House Joint Resolution 923, I would have voted "yea" on H.R. 10458, I would have voted "yea" on H.R. 8140, and I would have voted "nay" on H.R. 9212.

THREAT TO FARM MARKETS

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 19, 1971

Mr. FINDLEY. Mr. Speaker, the entire world watched closely last week as the United States completed negotiations for a quota on Japanese textile exports. Along with many of my colleagues in the Congress, I am concerned that our hard bargaining with Japan to limit its shipments of textiles may impair U.S. interests.

This concern is also shared by the Chicago Tribune in its lead editorial October 19. Entitled, "Out of the Frying Pan," the editorial dealt with this critically important aspect of our foreign policy.

Quotas impose unfair burdens on consumers, discriminate unfairly among foreign suppliers, and give Government officials plums to dispense which are simply too juicy.

Strong-arming Japan into accepting textile quotas is especially unfortunate. That nation is the American farmers' one and only billion-dollar-a-year customer and is rapidly moving toward becoming a $2 billion customer. In the year which ended July 1, Japan purchased $1.2 billion in U.S. farm products.

Many of the agricultural products we sell to Japan can be purchased from other countries. This year, with our crippling dock strikes, our best buyer of these farm goods has shopped and bought farm products grown in other lands. I sincerely hope our recently approved textile agreement does not cause this important customer to expand its purchases from other nations at the expense of the U.S. farmer.

A copy of the editorial is attached as part of these remarks:

OUT OF THE FRYING PAN

Japan's agreement to limit its wool and synthetic textile exports to the United States, after more than a year of haggling, represents a victory for the Nixon administration. But the reaction should remind us that it is a temporary one and must not be exaggerated.

What Japan has demonstrated [however reluctantly] is that by submitting to American pressure, it is possible to escape from the 10 per cent import surcharge which the President imposed in August and which our trading partners bitterly resent. If other countries take the hint and make concessions of their own, it may be possible to end the surcharge within the three or four months mentioned on Sunday by Secretary of the Treasury Connally.

But to the extent that the surcharge is replaced by quotas, we will merely be moving from one unsatisfactory means of restraining free trade to another.

Quota systems force American consumers to pay more than they otherwise would pay for a long list of commodities whose trade is regulated by "commodity agreements" or other forms of quotas. Among them are sugar, coffee, oil, steel and cotton goods.

The textile issue happens to be more of a political issue than an economic one. Imports account for less than three per cent of our textile market, and the domestic market is growing by well over three per cent a year. Japanese imports could probably double without actually reducing the market for American producers. Limiting them to increases of 5 per cent a year will therefore, in effect, turn the new market over to American producers. And this, presumably, will make good the promise which Mr. Nixon made to southern textile makers in 1968 and which has embarrassed him ever since.

But to the extent that the textile quotas do have a noticeable effect, American consumers will find themselves paying more for textiles in order to subsidize jobs and profits in the textile industry, and in order to help bail the American economy out of a predicament into which a generation of government mismanagement has led it.

For this dubious advantage we have incurred the wrath of our trading partners all over the world. In Japan, the reaction may be especially costly: the Sato government, which has staked its reputation on good relations with the United States, is now accused by both industry and the left of surrendering to the United States. In London, Prime Minister Heath talks gloomily of a trade war.

By turning to new artificial quotas instead of trying to eliminate existing ones here and abroad, we are perpetuating inefficiencies in production and trade. The danger now is that textile quotas, like the others, will tend to become permanent fixtures, at the consumers' expense. Clearly this is not the solution to our problems. Pushing prices up by quotas is no better than allowing them to be pushed up by inflation. The administration should now dedicate itself to the ultimate removal of quotas as well as import surcharges.

SENATE—*Wednesday, October 20, 1971*

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

PRAYER

The Reverend Edgar J. Mundinger, pastor, Christ Lutheran Church, 5101 16th Street NW., Washington, D.C., offered the following prayer:

Gracious God, we make our common prayer for these United States of America, for all who are shaping the destiny of our land, and particularly for this deliberative body as it convenes this day.

Give to each of us wisdom, courage, and concern so that the decisions we make may express Your will for our country.

To this intent, purify our motives and help us order our priorities, that we "seek first the kingdom of God." Help us to maintain faith in each other and confidence in the citizenry, so that the words we speak and the conclusions we reach may serve the greatest good and give You the greatest glory.

We pray that our faith may wear bifocals that see the heartache and the need around us, but down the road also see the patience of God, working out His plan for the world which He has made, which His Son has redeemed, and His spirit regularly renews through Jesus Christ our Lord. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, October 19, 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.

AUTUMN IN VERMONT

Mr. MANSFIELD. Mr. President, in a supplement to the Berkshire Eagle, the Torrington Register, the Bennington Banner, and the Brattleboro Reformer, entitled "Upland Autumn," for October 1971 there is a most heartwarming article written by the distinguished senior Senator from Vermont (Mr. AIKEN). The title is "Daydreaming About Vermont From a Window in Washington," although I would perfer that it be entitled "Autumn in Vermont."

Mr. President, the article contains much of the philosophy which has made Senator AIKEN a great Senator, which has kept him close to his homefolks, and which has brought forth the commonsense which he gives us the benefit of almost daily, and so far as we are concerned, appreciatively, and I ask unanimous consent to have the article printed in the RECORD.

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

DAYDREAMING ABOUT VERMONT FROM A WINDOW IN WASHINGTON

(By Senator GEORGE D. AIKEN)

(EDITOR'S NOTE.—Leaving Vermont every fall when the Congress goes back to work must be one of the hardest things Sen. George D. Aiken has to do. At this time of year, the nation's capital is beautiful, but it's nothing like being back home in Putney when the nights start turning cold.

(We suspected that Sen. Aiken must daydream some about his state when he's down there in Washington, and we were right.)

WASHINGTON, D.C.—You ask—what does a Vermonter think about when he's 500 miles away from home and realizes that it's autumn once again?

Well, looking out of our apartment across the park I see the Capitol of the United States—beautiful, imposing, dignified, and symbolizing the strength of the nation. A bit to the right, the Washington Monument points upward to the sky.

And farther beyond are the spires of Georgetown University. These, and other buildings in the distance, bear mute evidence

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to the foresight, energy and determination of the founders of this country, and those who have followed them in building the greatest nation on earth.

Washington is the greatest capital on earth but only the symbol of America's wealth and power.

Yes, I say symbol. What would Washington—what would Wall Street be, if it were not for the thousands of communities spread from ocean to ocean and from Canada to Mexico? And, to get the answers, we have to look beyond the Capitol dome, beyond the monument, and beyond the spires of Georgetown.

Inevitably, we think of New England—and Vermont—for it is in the communities there and in others stretching westward to the Pacific that the real wealth and power of our nation was developed, and where it still lies.

The leaves on the trees in Washington are still green; the weather is still hot; and the allergies are still rampant.

So let's forget Washington.

In Vermont, the flaming red of the soft maple has already left Jay Peak and most of Mansfield and Camel's Hump and is crawling its way south past Killington, Stratton and Haystack.

Soon the colors of the sugar maple, brilliant orange and red, will follow. The pale leaves of the poplars and birches have already gone, leaving only the glistening trunks of the white birch and the varied green of the evergreens to carry on the spectacular beauty of the hills until spring comes again.

Autumn in Vermont?

A busy season indeed. Apple pickers are hustling to harvest a million bushels of the finest apples, two-thirds of them McIntosh.

The last of the corn is being stuffed into silos to feed through the winter milking cows of the most intensive dairy state of the union. (It should have been done earlier—lucky we had a late frost.)

Fern pickers are harvesting a crop to adorn the tables of high-level society across the nation.

And Benny Beaver is working nights to make sure that he has enough food in his underground castle to go through the winter.

Autumn in Vermont?

Where will those folks from southern New England and from states farther away sleep on the weekend of Oct. 9th. I really don't know; and unless they have made reservations in advance, they won't know either.

But autumn will soon be gone and the raccoons will have taken the last of the sweet corn.

The pumpkins will either be cut up for pies or huge grinning faces, and the legal deer slaughter will be over—leaving the remainder of the herd to be torn apart by nice little doggies or run down by snowmobiles during the winter.

Snow will be falling; and if it doesn't fall, our ski resort operators will make it by machine. A wonderful winter lies ahead and autumn in Vermont becomes a glorious memory.

You asked me to tell you what I think about while looking out of a window in Washington when it's autumn in Vermont.

Well, have a heart and don't ever ask me to do this again.

What are you trying to do? Make me resign and come home before the end of my term?

PRESIDENT NIXON'S TAX PROPOSALS

Mr. SCOTT. Mr. President, as the Senate Finance Committee is now reviewing President Nixon's tax proposals, and as the day draws nearer when the full Senate will have an opportunity to debate them, I would like to express a few thoughts on this very important matter.

I have read very carefully, and with great interest, Treasury Secretary Connally's opening statement before the Finance Committee. His sound presentation reflected a keen awareness of the economic imbalances we all seek to overcome. Secretary Connally's general support of the House-passed tax bill encourages me, since I did believe that the administration's initial proposals did not give enough of a tax break to individuals. The Secretary's call for restraint by the Senate should be heeded, but there are several items which we should look into very carefully.

Finance Committee Chairman RUSSELL LONG's opening remarks positively emphasized one of these particular items—that is, we should think about doing more for the individual taxpayer. In my opinion, there are plenty of ways to bring in additional tax revenue to compensate for any revenue loss associated with personal income tax cuts. These new cuts should focus on middle-income taxpayers with provisions that all taxpayers will benefit in some way, especially single taxpayers, who bear the most inequitable tax burden of all.

Knowing of Senator LONG's diligence and expertise in such matters, I am confident that he will endeavor to strike a good balance between the gains and the losses. I do not want to open the floodgates—I just want to make sure that the hinges do not squeak when we are irrigating.

The proposed Revenue Act of 1971 substantially reenacts the investment tax credit, a measure which I have supported in the past. The concept is a good one—I remember well the salutory effect it had on the economy when it was first offered by President Kennedy. But I am somewhat concerned about its proposed applicability, in that some investments are eligible for the credit, and some are not.

When Congress passed the Tax Reform Act of 1969, it provided a special 5-year amortization for certified pollution-control facilities and coal mine safety equipment. These provisions were written into the law because, in part, Congress simultaneously was repealing the old investment tax credit. The new tax bill allows the taxpayer to elect either the amortization or the tax credit, but not both. I think this is unfair.

First of all, the installation of most pollution control and mine safety equipment is required by law. There is no way around it, nor should there be. But because this equipment is mandatory, and not optional as is the case with new industrial production facilities, there should be a more generous tax allowance. After all, as beneficial to environmental quality and human life as this required equipment is, there is absolutely no contribution either to productivity or profitability and certainly no contribution to the gross national product.

Second, the costs of this equipment represents a very real threat to our fight against inflation. Just last spring, for example, the prestigious Tax Foundation concluded that price increases stemming from pollution-control efforts may be a significant factor contributing to the inflationary spiral. The study said that we may all have to bear the brunt of pollution control through higher prices. Soon after that study was released, Federal Reserve Board member Andrew F. Brimmer said:

> One of the most disturbing adverse effects is the impetus to inflation that the pollution abatement efforts produce.

That comment alone should send out a strong signal to us that some way must be found to reduce greatly the cost impact of these facilities.

With respect to certified coal mine safety equipment there is a parallel situation. During the Senate's debate on the Tax Reform Act of 1969, the distinguished Senator from Kentucky (Mr. COOPER), who is joining me today, successfully offered an amendment giving purchasers of mine-safety equipment the same amortization treatment as the bill then proposed giving to purchasers of pollution-control equipment. As the ranking Republican member of the Public Works Committee, and as one who represents a major coal producing State, Senator COOPER knows well the problems associated with coal mining—from health and safety to energy production. My own Commonwealth of Pennsylvania contributes its share of coal to the Nation so I, too, know the problems.

The Coal Mine Health and Safety Act of 1969, in which Senator COOPER and I took a great interest, required the purchase and installation of significant pieces of mine safety equipment. These new facilities, while greatly increasing the general welfare of the coal miner, have also brought segments of the coal industry perilously close to fiscal chaos. Small mine operators, particularly, have been hard hit, so there is obviously no additional productivity of which to speak—just higher prices. Unless relief is given soon, one of our Nation's major sources of energy may simply fade away.

