is expected to grow more rapidly than total consumption over the coming years, the growth in the net brimstone demand in the next few years, if any, is likely to be modest. The forecast which I consider most reasonable indicates a net brimstone demand in 1976 of about 15.6 million long tons compared with the demand of some 13.8 million long tons in 1970.

#### ALBERTA SALES HISTORY

In the early years of the Alberta sulphur producing industry, Alberta sold most of its sulphur production in Canada, primarily in the west. In the late 1950's Alberta began selling sulphur in the United States and within a few years began shipping sulphur to off-shore markets. Annual sales increased

slowly during the 1950's but jumped from about 85,000 long tons in 1959 to some 210,000 long tons in 1960. Sales continued to increase rapidly and approximately one million long tons were sold in 1963. In 1964, the first year of a world sulphur shortage, sales amounted to some 1.5 million tons and substantially exceeded production. This under-supply situation prevailed until about 1967 when annual sales by Alberta producers topped two million tons. In 1968 sales reached some 2.2 million long tons but were much less than the annual production of about 3 million long tons. In 1970 sulphur sales by Alberta producers amounted to about 3.1 million long tons as compared to total Provincial production of 4.2 million long tons.

Inventories built up slowly during the early producing years and by the end of 1958 totalled only some 40,000 long tons. They then increased rapidly and by 1964 amounted to some one million long tons. The inventories were reduced to about 600,000 long tons by the end of 1967. Since then inventories have built up very rapidly, in fact by more than one million long tons per year in 1969 and 1970, and by the end of 1970 were over 3.5 million long tons. It is fortunate that sulphur can be stored at low cost in the open air with practically no deterioration but still inventories or stockpiles represent deferment of sales and therefore a loss of present worth income.

The value of Alberta sulphur sales, FOB the producing plant and on a unit basis, has varied considerably over the years. The value was reasonably constant in the range of \$20.00 to \$25.00 per long ton in the early years when sales were small and mostly local. In the early 1960's a surplus supply situation, particularly on a local basis, brought about a substantial decline in selling prices resulting in an average plant value of the order of \$11.00 per long ton in 1964. The world sulphur shortage of the mid-1960's resulted in large price increases and Alberta plant values reached \$35.00 per long ton and higher in 1968. The natural increase in involuntary sulphur production on a world-wide basis, particularly in Alberta, and a further increase in involuntary sulphur production from Frasch mines brought about by the very high prices rapidly reversed the world situation to create one of over-supply by early 1969. Prices decreased rapidly to the point where the average 1970 FOB plant value for Alberta sulphur sales was less than \$9.00 per long ton.

As I mentioned earlier, sales of Alberta sulphur were essentially limited to markets within Canada until the late 1950's. Exports to the United States began at that time and grew to volumes in the range of 700,000 to 900,000 long tons per year where they have remained for the past five years. Off-shore shipments became significant in the mid-60's and by 1967 amounted to almost 900,000 long tons per year, over 40 per cent of the total sales of Alberta sulphur. By 1970 the total off-shore sales of Alberta sulphur amounted to some 1,550,000 long tons or about 50 per cent of total sales. Of this amount some 680,000 long tons were sold in Asian markets; about 400,000 long tons went to Europe and about 360,000 long tons were sold in Australia and New Zealand. A total of about 110,000 long tons were sold in other markets in Africa and Central and South America. Alberta sales of sulphur have grown most rapidly over the past couple of years in Europe where sales have increased from some 86,000 long tons in 1968 to about 400,000 long tons in 1970.

Both the total revenue to the plant owners and the royalties to the Alberta Government from sulphur sales have declined substantially in recent years. Total industry revenue FOB plant reached a peak of some 75 million dollars in 1968 and has declined to about 27 million dollars in 1970. This was

despite an increase in sulphur production from about 3.0 million long tons to 4.2 million long tons, and an increase in sales from 2.2 million long tons to 3.1 million long tons.

The Alberta Government royalty on the production of sour natural gas is calculated on the value of the gas and other products, including sulphur, after processing. Naturally a decline in the revenue from sulphur sales affects the royalty. It is difficult to segregate the royalty attributable to sulphur but there is no doubt that the decline in sulphur sales revenue from 1968 to 1970 caused a loss in Government royalty of several million dollars.

#### OUTLOOK

Projections of western world sulphur supply and consumption lead to the conclusion that an over-supply situation is likely to exist for many years into the future. This world over-supply situation is particularly serious to Alberta because, as I mentioned earlier, our production is involuntary and it is expected to increase very rapidly from 4.2 million long tons in 1970 to as much as 10 million long tons by 1976. Accordingly, those sources of supply of the net brimstone demand or which compete for the sulphur markets not supplied from local sources (namely, the United States and Mexican Frasch producers, Poland, and the producers of sulphur from natural gas in France and Alberta) will face increasing competition from each other, and particularly from Alberta. In the absence of any arrangement for the regulation of production and inventories on the part of those producers competing for the net brimstone market, prices will undoubtedly continue the decline of recent years. We cannot forecast this decline with real accuracy but a conservative appraisal of the situation suggests that the average sulphur price in the principal marketing areas could decline even further and by a substantial amount.

The Alberta Government believes that if present marketing practices continued Alberta sulphur producers would be able to continue to market substantial volumes of sulphur in export markets, but only with the previously mentioned downward movement of prices. Projections of individual markets where Alberta competes for sulphur sales lead to the conclusion that Alberta would be able to market over 4 million long tons in 1972 and that sales could grow over 6 million long tons by 1976 under present marketing practices. The increased sales would be accompanied by a reduced price possibly reflecting a netback to the Alberta plants of as little as \$3.00 to \$5.00 per long ton. The projected sales under present practices would continue to be considerably below forecast production and would result in a tremendous increase in inventories. Projections suggest that sulphur inventories could amount to as much as 25 million long tons by 1976 and would be growing at some 4 million tons per year by that time. Coupled with the further erosion of the dollar netback to Alberta producers and of the royalty to the Alberta Government this is not an attractive outlook.

The lower world price for sulphur and the lower netback to the plant site for Alberta producers would have a most serious impact on the Alberta Government's conservation and environmental control programs administered by the Energy Resources Conservation Board. With respect to conservation, if Alberta sulphur were to be valued at as low as \$3.00 to \$5.00 per long ton FOB plant site, recovery of sulphur would become economically unattractive in nearly every plant in the Province. Consequently, the Conservation Board would find it difficult to require increased sulphur recovery under such conditions of distress sulphur values. Furthermore, the sulphur not recovered would still have to be removed from the gas but would be directed to the atmosphere in the form of sulphur dioxide. The low sulphur prices

would place an additional roadblock in the way of the Government's program of pollution control.

The reduced selling price for sulphur would have its impact on the economy of the Province due to the reduced total revenue to the industry. The royalty revenue to the Government would also continue to decrease. With sulphur prices at the plant as low as \$3.00 to \$5.00 per long ton royalty revenue attributable to sulphur would drop to the vanishing point.

#### RECENT ACTIONS

The Alberta sulphur producing industry and the Alberta Government have both been greatly concerned about the difficulties in marketing sulphur over the past few years and the related decline in revenue from sulphur sales. The industry, both on an individual company basis and in certain instances collectively, has taken steps to improve the competitive position of Alberta sulphur in world markets. Improvements have been made in the methods of handling, storing and shipping of sulphur. One of the more widely publicized developments is that of the movement of sulphur to tidewater at Vancouver by unit train, a method which is now commonly used. Also, an exchange arrangement has been worked out so that sulphur going to off-shore markets is taken from key shipping plants which produce sulphur in slated or flaked form. Another development for the future will see the creation of common stockpiles at shipping terminals thus reducing storage charges and facilitating movements to off-shore markets. Negotiations are continuing between the Alberta industry and Canadian railroads to improve further the economics of shipping Alberta sulphur to distant markets. Research directed to finding new uses for sulphur such as in asphalt mix and as building materials is being carried out in Alberta under cooperative industry sponsorship. I hope and expect that these efforts will continue and will meet with even greater success in the future.