For these reasons, I am today submitting an amendment for appropriate reference, to the Revenue Act of 1971, permitting taxpayers to obtain the investment tax credit for antipollution and mine safety devices as well as the amortization deductions now available under present law. I am hopeful that the Finance Committee will review closely this amendment with an eye not only on economic expansion and pollution control, but inflation control as well.

Mr. President, as I indicated previously, the job development investment tax credit does have a beneficial impact on the economy, especially with its accompanying "buy American" provision to encourage the purchase of domestically produced equipment. Yet, I am uncertain as to its immediate and direct effect on employment. To help alleviate this apparent inequity, I strongly recommend the enactment of Senator JAVITS's bill, S. 2632, which provides a direct incentive, through the use of a tax credit, to every business in America to expand its work force the Javits proposal should go hand-in-hand with the investment tax credit already proposed. I believe that the new tax revenues generated by the increase in employment will easily offset the initial revenue loss. S. 2632 is now

pending before the Finance Committee. I am hopeful that the committee will recognize the great merit of the Javits proposal and include it in the final bill reported to the Senate floor. In the event that the committee is not prepared to take a position on this matter, I am certain that Senator JAVITS will present his case, in his usual eloquent manner, to the full Senate during its debate on the tax bill. In any case, I would like to add my name as a cosponsor of S. 2632, and ask unanimous consent to do so at this time.

Mr. President, I cannot recall a time in recent years when so many people wanted to do something to help the economy. In that spirit, I want to bring to the Senate's attention a matter which, I believe, could help the economy, if only in an indirect way.

We all know that America competes on an inequitable basis with its friends abroad. One reason for this is the lack of antitrust restrictions in many foreign countries. I will be the last one to encourage the accumulation of unbridled economic power in the hands of a few conglomerates, but there are some instances, such as pollution control, in which corporations should be permitted a degree of flexibility and cooperation. In short, the Congress ought to be taking a thorough, long-range look at the antitrust laws now on the books to see what needs adjustment.

Last April, Senator JAVITS and Senator HRUSKA introduced a bill to establish an Antitrust Review and Revision Commission. S. 1486 was referred to the Judiciary Committee, on which I serve, but the Antitrust and Monopoly Subcommittee has not held any hearings on it. I would hope, and strongly urge, that the subcommittee, chaired by the distinguished and able Senator from Michigan (Mr. HART), would consider favorably this proposal. After all, we would only be creating a commission to make specific recommendations back to the subcommittee and the full Congress. We are the ones who pass laws, not the commissions. I support the Javits-Hruska proposal and I am asking that my name be added as a cosponsor.

Mr. President, the Senate has a great opportunity to make President Nixon's tax proposals truly equitable and truly beneficial to all Americans. I am hopeful that we can all act in a spirit of cooperation to assure the success of these worthy objectives.

ORDER OF BUSINESS

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

HEW'S NEW WELFARE PROGRAM

Mr. BYRD of Virginia. Mr. President, it is important that the Senate and the Nation understand the facts regarding the new welfare program being advocated by the Department of Health, Education, and Welfare.

Secretary Richardson in his official statement to the Senate Finance Committee put the new program in capsule form when he termed it "revolutionary and expensive."

Before discussing the new program, let me say that I think the present outdated welfare system should be changed; and most certainly the administration of the program should be tightened.

But in changing the present system it is important that we be sure we are getting something better—and not just an expanded and more expensive program.

After considering the matter for 18 months, I have concluded that I cannot support the administration's revolutionary and expensive new welfare proposal.

As a member of the Finance Committee, I shall vote against reporting such legislation to the Senate during the calendar year 1971.

The President himself has requested that the effective date be deferred until July 1, 1973. The committee and the Senate should take adequate time and get a full understanding of the costs and ramifications. Once the Nation goes into a gigantic program like this, there is no turning back.

I think that this might be an appropriate time to enact my proposal, Senate Joint Resolution 39, to create a broad-based national commission to study welfare problems and make recommendations.

I cannot support the revolutionary and expensive program for the following reasons:

One. It lacks adequate work incentives.

Two. I doubt the wisdom of writing into law the principle of a guaranteed annual income.

Three. The annual cost of the new program would be at least $5 billion greater than the present program.

Four. The number of welfare recipients would be increased from 12 million persons in 1970 to 26 million persons.

Five. Richard P. Nathan, Deputy Under Secretary for Welfare, says the Government would need to hire an unprecedented 80,000 new Federal employees to administer the program.

With 101,000 employees, the Department of HEW already is so huge that it is almost impossible to effectively administer. One can well imagine the added confusion and chaos if 80,000 more workers are added to that Department.

I feel that the Government has an obligation to our fellow citizens who are physically or mentally unable to earn a living. But the "revolutionary and expensive" proposal of Secretary Richardson goes far beyond that. It does not have adequate work incentives, nor does it have adequate work incentives, nor does it have adequate provisions to keep off the welfare rolls able-bodied citizens who should be seeking jobs instead of handouts.

The new "revolutionary and expensive" welfare plan is not in keeping with—and, indeed, runs directly counter to—the President's anti-inflation efforts.

It is not welfare reform. It is welfare expansion.

I submit we are not going to be able to lick inflation until the Government puts its own financial house in order.

The Government had a Federal funds deficit last year of $30 billion; it will have a Federal funds deficit this year of at least $33 billion.

The "revolutionary and expensive" program of Mr. Richardson will add an additional $5 billion to the deficit—and to the national debt, which is now $409 billion.

But an even more important objection, in my view, is that Secretary Richardson's "revolutionary and expensive" welfare plan would double the number of welfare recipients.

With the huge deficits the Government has been running, it is neither logical nor sound to attempt to double the number of people drawing public assistance.

If the Government cannot now effectively administer the present welfare program, how can it effectively administer a program with twice as many persons drawing Government checks?

One evidence of the difficulty of administration is this: In New York City at the present time 1,000 welfare families are being housed in New York City hotels.

I wrote the Department of HEW to ascertain the average monthly rental being paid by the taxpayers for those families.

I was informed in a letter from HEW that the average monthly rental per family is $763.

I have devoted hours and hours of time in an effort to obtain accurate cost figures—and accurate figures as to the number of full-time permanent employees of HEW.

I submit the following table showing the cost for public welfare in billions of dollars for the fiscal years 1962 through 1972:

Federal costs for public welfare

[In billions of dollars]

1962	$2.7
1963	3.0
1964	3.2
1965	3.5
1966	3.8
1967	4.5
1968	5.6
1969	6.8
1970	8.6
1971	11.6
1972	14.2

(Source: U.S. Department of Health, Education, and Welfare.)

(NOTE.—According to testimony of Secretary Richardson of HEW, the total welfare cost for FY 1973, under H.R. 1, would be $19.7 billion.)

If the proposal advocated by Secretary Richardson; namely, H.R. 1, is approved by the Senate, the total cost for fiscal year 1973 of welfare, of public assistance, would be $19.7 billion, or a 40-percent increase over the cost for fiscal year 1972.

Mr. President, the above figures I have submitted, the tabulation and the figures in regard to H.R. 1, all include the cost of medical aid to the indigent. I want to submit a full and complete picture of the total cost to the Federal Government of

the Federal welfare program, or public assistance as some prefer to call it.

As to the number of full time permanent employees of HEW, when the Department was established in 1953 the employees numbered 35,000 persons. By the end of 1970 the figure had increased to 101,000, according to figures submitted to me by Secretary Richardson.

But the latest report by the Joint Committee on Reduction of Federal Expenditures puts the December 1970 figure at 110,000 and the August 1971 figure at 117,000.

These figures in the report of the Joint Committee are substantially higher than the figures given me by Secretary Richardson. I shall make an effort to reconcile the large differences in the figures submitted by the Department of HEW and those reported by the Joint Congressional Committee.

This is another reason why the Senate should proceed slowly in considering Secretary Richardson's "revolutionary and expensive" program.

Mr. President, we have not even been able to establish the number of employees now in the Department of HEW. The Department submits one figure and the Joint Committee on Reduction of Federal Expenditures submits a different figure. I shall attempt to reconcile these figures as the weeks go by.

Mr. President, I think that the figures and arguments I have cited today show that the proposal advanced by the administration would in fact move this Nation closer to the condition of a welfare state.

When President Nixon was a candidate for President in 1968, he stated again and again that he wanted to reverse the trend to the welfare state.

But the administration's proposal for revising the welfare laws would double the number of welfare recipients.

The question I have been asking for the last 18 months—and I ask it again in the Senate today—is this: How does one reverse the trend to the welfare state by doubling the number of people on welfare?

Mr. President, I shall vote against H.R. 1 which is now before the Finance Committee and shall oppose its being reported to the Senate during the calendar year 1971. If and when it is reported to the Senate in 1972, unless it is greatly improved, I shall vote against reporting it.

But if and when it is reported in 1972, I shall urge the leadership on both sides of the aisle when the bill is called up that it be given full and adequate consideration. It is a gigantic program. It doubles the number of public welfare recipients.

It is one that the Senate and the Nation need to consider very, very carefully before going into this huge program. I think it should be fully debated with adequate time taken in the Senate, if and when that proposal reaches the floor of the Senate.

Mr. President, I ask unanimous consent that excerpts from the hearing of August 3, 1971, before the Committee on Finance on H.R. 1 be printed in the RECORD.

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

EXCERPTS OF HEARINGS BEFORE THE COMMITTEE ON FINANCE ON WELFARE, AUGUST 3, 1971

Senator BYRD. Assuming your program is enacted into law by the present Congress, what will be the total costs of the welfare program; this is, the Federal share of the welfare program for fiscal year 1973.

Secretary RICHARDSON. The total cost, including some expenditure for services, would be $14.9 billion.

* * * * *

Senator BYRD. I want to be sure we are clear about this, that is your judgment as to what the total costs will be for fiscal 1973.

Secretary RICHARDSON. Yes, this does not include medicaid.

Senator BYRD. It does not include medicaid. Let's get the medicaid figure, if you will.

Secretary RICHARDSON. That is $4.5 billion . . . .

Senator BYRD. Let's see if we understand this now, the costs of the welfare program (H.R. 1) will be $14.9 billion, and in addition to that, there will be $4.5 billion for medicaid, namely medical aid for welfare recipients.

Secretary RICHARDSON. Yes.

Senator BYRD. I am correct in that statement.

Secretary RICHARDSON. Yes, let me be sure we have it. Yes; that is correct, Senator.

* * * * *

INCREASE IN ESTIMATE COSTS OF WELFARE PROPOSAL

Senator BYRD. Now, you responded last year that the estimated cost for fiscal 1972, assuming this program had been in effect would be $11.8 billion. So the arithmetic would indicate that then in a 1-year period, between fiscal 1972 and fiscal 1973 the costs of this program will have increased 25 percent in that 1-year period.

Secretary RICHARDSON. I am sure that $11.1 billion figure did not include medicaid.

Senator BYRD. No, it did not include that.

Secretary RICHARDSON. So the comparable figures would be $11.1 and $14.9 billion.

Senator BYRD. Excuse me 11.8.

Secretary RICHARDSON. 11.8 and 14.9.

Senator BYRD. You will find that figure comes to roughly 25 percent.

Secretary RICHARDSON. Well, there are differences which explain this that are not differences simply resulting from the markup of our estimates. In the first place there is the Federal assumption of basic benefits, of administration, and of the adult categories; there are increases projected in H.R. 1 for public service jobs, in child care, training, supportive services.

Senator BYRD. So you are expanding the program beyond last year's proposal.

Secretary RICHARDSON. The work related provisions have been expanded.

Senator BYRD. You are expanding—the program as a whole is being expanded beyond last year's program.

Secretary RICHARDSON. Yes, in the sense that we are more determined than ever to convince this committee that the provisions of the program are capable of getting people off the welfare rolls and into jobs.

Senator BYRD. I don't think this committee has demanded that the program be expanded.

Secretary RICHARDSON. Some members of the committee have felt we did not provide enough public service jobs in last year's program, and some other member of the committee have thought that we didn't provide adequately for the development of day care services, and these are among the increases.

Senator BYRD. Well now, have you taken into consideration the views of the other members of the committee which, I think are in the majority, who have not sought an expansion of this program.

Secretary RICHARDSON. Well, if the committee concludes that it does not wish to expand, that, of course, is the committee's judgment. We came away from last year's sessions of this committee with the impression that the committee wanted to do more to get people off welfare and into jobs.

Senator BYRD. But you are not taking people—there is no use to get into that discussion, you are adding to the welfare rolls. We all admit that. The whole record shows that.

Secretary RICHARDSON. We are not adding to the welfare rolls compared to last year's program except in the adult category.

Senator BYRD. Let's stick to the figures and see if we can understand the figures rather than get into additional discussion.

The figures show, and see if I am inaccurate about this; if I am let me know. The figures show that your estimate for last year, if the program had been in effect for fiscal 1972, had been $11.8 billion, not including medicaid.

Secretary RICHARDSON. Yes.

Senator BYRD. So that shows an increase of from $11.8 billion for your program, which you recommended last year, to $14.9 billion for the program that you recommended this year.

Secretary RICHARDSON. Yes.

Senator BYRD. That is correct.

Secretary RICHARDSON. Yes.

Senator BYRD. Thank you, sir.

DISCREPANCY IN DEPARTMENT EMPLOYMENT FIGURES

Senator BYRD. I notice in regard to the number of employees, you have been able to make a reduction in the number of employees, and I certainly want to commend you and your associates for that but in what area were the reductions made mostly?

Secretary RICHARDSON. I would like to ask Mr. Cardwell to respond to that.

Mr. CARDWELL. I would like to clarify those figures, Senator Byrd.

I assume you are referring to the 117,000 figure shown for fiscal year 1968.

Senator BYRD. That is right.

Mr. CARDWELL. Contrasted with the 102,000 shown for fiscal year 1972.

Senator BYRD. Yes.

Mr. CARDWELL. The 117,000 represents the total number of positions that our department was authorized to employ for fiscal year 1968. Actual employment, though, has been running behind authorized strength as the result of a presidential policy, which began at the close of the last administration and has carried into this administration, which has attempted to hold end-of-year employment; 102,000 represents actual end-of-year employment projected for this fiscal year.

The difference would show up in just about every part of the department, ranging from the Social Security Administration, the largest employer in the department.

Senator BYRD. Are we talking about apples and oranges here?

Mr. CARDWELL. A little bit, I am afraid.

Senator BYRD. That is, the whole purpose of this discussion is, to try to get the apples separated from the oranges. If we are not dealing with comparable figures they are not very meaningful.

Mr. CARDWELL. The figure apparently was compiled by reviewing the past budgets, and that is what the budgets actually showed. I would be glad to give you a comparable end of year actual employment figure year in, year out and that would be a better figure for comparison.

Senator BYRD. I think it would, because if

we are using two different criteria we don't come up with very meaningful answers.

Mr. CARDWELL. Yes, sir.

* * * * *

Senator BYRD. Did you, in fact, reduce the number of employees or just not fill the vacancy.

Mr. CARDWELL. The latter.

Senator BYRD. In other words, you don't go to the full authorized strength.

Mr. CARDWELL. That is right, sir.

Senator BYRD. But actually you did not reduce the number of employees.

Mr. CARDWELL. Essentially that is correct, sir. There may be a few isolated instances where this policy forced reduction but as a general proposition, you are right.

INCREASE IN NUMBER OF DEPARTMENT EMPLOYEES NEEDED TO ADMINISTER H.R. 1

Senator TALMADGE. Will the Senator from Virginia yield at that point. Do I understand the answer to be that if H.R. 1 is passed you will reduce your Federal employees handling this act.

Mr. CARDWELL. No, sir; definitely not.

Senator TALMADGE. There would be a substantial increase.

Mr. CARDWELL. Yes, sir.

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Senator BYRD. Well, now, with a $77 billion budget that would mean that your department would have the largest budget of any department of Government, including Defense, would it not?

Secretary RICHARDSON. Yes.

* * * * *

Senator BYRD. Let me ask you this, what is the national debt now?

Secretary RICHARDSON. I have lost track. It is over $300 billion. (Laughter.) (Debt is $409 billion.)

Senator BYRD. As the Administrator of the largest department dollar wise in the Government, I am just interested in your philosophy, interested in your deep concern about the cost of Government. Let me ask you this question—what was the fiscal year just ended, what was the Federal funds deficit?

Secretary RICHARDSON. $23.3 billion.

Mr. VENEMAN. It is between $21 and $23 billion, there are diverse opinions.

Senator BYRD. Is that your guess?

Secretary RICHARDSON. I would say it is plus or minus $23 billion but we will get the exact figure.

Senator BYRD. It was $30 billion, and I will insert the figures in the record. What you are speaking of is the unified budget which takes the surplus from the trust funds in order to make the deficit appear less large.

Let me ask you this. What is the projected Federal funds deficit for the current fiscal year?

Secretary RICHARDSON. I don't know, Senator.

Senator BYRD. I will give you that figure. It is $30 billion. So under the administration's own figures, and I think you can say the projection is conservative, there will be a back-to-back Federal funds deficit of $60 billion. That has never occurred since the end of World War II.

Two records have been established. In fiscal 1971 the largest Federal funds deficit occurred. In fiscal 1972 a similar deficit will occur, which will establish two records.

ORDER OF BUSINESS

The PRESIDENT pro tempore. Under the previous order, the distinguished Senator from Connecticut is recognized for not to exceed 15 minutes.

(The remarks of Mr. RIBICOFF when he submitted Senate Resolution 180 and the ensuing colloquy are printed in the RECORD under "Submission of Resolutions.")

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will proceed to call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Under the previous order, the Senator from West Virginia is recognized for 15 minutes.

THE PRESIDENT'S VISIT TO MOSCOW

Mr. BYRD of West Virginia. Mr. President, the recent announcement by President Nixon that he will visit the Soviet Union next year, coming, as it did, hard on the heels of his proposed trip to Red China, has caused wide speculation as to the motives of the administration in scheduling these two historic events.

Extremists on one side are complaining bitterly that the President has seriously jeopardized American prestige in the eyes of the world by contemplating what they describe as "hat-in-hand" confrontations with the leaders of "our traditional enemies." Equally vocal are those who hail the visits as the beginning of a new era of international amity that, in their view, the United States should have spearheaded years ago. I am not privy to what the President specifically has in mind or to what he hopes to accomplish in Peking or Moscow, but as always, the application of objectivity and commonsense can help us reach a more intelligent conclusion than can unbridled emotion.

It has been said of President Nixon that he has an obsession to be first in the annals of the American Presidency to initiate policies and practices that go contrary to the domestic and foreign policies and practices traditional to the conduct of our highest office. There comes to mind also the extensive coverage given by our communications media to the famous "kitchen debate" between the then Vice President and Premier Khrushchev during Mr. Nixon's visit to Moscow in 1958. Then, as now, there were those who castigated the Vice President for what they described as petulance and dangerous rashness. To balance the criticism there were many who applauded Mr. Nixon's courage in standing up to Khrushchev and not allowing himself to be "pushed around."

Mr. President, I was not present on that well-known occasion and my experience over the years has taught me to be chary of making judgments when not in possession of the facts. Very recent experience has taught me even more tellingly that what one reads, sees, and hears via our news media is often at variance with what actually is. Nevertheless, I believe it behooves me, as a member of this distinguished body, to give serious thought to the implications to the United States of the President's impending trip to the capital of the Communist world.

A popular, though possibly apocryphal story, was told around the chancelleries of 19th century Europe. It concerned a British diplomat whose appointment as His Britannic Majesty's Ambassador to a European capital was imminent. A well-meaning colleague suggested to the ambassador-designate that the conduct of his responsibilities would be much enhanced were he to learn at least the rudiments of that country's language. "Good heavens, sir," replied the diplomat, "that is ridiculous. If these fellows want to talk to me, let them learn English."

Mr. President, such an attitude was possible in the halcyon days of the British Empire when a very considerable skill in the practice of world diplomacy had the backing of unlimited wealth and the Royal Navy. It is realistic to say that a similar attitude would have been even more possible in the United States in the last quarter-century, had we been so inclined. It is all too easy for the wealthy and the powerful to lapse into the practices of arrogance and intolerance. I have always been proud, Mr. President, that not even our most virulent critics have been able to accuse us of subjugating humanitarianism and concern for mankind to the flaunting of unrivalled wealth and international influence.

Surely in the history of mankind no nation has given of itself and its goods so open-handedly as has the United States since the end of World War II. It would be naive of me, Mr. President, to contend that we have not pursued a measure of self-interest; indeed, no nation can survive that does not. The law of self-survival, be it applied to a man or to a nation, is one that must never be forgotten. Unhappily, too often in the history of nations, survival has been concomitant with war. I like to think that the United States has the wisdom and the will to prove to the world that survival can be more fulfilling and more prosperous for a people when it is concomitant with peace.

No American President has actively sought war; some Presidents have been forced against their wishes to engage in war; all have had as their goal the creation of a nation and a world in which war has no place. Mr. President, it is my conviction that President Nixon differs not at all from his predecessors in his desire to help establish a lasting peace among men. It is further my belief that it is this desire that prompted his acceptance of the Soviet Union's invitation to visit Moscow in May of 1972. With that aim we can have no quarrel.

There is no question in my mind that were the President to return from Russia next year with a cast-iron assurance that there would be peace in the world for a hundred years, every Member of this body, Democrat or Republican, would pay him due tribute. But perhaps, Mr. President, this is, as Shakespeare wrote, "such stuff as dreams are made on." I cannot erase from my mind a news picture I saw when I was but a mere lad of 20. It showed a British Prime Minister of dignified and austere presence standing on the steps of an aeroplane ramp, triumphantly waving a piece of paper.

The caption to the picture was "Peace in our Time." One does not have to be a member of the distinguished Foreign Relations Committee or a professor of history to know just how worthless that piece of paper turned out to be. To my knowledge, the President of the United States does not carry an umbrella. To my further knowledge, he is a man who has been fired in many a searing crucible and is unlikely to be misled or cajoled by whatever ingenious diplomacy the Soviet leaders employ.

Nevertheless, Mr. President, I must own to a certain feeling of uneasiness that the recent peregrinations of the top leaders of the Soviet Government are not motivated by a desire to further the cause of freedom, but perhaps to seek out ways to widen the sphere of Communist influence as a hedge against events in the foreseeable future. Perhaps I am imbued with an overabundance of West Virginia caution, but I sincerely hope that the wooee will be constantly wary of the blandishments of the wooer.

Mr. President, I claim no expertise in the field of foreign affairs, nor do I regard myself as erudite in European history. But, as the philosopher of history, Hegel, wrote in the 18th century:

> What experience and history teach is this—that people and governments never have learned anything from history, or acted on principles deducted from it.

A cynical observation indeed, Mr. President, but down through the years, might it not have some validity? We are, by Old World standards, neophytes in the intricacies and machinations of international relations. We cannot number among our statesmen a Machiavelli, a Bismarck, or a Clemenceau. But against their fame—or notoriety—as masters of diplomatic intrigue, we can measure the invaluable qualities of commonsense, straightforwardness, courage, and a genuine desire for and willingness to work toward a lasting peace for the world.

Mr. President, I yield to no one in my fervent hope that the visit to Moscow will be the genesis of a new era of understanding and tolerance between the powers in whose hands the survival of mankind is placed. If it is possible to forge a mutually acceptable link between the ideologies of totalitarianism and Western democracy that will allow future generations to live in harmony, we should be eternally thankful that an American President was one who wielded the hammer.

The opportunities are great—as are the dangers. If we can foster the one while always being aware of the other, we shall indeed have taken a great step forward for mankind.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 5 minutes remaining.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum without prejudice to the Senator whose order for recognition follows mine.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Under the previous order, the Senator from Colorado is recognized for 15 minutes.

URBAN MASS TRANSPORTATION

Mr. ALLOTT. Mr. President, I have initiated this colloquy today to bring to the attention of the Senate a matter about which I feel very deeply. As Senators know, I have been active in the fight to provide a balanced transportation system throughout America.

A few short years ago, the Federal expenditures for urban mass transportation were under a hundred million dollars a year. This year the Federal Government expects to commit close to a billion dollars for urban transit. Thus, the UMTA program has come of age. This once small agency has grown and developed to the point where it has become the focal point of mass transportation development in the United States.