The Alberta Government has also been actively studying the sulphur situation and has convened a series of meetings with Alberta producers. Since mid-1970 I have been working with an industry committee which has been advising me on sulphur matters. The committee has been very helpful and has done much work towards the solution of our problem. In fact, many of the statistics and projections referred to in this statement result from work of the industry sulphur committee. The Energy Resources Conservation Board also has provided me with much useful statistical information and technical advice. It has become apparent to me that Alberta's actions have, and will in the future have, a major influence on the world-wide marketing of sulphur. In particular I have become convinced that Alberta, in its own interests as well as in the interests of stability for both producers and consumers of sulphur, must regulate the amount of sulphur that is marketed. This would not constitute a control of price but, frankly speaking, I would hope that it would lead to a stabilization of prices at realistic levels. This would be better for all concerned than the wild swing of the recent past from over \$35.00 to below \$6.00 per long ton FOB Alberta plant or from \$50.00 to \$20.00 or so per long ton delivered to the customer.

The Canadian Government also has recognized the sulphur marketing problem and is working towards a long term solution. It recently served as host for a meeting of government officials from twelve countries, including both major exporters and importers of sulphur. It plans further international meetings to analyze the problems facing the world producers and consumers of sulphur now and over the long term and to develop solutions to them.

#### SUMMARY

Let me now summarize the overall situation as the Alberta Government sees it.

1. Alberta production has become a major force in the world sulphur industry—Alberta is now the second largest producer and within a year will be the largest producer; already it is the largest exporter of sulphur, a position it will maintain.

2. The sulphur industry is important to the economy of the Province and of Canada. It bears an important share of the total cost of processing sour natural gas to fuel gas specifications.

3. The chaotic marketing of sulphur resulting in distress prices impairs the economics of both our resource conservation program and our programs for the prevention of atmospheric pollution due to sulphur compounds.

4. Controlled stockpiling of part of Alberta's involuntary production of sulphur with deferment of income from its sale is in the overall and long term interest not only of the Alberta producers and the Alberta Government but of the producing industry as a whole. The world consumers of sulphur would surely also welcome the stability of price at realistic levels which should result.

5. Alberta's concern about the state of the industry is shared by the producers in the other major exporting countries and these producers are looking to Alberta for leadership in actions to bring stability to the industry.

6. Alberta's concern also is shared by the Canadian Government which has recently taken steps to initiate inter-government discussions. These discussions may in time lead to some form of inter-government commodity agreement but, even if successful, this could take several years.

7. The Province of Alberta has too much at stake for the Government to permit the present situation to continue to deteriorate or even to wait in anticipation that the meetings sponsored by the Canadian Government will eventually prove helpful.

#### POLICY STATEMENT

Because of the importance of the matter to our Provisional economy, our royalty revenues and our conservation and pollution control programs the Alberta Government has decided to take the following steps.

1. It will continue and increase its joint efforts with the Alberta producers of sulphur to seek improved methods, increased efficiency and lower costs for the stockpiling, land transportation, terminalling and ocean transportation of sulphur.

2. Effective January 1, 1972, the Alberta Government, through my office as Minister of Mines and Minerals, and to preserve and strengthen the economic viability of Alberta's resource conservation and pollution control programs, will issue inventory control guidelines for the Alberta producers of sulphur. These guidelines will indicate, for each sulphur producing plant in Alberta, the percentage of the sulphur produced which in the Minister's judgment should be added to inventory or stockpile. The guidelines will be issued either on a monthly or a quarterly basis and suitably in advance of the period to which they apply. All producers will be asked and expected to comply with the guidelines. I expect that this program of inventory control will lead to a return to reality and stabilization in world sulphur prices to the benefit of all concerned. It should allow Alberta to proceed with its programs of resource conservation and pollution control. It should result in more realistic royalty payments as the sulphur is marketed.

3. Prior to the next session of the Alberta Legislature detailed consideration will be given to the possible need for special legislation for the creation of a sulphur market-

ing agency or to permit other actions by the Government as may be required. These will be dictated by our experience with the inventory control program.