It is not surprising, therefore, that some saw in the enlargement of this program an opportunity to divert funds away from balanced transportation. I will take second place to no one in the advocacy and effort I have put forth toward the development of the world's greatest long-distance highway system. Indeed, the extension of the basic national interstate highway networks was one of the first projects in which I was engaged upon coming to the Senate in 1955. Since that time, as a member of the Appropriations Committee, I have always supported and will continue to support adequate funds for highways.

However, nearly everyone recognizes that highways are not the only answer to our transportation problems. Congress in 1964 put the Federal Government into the urban transportation business. In 1970 we greatly enlarged the Federal Government's role in this area. Since the beginning of our Federal program, the Urban Mass Transportation Administration, under several administrators of both political parties, has been scrupulously fair in administering these funds so that one mode of transportation was not favored over another.

Now we have written into law a certain provision, particularly with respect to the environment, which requires the Federal Government to play a role in the decisionmaking process when a mass transportation system is chosen in a community. I support this provision of the law.

Basically, however, UMTA has left the decisionmaking process where it belongs, at the local level.

Presently the entire Department of Transportation is under great pressure to adopt a national policy, either directly or indirectly, which would favor the highway mode over rail systems or new technology.

To be specific, some who are interested in the promotion of highways and who of late have encountered an adverse reaction to the placement of highways in urban areas, see an opportunity to force local communities to accept more highways if they can pressure the Department of Transportation into formulating a policy whereby buses running on exclusive bus lanes would be the prime means of urban transportation for which Federal funds would be made available.

Elements within and without the Department of Transportation have gone so far as to suggest that UMTA should fund no new rail or new technology systems beyond those which have already been committed. Others are suggesting that the presumed mode of transportation should be buses on freeways. Any community desiring a rail system or new technology operation would have to make such elaborate justification for their application that the practical result would be to discourage all but the most persistent applicants.

My purpose in bringing this matter to the attention of the Senate today is to restate what I know is the position of a majority of the Senators in this body. We want the policy which UMTA has followed up to this point continued. We want local communities to be able to make their own decisions unless there are overriding environmental considerations—and that goes whether it is New York City or Chicago or Lamar, Colo., or any other small community in this Nation. It goes for each and every community in this Nation.

Senators know the Federal bureaucracy as well as I do. The Department of Transportation need not formalize a policy favoring busways. It would simply have to do what has been done with other urban programs to encourage cities to apply for funds for projects being promoted by the Federal Government rather than those most desired by the communities. The word would be passed through channels that the Federal Government would process an application for funds for busways much more readily and speedily than it would an application for another kind of system. This sort of suggestion is all that would be needed to discourage cities, always pressed for funds, from adopting a system other than buses.

I want to state here and now that I for one, as a member of the Transportation Appropriations Subcommittee, will not favor appropriations for the Urban Mass Transportation Administration unless cities are able to choose systems they desire without coercion from the Federal Government. I repeat, the environmental question, which is a part of our 1970 act, should be a major factor in Federal participation. The Federal Government must consider other factors such as technical feasibility. But on the whole the decision must remain at the local and State level.

If Denver desires a rail system, and it presents a feasible plan, Denver ought to be entitled to the funds to build that system. If, as we progress down the line a few years from now, other technologies become technically and economically feasible, cities ought to have the right to seek funds for these systems.

So, Mr. President, I feel the time has come to lay the cards on the table. I intend, as one Senator at least, to fight for "balanced transportation." Virtually every person who has spoken on the sub-

ject has used that cliche. My efforts will be directed toward making this phrase a continuing reality.

Mr. President, I would like to say, with respect to this entire matter, I think everyone recognizes that we in the Senate have written specific limitations or guide lines into a statute only to have the will of the Congress redirected because of the prejudices or predispositions of people in the Federal Government. I would not want my statement to be taken just as a statement against buses on bus lanes. Far from it. But I have seen, in these past months, an attempt to put upon UMTA pressure which would, in effect, cause them to place more emphasis and perhaps more speedy consideration on bus lanes than upon a rail transportation system.

I have been working on this matter for many years. When I think of the phenomenal growth which is occurring in the great megalopolises in the East, from Boston down to Richmond and perhaps beyond; in the great Chicago-Detroit-Cleveland area, and on up to Minneapolis; in the extreme Northwest, the Seattle-Portland area; in the California-San Francisco-Los Angeles-San Diego area; and when I see it developing even in a State which is relatively sparsely populated, such as the State of Colorado, from Fort Collins down to Walsenburg, then I know that we face real problems in this country which will have to be solved by mass transportation.

I consider an adequate, balanced mass transportation system an essential ingredient of the solution of many of our urban problems, including joblessness, good living conditions, good homes, in other words making the city a reasonable and good place to live in once more.

To do this, we have to utilize all modes of transportation available. It is no secret, for example, that railroads, as a matter of economy—and I think justifiably so, they would not be representing their stockholders if they did not—have started, instead of bringing their goods into the core of a city where space is extremely limited and where they then have to fan out through congested highway and street systems, carrying on this work in warehouses and depots on the peripheries of the big cities.

I want to pose the question of what will happen in the next 20 years, if this trend continues—and I do not necessarily decry the trend because it makes for a better economical pattern for the railroads—if the rail corridors into the cities are abandoned?

In my opinion—and I want to make it very clear—the rail corridors constitute one of the most valuable assets America has, because we will never be able to move people into the cores of cities without using the rail corridors either as a means of rail transportation or, perhaps, if we develop a new technology—and I am thinking particularly in terms of the air-cushion vehicle—then, in that event, if these corridors are abandoned, we will not be able to think of moving people and moving them directly into the core of the city.

We have to stop thinking in terms of moving vehicles and start thinking in terms of moving people.

When we have the kind of limitation prohighway people are talking about, for example, in favor of buses, it is obvious that we will promote severe problems.

There are very, very great developments going on in the field of transportation. Those who have studied it have had an opportunity, for example, to view the tracked air-cushion vehicle, now being operated in France, not as a commercial enterprise at the moment but still experimental, which covers some 17 kilometers for the air-cushion vehicle.

Located in East Pueblo, Colo., is the new center for the development of research on urban mass transit, high speed rail and tracked air cushion vehicles. Included at the center is the new linear induction motor which has already operated successfully with respect to rail tracked vehicles. If the money is available by next spring, we should be able to start next year testing a tracked air cushion vehicle of our own, powered by the LIM, which has no moving parts and, theoretically, is capable of extremely high speeds, as high as we shall probably ever use in this country. If the prohighway groups prevail, this kind of essential work may as well not be done. With the evolvement of megapolis, even these higher speed vehicles may be of use in urban areas.

Mr. President, in conjunction with this, we should perhaps recall our air lanes, despite a falloff in air traffic, are tremendously overloaded in this country, particularly in certain areas of the country. Rail rapid transit can provide a vital link to our airports. The traffic is there.

In view of the things I see ahead and in view of the crammed condition of our highways and airways and the possibility that in the near future we will have vehicles, maybe of the tracked air variety, maybe of conventional rail capable of traveling and transporting people at high speeds, it would be the greatest disaster that could befall this country in its long-term social and economic development if, through some means, pressure could be brought to bear to confine the establishment of transportation systems just to one type—buses on urban freeways.

It is for that reason that I have taken the floor this morning to try to put this matter again in perspective, because I feel confident that the great majority—in fact, I would suspect nearly everyone in the Senate—feels the same as I do about this. We want to keep our entire urban mass transportation program and administration on the even keel that it has been on so far.

Mr. President, the Senator from New Jersey (Mr. CASE) was going to speak on this subject this morning. I approve of the statement he would have made. However, since the Senator from New Jersey is in a committee and cannot be on the floor at this moment, I ask unanimous consent that a press release which he had prepared be printed in the RECORD.

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

PRESS RELEASE

Senator Clifford P. Case today urged the Secretary of Transportation to reject policy recommendations that would discourage construction of rail transit systems in urban areas which presently have none.

In a letter to Transportation Secretary John Volpe, Senator Case noted that under the proposed policy, federal highway and mass transit funds would be combined to emphasize transportation by bus.

"I urge you to reject the advice of those who would discourage cities from embarking on new rail transit projects," said Senator Case. "Rather, I hope you will give full backing to the rail transit program which can mean so much to our cities and the thousands upon thousands of people who live there."

Senator Case is ranking Republican on the Senate Transportation Appropriations Subcommittee which has jurisdiction over the Transportation Department budget, including highways and mass transit.

The text of Senator Case's letter follows:

Hon. JOHN A. VOLPE,
Secretary of Transportation,
Department of Transportation,
Washington, D.C.

DEAR MR. SECRETARY: I am most disturbed over reports that the Department of Transportation is considering a policy of discouraging new rail rapid transit systems under the Urban Mass Transportation program.

According to the reports which have come to my attention, you are being urged to announce such a policy. It would apply to all cities which do not have rail transit systems in existence or under construction.

The proposed policy would combine federal highway and mass transit funds to increase transportation by bus. Under this approach emphasis would be placed on providing additional highway lanes for the exclusive use of buses and carpools.

In reflecting on this proposal, one is led to wonder why we cannot profit from past mistakes. For I believe there is general agreement that our present urban transportation tangle is the result of too much investment in highways and to little in rail transit.

We must get away from dependence on the motor vehicle—principally the car—with all the social penalties of congestion and pollution that go with it. We can do so by providing attractive alternatives. Rail transit is such an alternative.

Of course it is not the only alternative. We can and should be flexible in dealing with the transportation needs of different urban and suburban areas. In one area buses may offer the most effective means for moving large numbers of people. In another area it may take a combination of buses, trains and perhaps even ferry boats.

The standard we should apply is to give each area a choice as to the mode, or combination of modes, that will best serve its needs. The mass transit program allows its funds to be used for trains, trolleys, buses, and ferries. The decision is left largely to local government, as I believe it should be.

Regrettably, the mass transit program has been allocated pennies in comparison to the huge amounts poured into highways. The 1964 mass transit law, the start of the program, was funded at $175 million a year. Consequently, its chief usefulness was in rescuing and improving ailing bus lines.

The 1970 mass transit act is more realistically funded, capable of providing $3 billion over a five-year period.

Under the new, expanded program it will be possible to assist a number of areas in the expensive job of building rail rapid transit lines. Already more than a dozen large cities, responding to the expanded program, have rail transit systems in the works or under consideration.

The system developed in these cities will be models for other cities considering rail transit as a component of their public transportation systems. We appear to be moving toward rail transit as a principal means of commutation in our metropolitan areas. This is a constructive trend that ought to be encouraged.

Certainly that was the intent of Congress when it decided to assist mass transit on a multi-modal basis. Any change in that policy should not be made without the approval of Congress.

I urge you to reject the advice of those who would discourage cities from embarking on new rail transit projects. Rather, I hope you will give full backing to the rail transit program which can mean so much to our cities and the thousands upon thousands of people who live there.

Knowing of the broad approach you have taken to the development of the nation's transportation system, I cannot conceive that you would accept any proposal that deprives the public of such an effective means of transportation as rail transit. I hope it will be helpful to have support from outside the Department on this vital matter.

With best wishes,

Sincerely,

CLIFFORD P. CASE,
U.S. Senator.

ORDER OF BUSINESS

Mr. GAMBRELL. Mr. President, under the previous order, the Senator from Florida is recognized for 15 minutes.

(The remarks of Mr. CHILES when he submitted S. Res. 181 are printed in the RECORD under Submission of Resolutions.)

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum with no time being taken from the time of the next speaker.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senator from New York is recognized for not to exceed 15 minutes.

Mr. JAVITS. Mr. President, for the information of attaches, I shall not take more than 10 minutes. I will ask for a quorum call when I have concluded my remarks.

SENATE ADVICE AND CONSENT ON SUPREME COURT NOMINEES

Mr. JAVITS. Mr. President, I felt it my duty insofar as I could be of use to my colleagues and to the President to try to crystallize in my own mind the question of my own responsibility as a U.S. Senator from New York in voting on nominees by the President for the Supreme Court. I have arrived at a set of criteria which I believe I need to apply, and as this determination represents the acceptance of one of the two points of view which were available on the subject, I thought it would be useful, as these appointments are imminent, to spread them on the record in the Senate.

These observations emphasize the seriousness of the responsibilty of the Senate. Therefore, as there are two vacancies now, and others probably will occur during President Nixon's administration, which could completely change the character of the Court—indeed, it has already changed—I deem it appropriate now to state as clearly as I can the criteria which I feel, as a Senator, I need to apply in considering these nominations, and those which may follow; and I urge my colleagues to consider most carefully these criteria, for what we do in this matter will affect the course of our Republic for years to come—indeed, as I have said, for decades.

THE ROLE OF THE SENATE—A FULL PARTNER IN THE APPOINTIVE PROCESS

I have heard it said that the Senate ought to confirm a nominee unless we find the nominee either lacking in integrity or basically incompetent, and that otherwise the choice is for the President. I thoroughly disagree, for both historical and practical reasons.

Historical bases for coequal powers: The Constitutional Convention never treated the presidential appointive power as obvious or inevitable. In point of fact, the debates in the Constitutional Convention show that the original motion, agreed to twice by rollcall votes on June 13 and July 21, 1787, provided that Justices of the Supreme Court would be appointed by the Senate, without any participation by the President at all. The provision ultimately adopted—combining Presidential nomination with Senate advice and consent—was a compromise from the earlier position. But it was a compromise—not a capitulation—and the Senate's full functions in the process were never abandoned, though at times in our history they have seemed to atrophy.

The current logic of Senate participation: Whatever may be the traditions of the Senate when it comes to advice and consent to the appointment of Cabinet and similar officials, judicial appointments especially those to the U.S. Supreme Court, are altogether different in kind. I have been quite prepared to vote to confirm, subject to substantiality and integrity, presidential nominations of Cabinet or similar officials chosen by the President precisely because these appointees are loyal to the President, share his views, and will work with him, and for him.

But I do not apply that view to Supreme Court Justices. The Court is an independent coordinate branch of the Government. Its Justices are appointed not for the duration of any administration or a limited term of years but for life.

Quite different standards are applicable, and the criteria which I feel need to be applied are different, and I wish to specify them, for the reasons I have stated.

CRITERIA FOR ADVICE AND CONSENT TO NOMINATIONS FOR THE SUPREME COURT

These then are my criteria. The nominee, to deserve confirmation, should have:

First. An abiding love of freedom and human dignity and justice, and deep faith in and respect for the people.

Second. A high level of professional competence and technical craftsmanship as a lawyer, and personal integrity worthy of the Supreme Court.

Third. High intellectual quality, with the capacity to understand complex sociological issues, and the ability to see those issues within the framework of broader social, economic, and governmental concerns.

Fourth. Objectivity on the great national questions which are before, or likely to come before, the Court, combined with a sure understanding of the governmental imperatives embodied in our Constitution and the place of the Supreme Court in a government with an independent judiciary.

Fifth. An understanding of the Constitutional limits upon the powers of the executive and legislative branches and of the State, particularly with respect to the individual's rights, and importantly also, with respect to the individual rights of the weak, the unpopular, and minorities.

Sixth. An understanding of the constitutional limits upon the judicial power also, with respect for the authority of the other branches of government—particularly as Supreme Court Justices are not subject to removal through the political process. They could be impeached, but that has never happened in our history, and I hope it will never happen. Hence, respect for the powers of the Congress and the powers of the Executive in the highest tribunal of the judiciary is critically important. We do not want any kind of tyrants, including judicial tyrants.

In short, these criteria do not ask the nominee to be either liberal or conservative. They deal not with his ideology but with his ability, judicial temperament, discernment, and understanding.

I have confidence that the Senate would consider any nominee on his individual merits, without regard to regionalism and other extraneous factors.

The battles over the Haynsworth and Carswell nominations need not and should not be repeated—but they cannot be avoided if the nominees fall short of such standards and the Senate meets its constitutional responsibilities, some of which I have set forth, and undoubtedly other Senators have theirs.

I think we have a right to call upon the President to choose nominees who satisfy these criteria; and the Senate must reserve the right to make its own assessment of how they are met.

I have taken this occasion to state these views—and my commitment—in detail so that I shall have given clear notice of how I intend to proceed. And I hope very much that these views may be shared by others of us here in the Senate, who face such a solemn responsibility under the Constitution, in the

matter of confirmation of nominations to the Supreme Court.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. 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.

LIMITATION ON STATEMENTS DURING THE TRANSACTION OF ROUTINE MORNING BUSINESS

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

PRESIDENT NIXON'S STYLE

Mr. GRIFFIN. Mr. President, a recent issue of the Washington Post carries an informative and revealing article about President Nixon. I ask unanimous consent that the article, written by William Safire of the White House staff, be printed in the RECORD.

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

[From the Washington Post, Oct. 3, 1971]

NIXON'S WAY: A VIEW FROM WITHIN

(By William Safire)

"The style," wrote the French philosopher Buffon, "is the man himself." But in a world grown suspicious of images and postures, the style is no longer the man; it is seen instead as a mask concealing the underlying character. Style, as it used to be known, is no longer stylish.

Back in the Kennedy days, one long war ago, elegance, charm, grace and wit were qualities that captivated some and irritated others, but gave his presidency a reputation for "style."

Unfortunately, as that word came to connote an antonym for substance, it became fashionable to denigrate all manifestations of style in leadership and to equate virtue with a grey solemnity. This was symbolized by the portrait the Kennedy family chose to represent JFK in the White House—eyes cast down, arms crossed in thought, colors muted, profile lowered.

Each man, of course, does have his own style: his inward style in the way he operates, and his outward style, in the way he expresses himself. In these senses, style is neither substance nor character, but it can be a means to achieving substance and it is certainly a key to character.

What is the Nixon style? Is there a pattern to his method of operation, to his language, his public posture? Are the inner and outward elements of style consistent, and do they help reveal the man?

Let's look at them.

THE INNER STYLE

There was a song that Fats Waller made famous in 1939 called "'Taint whatcha do (it's the way thatcha do it.)" Its message—Wallerism, to those in favor of it, Fatsism to those opposed—is central to American political science today:

The degree of difference about "what to do" is relating small between parties and ideologies, but the difference is often considerable in the way it should be done, and that difference is magnified to establish political identity.

For that reason, the crucial three words in the Nixon lexicon are the frequently used "in a way."

The President and his critics agree that America should end its involvement in Vietnam—but the President adds "in a way that will ensure the return of our prisoners of war and will give the South Vietnamese a chance to prevent a Communist takeover."

The President and his critics agree that stringent action is needed now to curb inflation—and the President would add in a way that permits a return as early as possible to free markets and free collective bargaining.

The President and his critics agree that welfare must be reformed to give the dependent and the handicapped a standard nationwide floor under their incomes, and the President adds in a way that will never "make it more profitable for an able-bodied man not to work than to work."

The President and his critics agree that the rights of the accused must be protected—but the President adds in a way that does not overlook the rights of the victims of crime. To show that "in a way" is by no means exclusive to the President, others might say: "Crime must be curbed in a way that does not subvert the rights of the accused."

Similarly, segregation should be ended in a way that does not harm the process of education; dissent should be protected in a way that does not permit policy to be decided in the streets; the cities should be rebuilt in a way that enables local people to make their own decisions; and the nation must exercise its power in the world in a way that does not drain the self-reliance of our friends.

"In a way," of course, is a modifier and a complicator oddily, it often bothers people who are quickest to denounce sloganeering and oversimplification, who have the intellectual capacity to understand "yes, but," "on the other hand," and "at the same time," but who feel an acknowledgement of complexity somehow undermines commitment.

However, the common goals have the modifiers built in: prosperity without war; stability without stagnation; liberty without license; order without repression. Not even the coinage of new phrases does away with the other side of the coin.

That is where the style—the "way" goals are approached—becomes part of the substance, the means part of the ends. We must always calibrate the problems created by our solutions. Minor example: By Herculean effort against bureaucratic inertia, the President removed the eyesore of "temporary" buildings plaguing the Mall in Washington for over 50 years. Big sigh of relief, interrupted by the thought: What do we do with the Mall? Open space? Recreation area? Modern Tivoli Gardens? A good solution raises problems smaller than those it solves.

To update Mr. Waller, *"Tisnt* what you do, but the *way* thatcha do it determines whatcha gonna have to do *next."*

This interlock between present and future, the merger of means with ends, is basic to the Nixon inner style. It seeks to solve today's problems in a way that does not create bigger new problems for tomorrow.

The Nixon style, my thesis goes, is uniquely equipped for today's American scene. That is because of the Grand Paradox that exists in the minds of most Americans today:

Most Americans want to eliminate poverty, wipe out hunger, help the poor and dependent and handicapped, provide more for the aged and the ill.

The paradox is this: Those same Americans wish Big Government would get out of their lives. The growth of government has made then feel like cogs in a relentless machine; they know it has bitten into their income and stolen some of their individuality.

We want to do more for our poor and sick and aged, but we want to do more *in a way* that lets the individual citizen keep control of his own life. At one and the same time, most of us want more security and more independence; we resist trading one off for the other.

The startling thing about this unreasonable combination of desires is that they are not necessarily contradictory. There is a way to have our cake and let 'em eat it, too.

Too often, students of the Nixon style wind up on the shoals of decentralization. If this is used as a key to understanding, it will open the door to endless confusion. For example, revenue sharing obviously decentralizes power; but "workfare," with its federal floor under every dependent family's income, does the opposite.

There is no doubt that redirecting the flow of power—decentralization—is preferred by the Nixon men, but it is not an end in itself. When other means are better in terms of delivering services without stifling individuality or freedom, they will be used—and if it be centralization, make the most of it.

The diffusion of power after decades of concentration in Washington is a necessary tool in rebuilding the individual citizen's control of his own life, but it is not the root of the Nixon style—it remains the preferred means to national goals, and only that. The Nixon style calls for the transferrence of power to localities, but its transfer *in a way* that ensures its use for social benefit, striking a new balance between national conscience and local participation, between the needs of society and the rights of the individual.

ELEMENTS OF THE INNER STYLE

The key word in the Nixon style is "share"—the sharing of power, the sharing of responsibility, the sharing of money raised from the public.

On the international scene, the Nixon Doctrine is based on a new insistence that others share the burden of common defense and share a willingness to compete fairly; on the domestic side, the basic element to the Nixon style is to share money—and the decisions on how that money is to be used—with state and local leadership.

Stylistically, this does not lend itself to the drama of "the leader of the free world" nor to the appeal of a powerful central government redistributing the nation's wealth. The necessity of sharing invokes a far more subtle form of leadership—there is more zing in "follow me" than there is in "let's work this out together"—but the people of this nation and the nations of the world are not about to follow a leader today who is not prepared to work things out together.

Here are some of the basic characteristics of the Nixon style, or method of operation:

A preference for persuasion rather than coercion. This restrained use of federal power, as shown in school desegregation, is not to be confused with a halfhearted use of power—when the power is applied, it is applied with its full weight up to a certain point, and then not applied at all.

An identification with heartland qualities, leaning unabashedly toward the square side.

A frustrating assumption of opposition issues, which could be called responsive government or a preemptive political strike.

A steady pace, as in troop withdrawals, that does not set the world on fire. (But as the President told an aide about a low-key foreign affairs speech, "the whole point is not to set the world on fire.")

The occasional bold stroke, as in Cambodia, or the China announcement, or the new economic policy, made doubly dramatic against the backdrop of the steadiness of pace.

A preoccupation with managerial efficiency, despite the President's admonition to his staff that "nobody is going to remember an administration that manages things 10 per cent better."

Emphasis on the national interest over the special interest, despite the tendency of the past 40 years to form coalitions of special interests for elective success.

A long view of our role in the world, which requires a breaking of the long-established link between leadership and paternalism.

Each of the inward, or operational, elements of the Nixon style—or any style, for that matter—offers a target for criticism. The preference for persuasion could be termed foot-dragging, the heartland identification crass, the assumption of issues opportunistic, the steadiness obstinate, the bold stroke impulsive, the managerial preoccupation cold, the concern for the national interest unresponsive to minorities, the long view inflexible. Each of these critical characterizations, gleefully embellished, is the normal product of partisanship.

Fortunately for its political preservation, another part of the Nixon inner style is to react to partisan criticism in a spirited way, taking the offensive, attacking the attackers. This is perhaps the most familiar and least appreciated element of the Nixon style.