In announcing this program of the Government I wish to assure you that the decision to take these steps has not been made lightly. The whole matter has been the subject of study and discussions for a full year. The Government, as custodian for the people of the natural resources of the Province, is convinced that it would be failing in its responsibilities if it were not to take action at this time. Also, I should say that the Alberta Government is not opposed to the actions being taken by the Canadian Government. We hope their actions will eventually be successful and that they may be suitable to replace at least part of the Alberta Government program. Meanwhile, however, we must proceed.

Mr. LONG. Mr. President, I commend the Secretary of Commerce and others in his Department for their efforts in this respect. I welcome any action that might alleviate the pressures being exerted upon the domestic sulfur industry and restore some economic sanity to the marketing of sulfur. I hope the announcement from Alberta will be translated into some sort of action in January of 1972, which is the earliest time at which the outlined scheme could become effective.

Destruction of the sulfur industry in Louisiana and Texas and the resulting dependence upon foreign sulfur sources are neither inevitable nor permissible. I will be watching the Canadian proposals with the hope of seeing meaningful results, and I will remain prepared to seek other means for relief in this critical situation.

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

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum. I assume this will be the final quorum call of the day.

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 THE TRANSACTION OF ROUTINE MORNING BUSINESS ON MONDAY

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on Monday, immediately following the recognition of the two leaders under the standing order, there be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 3 minutes, following which the unfinished business be laid before the Senate.

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

#### PROGRAM

Mr. BYRD of West Virginia. Mr. President, on Monday, the Senate will resume consideration of the unfinished

business, the military procurement authorization bill.

Several amendments are at the desk. They have been printed, and can be called up for action. The leadership expresses the hope that Senators will be prepared to call up amendments on Monday, and that progress can continue on the bill.

There will definitely be amendments called up on Tuesday, Wednesday,

Thursday, and Friday, and possibly Saturday, the leadership having indicated upon several previous occasions that Senators may anticipate Saturday sessions when necessary in order to facilitate progress on this bill and on the remaining program which is to be enacted before adjournment sine die.

Senators can anticipate rollcall votes, certainly, on Tuesday, Wednesday, Thursday, and the rest of the week.

#### ADJOURNMENT UNTIL MONDAY

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

The motion was agreed to; and (at 3 o'clock and 47 minutes p.m.) the Senate adjourned until Monday, September 27, 1971, at 12 noon.

## EXTENSIONS OF REMARKS

AMBASSADOR GEORGE BUSH IS  
MAKING FINE START AT U.N.

HON. THADDEUS J. DULSKI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1971

Mr. DULSKI. Mr. Speaker, I am delighted with the selection of our former distinguished colleague George Bush, of Texas, as U.S. Ambassador to the United Nations.

He was an excellent legislator whom I personally came to know and respect very much during his service in the House.

His new role in the field of international diplomacy is one of great responsibility as our Nation's voice in this world forum. I am confident he is going to prove a great credit to his country as well as to himself.

As part of his remarks, I include an excellent Associated Press article from the Buffalo Courier-Express of September 19.

The article follows:

NEW U.S. DELEGATE TO U.N. HAS LONG  
WORK DAY

(By William L. Ryan)

UNITED NATIONS.—The way he tackles diplomacy, Ambassador George Bush doesn't really have to be an athlete in top condition. But it helps.

The former Navy flier, who will pilot U.S. policy through the U.N. session starting this week, finds that a 16-hour working day has become more rule than exception.

Evidently he thrives on it. His enthusiasm for the job seems to have infected his entire staff at the 12-story U.S. mission building across the street from the U.N. complex.

The session opening Tuesday will, among other things, consider the complex question of China's representation. In his first General Assembly appearance as ambassador, Bush has a tough assignment: to champion President Nixon's "two-Chinas" policy, which both Red China and the Nationalists on Taiwan reject.

NO LACK OF EFFORT

How will it work out? Ambassador Bush says that if the two-Chinas policy does not succeed, it will not be for lack of trying on his part.

"Some people are saying the United States isn't really trying very hard to keep Taiwan in, but if that's so, nobody's told me about it," he says.