THE OUTWARD STYLE: LANGUAGE

Only partially by force of habit, this analysis is structured in Nixon style. In the first few paragraphs, a challengeable statement ("the style is the man himself") was followed by a lesson from the past ("one long war ago") with its changed symbol (the JFK portrait), which led to a challenge to the original statement ("style is neither substance nor character, but—") and then the internal dialogue: ("What is the Nixon style?"). The inner and outward elements of style were then identified, and here we are examining the latter.

Such a style, better suited to the spoken than the written word, marches rather than meanders. Logical, rational, and easy for a listener to follow, it telegraphs part of what is coming ("there are six great goals") so that the listener-viewer knows where he is in the speech and is carried comfortably along.

A series of points leading to a conclusion provides a discipline that sets aside the irrelevant or tangential. The thought process underlying language aimed at the ear is different from the structure of an article intended to be read, for the ear cannot skip back. Though it takes longer to simplify and refine, the style is open to criticism as "simplistic" to those who only read the text.

Moreover, the structured outline fits a man who prefers to work without a text, offering the freedom to ad lib without rambling away from the point. When Richard Nixon rises to offer a toast at a state dinner, speaks extemporaneously to a group in the Rose Garden, or delivers a graveside eulogy, he will not stand behind the barrier of a sheaf of papers. The reason why his remarks on all those occasions have a shape and purpose is that he has organized them in outline in his mind; you don't hear critics complain about Nixon syntax.

The room to maneuver that this kind of discipline provides was illustrated early in his presidency, on arrival at the airport in Paris during his first European trip. He was prepared to read a carefully crafted formal statement, but when Charles de Gaulle delivered his welcome without benefit of notes, the American President put his speech in his pocket and proceeded to do the same. Afterward, when this writer remarked to de Gaulle about the French president's ability to extemporize, de Gaulle replied: "I always write it out and memorize it. Churchill used to, too, but he never admitted it. Your President does not memorize all the words, but he remembers what he wants to say." (The President's cryptic explanation of his memory: "When I was a boy, I studied the violin.")

The logical outline helps keep Nixon speeches short. His favorite prepared-text length is 1,500 words, about 12 minutes, giving him room to extemporize another 500 words or so. The China announcement was an almost telegraphic 390 words.

He likes to use analogy and metaphor—telling a story, though not a joke, to make a point. Billy Graham is today's master of this, using clippings from current newspapers to make his message relevant. ("And why do you suppose an old hymn, 'Amazing Grace,' made the top of the list of songs played by teenagers? Do you know it was written 200 years ago by a former slave trader, who came to hate the moral degradation of slavery?"). Lincoln made it his stock in trade, and the "chin fly" story about ambition—which evolved into the "presidential bug"—comes to mind, along with FDR's analogy of lending a garden hose to a neighbor whose house is on fire to justify lend-lease. John F. Kennedy had a nice feel for metaphor ("we have tossed our cap over the wall of space"), as did Winston Churchill ("some chicken").

The Nixon style uses a telling story of historical footnote to vividly illustrate a message. ("At his Inaugural, Woodrow Wilson saw a crowd far away behind a barrier and whispered to the chief of police, 'Let the people come forward.' Of all the eloquent things he said that day, nothing else more clearly showed his philosophy, because in deeper sense. . . ."). In every important speech he has made in his life, the peroration contains a story of a mental picture, from the Guildhall speech in London in 1959 quoting William Pitt on the power of example, to the child listening to the railroad whistle in the 1968 Miami convention acceptance speech.

Analogy, anecdote and metaphor dramatize and popularize a style. When the President tells overworked judges at a judicial conference that men of the law "go home at night feeling as if they have been brushing back a flood with a broom," he makes contact with the audience in the room. Nixon style addresses itself to the people right there, and does not deliberately talk over their heads to the audience beyond. Of course he knows a far larger audience is often watching, but normally he speaks to the people he can see.

QUOTES AND POINTERS

Another element of style in language is the balanced line. Contrapuntal construction is at once the most obvious and most quotable of rhythmic techniques. Sam Rayburn on Truman: "Right on all the big things, wrong on most of the little ones." FDR in his Four Freedoms speech: "As men do not live by bread alone, they do not fight by armaments alone." Kennedy went for this device in a big way: "Let us never negotiate out of fear, but let us never fear to negotiate," and "ask not what your country can do for you, ask what you can do for your country."

This is the deliberate "writing of a quote," and President Nixon uses it sparingly. In 1966, writing about the comparison between Wilson's "men of thought and men of action," Nixon constructed this line: "The man of thought who will not act is ineffective; the man of action who will not think is dangerous." Although the device has its illustrious sponsors among speechwriters—Sorensen, in particular—it is a little too obvious a reach for quotability, and the President ordinarily shies away from it. However, he did use it naturally in an instruction to this writer, who was editing his Aug. 15 draft at Camp David: "Keep it short—when you have a lot to say, you don't have to say a lot."

The most parodied element of the Nixon style in discourse is what speechwriters call the pointer phrase: "Let me make one thing perfectly clear." Though he no longer uses that particular assortment of words, he will continue to alert the listener to what he wants to emphasize before he says it. "Let me be quite blunt," "Make no mistake about it," "My point is this." This is rarely in the prepared text, and is added in delivery as it comes naturally.

The point about pointer phrases is this: They concentrate the attention of the listener on the essential conclusion before it happens, they are invaluable aids to cameramen trying to save money on footage, and they force a speaker to a succinct summation. By providing an aural signal, they help make a position—pardon the expression—perfectly clear.

The most difficult part of any style is the ability to inspire. A speech can impart information succinctly, it can marshal arguments persuasively, but if it does not inspire hope or confidence or determination, it misses. A speech is not a position paper; it is an affirmative, personal act, and its purpose is to communicate with the spirit of the person sharing the experience.

"If I hear 'lift of a driving dream' once more," growled a network commentator after a Nixon address not long ago, "I'm going to jump off the Tallahatchee bridge." The commentator will hear that phrase and others like it again (and he has been reminded of his solemn pledge—an advance man has already scouted the bridge) because buoyancy, idealism, faith in the future are integral parts of the Nixon style. If a President does not have those, who else will?

Cynicism is a snap to express compared to idealism. "Glittering generalities" was a phrase coined by Rufus Choate to describe the highest rhetorical reaches in the Declaration of Independence, and the threat of a withering putdown has caused many an idealist to shrink from revealing his dreams in public. When a President hopes that "the better angels of our nature" will "touch the mystic chords of memory" so as to "swell the chorus of the Union"—imagine trying to get away with a metaphor about a celestial harp at the brink of civil war—the skeptical laughter rings out. But it soon dies, and the hopes—especially those felicitously phrased—live on.

And so, despite a tide of skepticism and the ease of mockery, the Nixon style stresses "what's right with America," the virtues of character and the work ethic, the need to explore the unknown, the dream of restoring our environment, the vision of a full generation of peace.

Does this style inspire everyone? Of course not; with many people, the Nixon style fails as dismally as did the Wilson style. But it does reach quite a few, especially those who are exposed to the entire event and not the version limited to the newsworthy excerpts. In his extemporaneous remarks to the Bicentennial Commission in 1969, in his speech at Kansas State, in his talks at the White House Conference on Food and at the Wilson International Center for Scholars, the evocation of ideals came through powerfully and at times eloquently. For a variety of reasons, these words were not heard by the people who ask, "Why doesn't he ever try to bring out the best in us?"

This idealistic aspect of the Nixon style turns some listeners toward goals greater than themselves, and turns others toward thoughts of jumping off bridges. That's what makes political horseraces.

FITTING AND PROPER

He doesn't wear funny hats. The only time he was pictured dancing was at his daughter's wedding. You won't see a "beefcake" photo of him on a beach in a swarm of admirers. He doesn't break out the bourbon at 5 o'clock and invite a bunch of the boys in for what is called in Washington "striking a blow for freedom."

When an essentially undignified man strikes a dignified pose, the pretension shows through like potmetal through cheap silverplate. If Richard Nixon were putting on an act, he would be ridiculed out of public life; the fact that not even his severest critics dispute the reality of his sense of dignity says something about the Nixon style and about the desire of most Americans for presidential decorum. We capitalize the "p" in President for good reason.

Part of the expression of the Nixon style is an impression of dignity; fortunately for the office and for him, it is rooted in the man's inherent sense of propriety. This is no unalloyed virtue, since the tradeoff that must come with meeting the average American's demand for presidential dignity is the offense given to the same American's aversion to aloofness. In other words, where does dignity end and stiffness or isolation begin?

Once in a great while, a President emerges who projects the contradictory qualities of dignity and warmth—Eisenhower was one—and his style centers on that unique combination. Mr. Nixon is a warm and considerate human being to those he lets get to know him, but he knows full well that his public image is nothing of the sort. Consequently, he remains in character and presses his strengths, which in this case are (a) his own dignity; (b) his understanding of the dignity of the presidency; and (c) the public approval of a style that never demeans the highest office.

I remember being called off the beach at Key Biscayne to meet with the President-elect in December of 1968. I had met with him in the same beachfront cottage a half dozen times before the election, wearing a bathing suit. On the way over, it occurred to me I ought to wear a coat and tie, so I changed; so did three other men, arriving at the same judgment independently. This is hardly a major example of the contagion of decorum, but because he treats the office with respect, others do.

He has a good sense of what is fitting. On visits abroad, there has been a tradition for as long as protocol people can remember of Presidents presenting signed autographs of themselves to dignitaries they visit. On his first trip, the President went along at the beginning, then balked at the obvious pretension. Choosing his words carefully, he informed his staff that the next time anybody handed him a picture of himself to present in public, he would take that picture and wrap it around the neck of the man who handed it to him. With some relish, he pantomimed the act of rejection, and the message got through.

A sense of dignity includes an ability to draw the line against pomposity, protocol to the contrary.

SURPRISING GRACE

The Nixon style is not expected to be graceful. When the President's public appearances turn out to be graceful—as they almost invariably do—they are doubly effective because the audience expects less.

One White House correspondent listened to the President deliver an amusing and disarming talk at a reporters' dinner. (The warm-up line was, "The Attorney General told me not to worry about the microphone, but to speak directly into the saltshaker.") The reporter observed: "We know he handles himself well at these affairs, and always has. So why are we surprised every time? Why is it always such a revelation?"

In a similar vein, diplomats tell the story of Nixon style in action at a small dinner held at 10 Downing Street on the President's first trip to Europe. The British leaders were considerably embarrassed at their appointment of New Statesman editor John Freeman, a longtime Nixon critic, to be the new ambassador to Washington—the appointment had been made long before Harold Wilson considered the possibility of Nixon's becoming President. The atmosphere at the dinner was tense and awkward, until the President proposed a toast that stepped up to the problem and resolved it in a nice turn of phrase: "We can let bygones be bygones. After all, now he's the new diplomat—and, I'm the new statesman." This was greeted with smiles, stomping of feet, "hear-hears" and a sense of relief. And the way was opened for Freeman to become an effective envoy. Prime Minister Wilson scribbled a note to Mr. Nixon on the back of a menu that reflected his pleasure at dealing with a man "born a gentleman."

Because the assumption that the President is "no good at small talk" is so widespread, he will keep his advantage of surprise. (Helping it along: An old friend came out of the Oval Office and gaily reported "a successful session—three 'well, nows,' two long deep 'fines' and a 'how about that!'.") The President is in a far better position than someone reputed to be "very good at small talk" and thereby sure to disappoint; the surprising gracefulness is an effective part of the Nixon style.

THE DR. FELL SYNDROME

"I do not like thee Dr. Fell, the reason why I cannot tell . . ." There is something about the Nixon style that turns some people off; it can best be studied in the attitude of those Fellites who agree with most of his policies. There the Dr. Fell syndrome is pure, unsullied by partisan differences. His strangest political problem comes from people who like what he stands for but can't stand the way he stands.

To them, he appears to do the right thing for the wrong reasons. He is not reforming welfare because of his compassion for the poor, he only wants to get them on to payrolls. He has not withdrawn more than 300,000 men from Vietnam because he wants to, he only disengages because popular opinion forces him to. He has not tripled the arts and humanities budget because of any personal commitment to culture, only because it neutralizes some articulate opposition. And so on. The motives of the man who prosecuted Hiss, who made the Checkers speech, who ran against Kennedy—the motives of such a man must be suspect.

Their perception of his style is that of pious opportunism. They resent his heartland following, and are doubly infuriated at the need for such support to accomplish the ends they seek—they would much prefer all their bedfellows to wear white hats. As Dr. Leon Festinger's Theory of Cognitive Dissonance holds, this results in a form of mental torture, requiring a change of attitude toward either the goals or the political allies. The source of this torture is the Nixon style, and the more they agree with him, the less they like it.

Another cause of the Dr. Fell Syndrome is the feeling that the Nixon style zig-zags, doing something pleasing to conservatives one day, to liberals the next. Worse still, it cloaks progressive moves in the Middle American rhetoric, fuzzing up ideological differences and denying purists a long day in the sun.

A case could be made that this is the way America is best governed. An even better case could be made that the old liberal-conservative spectrum no longer reflects political reality in America, and that the Nixon style adapts well to the odd coupling of national conscience with local responsibility.

The real Dr. Fell, a 17th century English divine, was able to maintain Church of England services despite Cromwell, and was made dean of Christ Church after the Restoration. Though he was generally acknowledged to be a man of courage, rectitude and vision, some people just couldn't warm up to him. He is not without his spiritual descendants.

UNITAS OR NAMATH?

To examine the Nixon style, we have taken it apart; in practice, of course, the elements of any style never exist in laboratory isolation. Looking at the style in its totality, these are its main characteristics:

It is the style of a strong President, an activist, willing to be controversial. More Adams than Washington, more Cleveland than McKinley, more FDR than Eisenhower. (Founding fathers and recent Presidents aside, the Nixon presidential heroes are Jackson, Lincoln, Cleveland, Theodore Roosevelt, and Wilson—each highly controversial, each of whom made a difference in his time.)

It is the style of a longheaded individual who admired the reach for greatness and identification with a national spirit of de Gaulle and Churchill, who believes he can succeed where Woodrow Wilson failed.

It is the style of a borer-in rather than a counterpuncher, more Louis, Graziano or Frazier than Conn, Zale or Ali; switching sports, more of a Unitas than a Namath.

It is a style that cannot be universally admired because it usually places progress ahead of unity, a cool sense of purpose ahead of warm expressions of compassion, and an odd mixture of practicality and idealism ahead of a clearcut picture of one or the other.

But if there is anything to be learned from a study of the Nixon style, it is this: The style is unique, it is generally consistent in both outward and inward manifestations, it springs from within the man, and it may well be particularly attuned to the demands of the electorate in the Seventies. If it fails, it will at least "fail while daring greatly," and if it succeeds, it will be a style emulated by many Presidents to come.

SENATE RESOLUTION 177—SHIPMENT OF PHANTOM F–4 AIRCRAFT TO ISRAEL

The PRESIDING OFFICER. Is there further morning business? If not, the Chair lays before the Senate a resolution coming over under the rule, which the clerk will state.

The legislative clerk read as follows:

Resolved, That—

(1) The United States without further delay should take affirmative action on Israel's pending request for F–4 Phantom aircraft, and provide such supporting equipment and assistance as are essential to maintain Israel's deterrent capability;

(2) The United States Government should oppose any attempts at the United Nations to alter the meaning and effect of Security Council Resolution 242 of November 22, 1967, and should reaffirm the importance of secure and defensible borders as a vital element in a peace settlement to be negotiated by the parties themselves.

Mr. JAVITS. Mr. President, I have been privileged to be closely associated with Senators SCOTT, SYMINGTON, RIBICOFF and the other sponsors in the framing of the Senate resolution introduced Friday by 78 Senators calling for the resumption of shipments of Phantom F–4 aircraft to Israel. It is rare to find the U.S. Senate so united on a crucial foreign policy issue. I trust that the leaders of the Soviet Union—and of the radical

Arab States—will take due note of the solemnity and significance of the Senate resolution. I also wish to draw attention to the thoroughly bipartisan and broad spectrum character of the cosponsorship of this resolution. Thirty-four Republicans and 44 Democrats, representing all shades of opinion and all sections of the country have joined together in this resolution.

President Nixon and Secretary Rogers are pursuing an active diplomatic policy of negotiation in the Mideast. That policy is certainly in the best traditions of U.S. diplomacy. However, it cannot succeed if there is any question in the minds of the Arab States that Israel's deterrent defensive capabilities will be allowed to be weakened—or to be overmatched by massive Soviet arms shipments, such as those which continue under the new U.S.S.R.-United Arab Republic agreement.

Moreover, the U.S. diplomacy of negotiation cannot succeed if the Soviet leaders come to believe that the United States will retire from the field and leave an open path for Soviet adventurism in the Mideast. In such circumstances, the only diplomacy which could succeed would be a diplomacy of appeasement in the Mideast such as occurred at Munich in 1938. There is a determination in the Senate, and the Nation, that this should not happen.

Thus, a policy of maintaining Israel's deterrent strength is necessary and a logical corollary to the "negotiations track" now being pursued by Secretary Rogers. This is the clear view of over three-quarters of the U.S. Senate and, in my judgment, it is the best view for the American people. And now is a most opportune time for the voicing of this deep conviction regarding the situation in the Mideast—for the United Nations General Assembly is now in session in New York and one of the prime questions under consideration and debate is the Mideast.

Secretary Roger's remarks of last Thursday indicate that the administration's own thinking on the question of the Mideast arms balance and the need to provide more Phantom jets to Israel is very close to the view held by such a large majority of the Senate. American diplomacy operates most effectively when there is just this kind of parallel thinking and parallel action in the Congress and the executive branch. It is most significant and heartening, in my judgment, that the Secretary of State should now be thinking along the same lines as we are in the Senate.

Secretary Rogers is, rightfully, identified in the public mind with the "negotiations approach" to Mideast policy. There had been some question as to his opinion on the question of supplying Israel further military equipment at this time. The view has been attributed to Secretary Rogers that further arms shipments might detract from the diplomatic effort being pursued by the State Department to achieve an interim partial settlement to secure the reopening of the Suez Canal. However, Secretary Rogers' latest pronouncements on the subject indicate that even he—the personality most identified through the "Rogers Plan" and other diplomatic efforts—believes it is in the interests of peace and the furtherance of U.S. policy in the Mideast to contemplate resumption of shipments of Phantom jets to Israel.

In my judgment, the timely provision of additional military and other assistance to Israel will serve not only to sober the Arab and Soviet approach to resumed negotiations. Of equal importance, I feel, will be its effect on Israel's diplomatic approach.

If Israel is assured of the military assistance it needs to maintain its deterrent strength, and feels secure against the Arab-Soviet threat, Israel is more likely to be in a position and a mood to negotiate with flexibility. So long as Israel is made to feel that its back is against the wall, and there is a feeling in the air that the United States is going to use the threat of withholding military assistance to pressure Israel into security concessions that it feels would jeopardize its survival, there is no realistic expectation that Israel will have anything but the most cautious and skeptical approach at the negotiating table. An Israel which is secure is an Israel which can be more flexible.

There is much questioning in various parts of the world these days regarding the sense of purpose, constancy and commitment by the people of the United States on international issues. The deep and divisive national debate over the Vietnam war has caused many observers to conclude—erroneously in my judgment—that the American people and the American nation has lost its sense of purpose and its will to advance and defend world interests in the cause of freedom and democracy.

The best answer to such a misreading and underestimation of American resolve lies in clear and unmistakable expressions of U.S. national resolve, as evidenced by the Senate resolution. When the American people understand the issues, as they do in the Mideast, and when they know they are supporting a self-reliant, valiant and capable democracy such as Israel, the American people can be very clear and determined in the course they wish to pursue.

The expression of a united view by so many members of the United States Senate is an act of great significance which I am deeply convinced will help the cause of peace in the Mideast immeasurably. It can serve to demonstrate the danger and the futility of dreams of undoing Israel by military conquest. It can serve powerfully to underscore the necessity and inevitability of a negotiated settlement recognizing the rights and existence of Israel. It will hearten the people of Israel in their struggle to survive and give them a sense of faith in their national integrity which will help, not retard, Secretary Rogers negotiations.

There is no way for the nations of the Mideast to proceed other than through accommodation and normalized relations if the dangers of a world conflagration are to be avoided. The Senate resolution will help to make it clear that there can be no dreams of a quick or easy military thrust against Israel as a substitute for good faith negotiations.

I ask unanimous consent that several articles from the New York Times on the Mideast situation be placed in the RECORD.

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

[From the New York Times, May 28, 1971]

TEXT OF THE TREATY OF FRIENDSHIP AND COOPERATION SIGNED BY SOVIET AND EGYPT

(NOTE.—*Following, as transmitted in English by Tass, the Soviet press agency, is the text of the Soviet-Egyptian treaty of friendship signed in Cairo yesterday*)

The Union of Soviet Socialist Republics and the United Arab Republic,

Being firmly convinced that the further development of friendship and all-around cooperation between the Union of Soviet Socialist Republics and the United Arab Republic meets the interests of the peoples of both states and helps strengthen world peace.

Being inspired by the ideals of struggle against imperialism and colonialism, and for the freedom, independence and social progress of the peoples.

Being determined to wage persistently the struggle for stronger international peace and security in accordance with the invariable course of their peaceable foreign policy.

Reaffirming their allegiance to the aims and principles of the United Nations Charter.

Being driven by a desire to consolidate and strengthen the traditional relations of sincere friendship between the two states and peoples through concluding a treaty of friendship and cooperation and thus creating a basis for their future development.

Agreed on the following:

ARTICLE 1

The high contracting parties solemnly declare that unbreakable friendship will always exist between the two countries and their peoples. They will continue to develop and strengthen the existing relations of friendship and all-around cooperation between them in the political, economic, scientific technological, cultural and other fields on the basis of the principles of respect for the sovereignty, territorial integrity, noninterference in the internal affairs of each other, equality and mutual benefit.

ARTICLE 2

The Union of Soviet Socialist Republics as a socialist state and the United Arab Republic, which has set itself the aim of reconstructing society along socialist lines, will cooperate closely and in all fields in ensuring conditions for preserving and further developing the social and economic gains of their peoples.

ARTICLE 3

Being guided by a desire to contribute in every way toward maintaining international peace and the security of the peoples, the Union of Soviet Socialist Republics and the United Arab Republic will continue with all determination to make efforts toward achieving and ensuring a lasting and fair peace in the Middle East in accordance with the aims and principles of the United Nations Charter.

In pursuing a peace-loving foreign policy, the high contracting parties will come out for peace, relaxation of international tension, achievement of general and complete disarmament and prohibition of nuclear and other types of weapons of mass destruction.

ARTICLE 4

Being guided by the ideals of freedom and equality of all the peoples, the high contracting parties condemn imperialism and colonialism in all their forms and manifestations. They will continue to come out against imperialism, for the full and final elimination of colonialism in pursuance of the U.N. declaration on the granting of independence to all colonial countries and peoples, and

wage unswervingly the struggle against racialism and apartheid.

ARTICLE 5

The high contracting parties will continue to expand and deepen all-around cooperation and exchange of experience in the economic and scientific-technological fields—industry, agriculture, water conservancy, irrigation, development of natural resources, development of power engineering, the training of national personnel and other fields of economy.

The two sides will expand trade and sea shipping between the two states on the basis of the principles of mutual benefit and most-favored nation treatment.

ARTICLE 6

The high contracting parties will further promote cooperation between them in the fields of science, arts, literature, education, health services, the press, radio, television, cinema, tourism, physical culture and other fields.

The two sides will promote wider cooperation and direct connections between political and public organizations of working people, enterprises, cultural and scientific institutions for the purpose of a deeper mutual acquaintance with the life, work and achievements of the people of the two countries.

ARTICLE 7

Being deeply interested in ensuring peace and the security of the peoples, and attaching great importance to concertedness of their actions in the international arena in the struggle for peace, the high contracting parties will, for this purpose, regularly consult each other at different levels on all important questions affecting the interests of both states.

In the event of development of situations creating, in the opinion of both sides, a danger to peace or violation of peace, they will contact each other without delay in order to concert their positions with a view to removing the threat that has arisen or reestablishing peace.