Bush's remarks to an interviewer suggested two outstanding traits: loyalty and irrefragable optimism. He is loyal—some say to a fault—to President Nixon and frequently quotes him in conversation. And his personality is such that pessimism for Bush would seem next to impossible.

George Herbert Walker Bush is a self-made Texas oil millionaire. He had been transplanted to Texas, however, from New England, and he combines shrewd Yankee humor with Texas affability.

ANSWER TO LINDSAY?

As a Republican congressman from Texas, Bush once was considered a strong possibility for the 1972 vice presidential nomination. Despite loss of a 1970 U.S. Senate race, he still looks to some Republicans like a prospective answer to the Democrats' acquisition of New York's mayor, John Lindsay.

At 47 he's handsome and has the engaging manner of a natural-born vote-getter.

"I sure wish he was a Democrat," a Democratic leader was once heard to murmur wistfully.

President Nixon noted the potential in a bantering way last February when Bush was sworn in as ambassador. Nixon recalled how President William McKinley had lost an Ohio race and gone on to become president, "but I'm not suggesting what office you should seek and at what time."

HE'S NOT "POLITICAL" NOW

What about political aspirations as of now? Bush grinned.

"In this job I am not a political person. I can't be. You can't indulge in political partisanship in this job. If you asked me could I conjure up a set of facts involved in the elective political process, I would have to admit that yes, I am still a political animal and keep my interest in elective politics. But there's no time here to think of such things.

"As a Cabinet member, of course I keep up with domestic affairs and would be prepared to discuss domestic and international issues. But I am a strong believer in the policies President Nixon is embarked on now in the United Nations, and he is entitled to total advocacy here."

Bush approaches his job from the standpoint that his first duty is to his own country.

"If I became an international civil servant, that would be wrong. What is going to make the United Nations stronger is its function as a melting pot for different viewpoints. The United States should be strongly represented and we should try to bring out what's good about our country, be prepared to stand up in behalf of our country whenever necessary."

EAGER SALESMAN FOR U.N.

At the same time he is an eager salesman for the U.N. ideal. He wants to stimulate interest in it around the world, possibly by means of a U.N. session once in a while in another country.

"For example, let's see what happens if a U.N. session is held in a Communist bloc country. Why not let others see what the problems are, what it means? It could revitalize the whole organization. The costs would be high, but if the Olympic games, for instance, can be taken to Tokyo, why not the United Nations to another country?"

Approaching his first assembly session, Bush seems assured of enthusiastic support from his staff, who seem, by the large, to have become avid admirers of their new boss.

One staff member, obviously a Bush fan, thinks he may be even too outgoing.

"Sometimes," the staff member muttered, "the ambassador is too honest for his own good. Even his enemies would say that. They might disagree with him, but they still respect him."

CUSTOMS BROKERS AND FOREIGN  
FREIGHT FORWARDERS: SMALL  
BUSINESSMEN WHO EXPEDITE  
INTERNATIONAL TRADE

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1971

Mr. WOLFF. Mr. Speaker, it is with pleasure that I draw to the attention of my colleagues and others, inside and outside the Government who are concerned with various aspects of international trade, an article entitled "From Limousines to Casaba Melons" that appeared in the August issue of Nation's Business.

The subject of this interesting account in the magazine published by the Chamber of Commerce of the United States is the professional and expert service performed by small businessmen in this country known as customs brokers and foreign freight forwarders. Their years of training, experience and expertise in the highly technical area of arranging the movement and clearance of goods into and out of this Nation's port and air terminals have earned for them the fitting sobriquet of international traffic managers for U.S. importers and exporters.

Customs brokers and forwarders have employed their unique talents to reduce the complexities of international commerce for their export-import clients over the past 130 years. Their vital aid in contributing to Federal revenues and saving the Customs Bureau countless dollars of expense has gained them quasi-governmental status. An estimated 3,000 licensees today operate in this area, customs brokers being licensed by the Treasury Department and foreign freight forwarders by the Federal Maritime Commission, with many firms combining both functions.

While not well known to the general public, they are familiar to and respected