ARTICLE 8

In the interests of strengthening the defense capacity of the United Arab Republic, the high contracting parties will continue to develop cooperation in the military field on the basis of appropriate agreements between them. Such cooperation will provide specifically for assistance in the training of the U.A.R. military personnel, in mastering the armaments and equipment supplied to the United Arab Republic with a view to strenghening its capacity to eliminate the consequencies of aggression as well as increasing its ability to stand up to aggression in general.

ARTICLE 9

Proceeding from the aims and principles of this treaty.

Each of the high contracting parties states that it will not enter into alliances and will not take part in any groupings of states, in actions or measures directed against the other high contracting party.

ARTICLE 10

Each of the high contracting parties declares that its commitments under the existing international treaties are not in contradiction with the provisions of this treaty and it undertakes not to enter into any international agreements incompatible with it.

ARTICLE 11

The present treaty will be operative within 15 years since the day it enters into force.

If neither of the high contracting parties declares a year before the expiry of this term its desire to terminate the treaty, it will remain in force for the next five years and so henceforth until one of the high contracting parties makes a year before the expiry of the current five-year period a written warning on its intention to terminate it.

ARTICLE 12

The present treaty is subject to ratification and shall come into force on the day of exchange of ratification instruments, which will take place in Moscow in the nearest future.

The present treaty is done in two copies, each in Russian and Arabic, with both texts being equally authentic.

Done in the city of Cairo on May 27, 1971, which corresponds to 3 Rabia as Sani, 1391, Hejira.

For the Union of Soviet Socialist Republics.

N. PODGORNY.

For the United Arab Republic.

ANWAR SADAT.

[From the New York Times, Sept. 18, 1971]

SOVIET REPORTED SUPPLYING CAIRO WITH GIANT COPTERS—RUSSIAN ADVISERS SAID TO BE TRAINING EGYPTIANS FOR POSSIBLE HIT-AND-RUN ATTACKS ACROSS THE SUEZ CANAL

(By William Beecher)

LONDON, Sept. 17.—The Soviet Union has been supplying Egypt with helicopters for possible hit-and-run raids against Israeli forces on the east bank of the Suez Canal, according to well-informed sources in Egypt.

The sources said that the Soviet recently shipped 20 MI–6 helicopters to the port of Alexandria. Each one is capable of lifting a fully armed paratroop company, about 80 men, into battle behind Israeli lines across the Canal in the Sinai peninsula.

During the last three weeks, Soviet advisers have been working with Egyptian forces practicing nighttime training exercises with the new helicopters.

MILITARY MOVES FEARED

Several weeks of interviews with political, military and diplomatic officials in Washington, Cairo, Amman, Tel Aviv and London disclosed a consensus on the current diplomatic efforts. It is believed that if these fail to achieve an interim settlement, including the reopening of the Suez Canal and a disengagement of Egyptian and Israeli troops. President Anwara el-Sadat probably will feel impelled to resume military operations of some sort along the Suez front. He has warned repeatedly that 1971 is the "year of decision."

In the view of Mideast specialists of several nations, resumed hostilities could take several forms: commando-type raids utilizing helicopters, artillery barrages, strikes by planes, Frog-7 rockets or naval gunfire against Israeli positions in the Sinai, or a bold frontal assault across the canal in order to frighten the United States and the Soviet Union into imposing a comprehensive peace settlement.

"President Sadat, after all, is on trial," said one highly respected Western ambassador in Cairo, "He's trying to fill some very large shoes. He desperately needs a dramatic accomplishment to demonstrate to his people that he's an effective leader.

CHALLENGE BELIEVED POSSIBLE

No one here believes the Egyptians want more war, though some of the younger officers are growing restless after four years of training in the desert and eating sand. But if he fails to deliver a peaceful diplomatic coup, such as reopening the canal under full Egyptian control, then he must do something or face possible challenge from within, from the right or from the left.

Shimon Peres, a key member of Premier Golda Meir's Cabinet and long a close associate of Defense Minister Moshe Dayan, commented:

"One of the possibilities, which I won't exclude, is a resumption of fighting in 1972. Egypt has four options: partial peace, partial war, full peace or full war.

"I don't think Egypt is able to launch a full-scale war, or able to go for a full-scale peace. What does that leave? A new war of attrition, one way or another. The results may be costly to us, but they don't have any promise of success for Egypt."

He stressed that a diplomatic settlement, even a very limited initial one, would change the picture markedly and could well lead to direct negotiations between Egypt and Israel looking toward a permanent peace settlement.

"The way to peace," Mr. Peres declared, "is not through Moscow and Washington, but Cairo and Jerusalem."

TROOPS' ROLE AN ENIGMA

The role of the 15,000 to 20,000 Soviet military advisers and air and missile crews in Egypt is somewhat of an enigma to Western and Israeli analysts.

On the one hand, many signs seem to suggest that the Soviet Union does not want to risk a resumption of fighting that could get out of control and involve it in active combat with the Israelis, or, however remote the prospect, with the United States.

For example, the Soviet Union has never publicly talked of its pilots and missile crews in Egypt, only of its advisers. When four MIG's with Soviet pilots were shot down by Israeli jets in the summer of 1970, just before the cease-fire, the Soviet Union neither publicly nor privately threatened retaliation.

And after the cease-fire went into effect 14 months ago, the Soviet Union turned over the SAM–3 air defense missiles along the canal to Egyptian crews, leaving only a handful of Soviet technical experts at each site. In East Germany, the SAM–3's are manned exclusively by Russians.

On the other hand, the Russians have substantially increased the number of fighter squadrons in Egypt flown and maintained by Soviet crews. They are now believed to number six squadrons of MIG–21's and two of Sukoi–11's, and more of the latter are expected shortly.

BRIDGES PROVIDED

Russia has also provided sufficient amphibious vehicles and modern tactical bridges to give Egypt the theoretical capability to move both of its forward armies, roughly 200,000 troops, across the canal, assuming the unlikely circumstance that Egyptian aircraft and missiles could protect the crossing against Israeli air attacks.

Some analysts insist that the Soviet Union is compelled to provide such equipment if the Egyptians are to go on believing that it really is helping them prepare fully for a military recapture of the Sinai.

Another motive, the analysts suggest, may be that by seemingly serious preparations of this sort, the Soviet Union expects to convince Israel there is a growing danger of such an event and to force the United States into increasing its pressure on the Israelis to be more flexible in terms for a partial peace settlement.

But incidents such as the shipment of MI–6 helicopters and night training in their use raises doubts about the Soviet Union's motives, or at least about its ability to block Egyptian military initiatives if President Sadat indeed becomes desperate.

Before the 1967 war there were 12 MI–6 helicopters in Egypt. Five were destroyed in the six-day war. The seven surviving were used over the ensuing four years in what one Mideast military specialist terms "a desultory fashion."

Then, suddenly, 20 more MI–6's were shipped in and night training, involving formation flying and ground troops, began.

MODEL REPORTED BUILT

Reliable sources say that Egypt has constructed a training model of the Israeli positions at Sharm el Sheik, on the southern tip of Sinai, much as the United States built in Florida a model of the North Vietnamese Sontay prisoner-of-war camp before staging a daring raid.

The Sharm el Sheik model has been used for night helicopter practice in hit-and-run tactics. Mostly MI-8 helicopters have been used, each one of which can carry about 25 men.

Israeli planners tend to question Egypt's ability to pull off a coordinated night assault. They stress that extensive radar and air and armored forces reacting quickly should be able to contend easily with such thrusts.

Mr. JAVITS. Mr. President, I have no desire to debate the resolution further at this time. Am I correct that under the rule, it will go to the calendar if not acted upon?

The PRESIDING OFFICER. If not disposed of before the unfinished business is laid before the Senate.

STATEMENT BY SENATOR BAKER ON COAL AND PUBLIC POLICY AT THE UNIVERSITY OF TENNESSEE ON OCTOBER 15, 1971

Mr. COOPER. Mr. President, the problem of unreclaimed surface mined lands in the Appalachian region is of serious concern to all living in these States. There are presently numerous bills pending in the House and in the Senate to establish a Federal regulatory procedure to deal with this problem and I am hopeful that an imaginative and effective program will result. I especially note that the Senate Interior Committee has scheduled its first hearings on strip mine legislation for November 16.

Last week, the University of Tennessee sponsored a symposium on the subject of coal and the environment. The distinguished senior Senator from Tennessee, Senator BAKER, addressed that meeting and stressed the need for immediate and effective legislation. Senator BAKER has concerned himself with this problem for a number of years and he is particularly well informed to make suggestions and recommendations with respect to Federal policy. In this field, as in many others, he has shown his great capacities as a Senator for Tennessee and the Nation.

I ask unanimous consent that a copy of his remarks be inserted in the RECORD at this point.

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

STATEMENT OF SENATOR HOWARD BAKER

It seems to me that few things are more certain than that the United States will face an energy crisis of major proportions in the next few years attributable in part to our errors in previous regulatory policy to transportation requirements, to miscalculations of the demand for electrical energy, to an incomplete understanding of the exponentially increasing demand for energy in relation to the expansion of our gross national product.

But in any event, one of the most striking, difficult and troublesome aspects of this energy development has been the demand for coal in huge quantities, quickly delivered, at low prices. In response to these factors, surface mining of coal has expanded and proliferated in the regions of the Appalachian Mountains to the point where the whole concept must be called into re-examination.

In testimony before the Committee on Interior of the House of Representatives recently, Chairman Russell Train of the Council on Environmental Quality pointed out that strip mining activities across the United States are claiming 750 acres per day. That would mean that between 150,000 and 200,000 acres of land in the United States have been turned in the search for coal since January 1, 1971. In the whole of 1970, a year which was marked also by an emphasis on surface mining, the National Coal Association reported a total of 58,000 acres officially approved as reclaimed lands. The disparity of these statistics points out the rate at which areas of stripping activity are building up an enormous environmental debt. What is even more disconcerting is that the Department of Interior reported an estimated backlog of 2,041,000 acres of "unreclaimed strip—and surface—mined lands" in 1965.

But statistics are not fully revealing and certainly not in comparison to the stark evidence of destruction apparent on the faces of a whole mountain range blessed with rich coal resources and once blessed with magnificent beauty.

I make these observations not for the purpose of creating an emotional indictment against strip mining or the strip mining industry, but rather to point up the importance and extent of our problem; to identify its causes and to plot a course of action for the future.

And there is a future. To begin with, regardless of our mistakes in permitting strip mining, unregulated or only slightly regulated, the fact of the matter is that the power grids of the nation, especially those of the Southeast, are dependent to a remarkable extent on the production of coal from surface mines and this dependence cannot be withdrawn suddenly without unacceptable economic and social consequences. Fifty percent of our power production across the United States depends upon coal for fuel, and 50 percent of that coal is produced by surface mining.

The present competitive advantage of strip-mining of coal results from a variety of factors, including the swiftness with which production can be realized, the relative safety to personnel, and sadly the failure to assess in the cost of production the enormous environmental debt left by unreclaimed operations. What clearly is an advantage in terms of the cost of electricity is an unconscionable burden on the geography and society of an area of our country ill-equipped to bear it. To the extent that strip-mined coal can presently be delivered more cheaply and quickly to the power grids than would be the case with strictly regulated surface mining with adequate reclamation. Appalachia and the other regions of coal production are subsidizing the energy requirements of the nation. In Appalachia this subsidy represents the loss of possibly the last significant natural resource—the scenic beauty of the region.

So what do we do?

1. First, we withdraw from the present practices of strip mining as quickly as possible—over the space of a relatively short time—the time it takes to develop other extractive techniques or to bring strip-mining and reclamation techniques to a level of sophistication commensurate with the environmental threat.

2. We eliminate the temptation to permit under-regulated stripping in states which have every reason to cry out for some economic advantage or by land owners who can find no other productive use for their property.

3. We pass a federal statute making uniform the methods for removal of coal by strip mining and eliminating the competitive advantages and disadvantages between one state or the other and require instead the highest reclamation techniques in all the states.

4. We vest regulatory and enforcement functions under such a statute in the Environmental Protection Agency and provide the Agency authority to prohibit stripping in any area where adequate or desirable reclamation is not possible.

5. We should consider the establishment of a severance tax on all coal and on other fuels at the Federal level to insure uniformity and make the proceeds thereof available to the states or locality if they elect so that the benefits of this resource can accrue to the area in which it is located. It was once speculated that the coal in Appalachia would bring it great wealth. It has not. It has on the other hand devastated the area and left it more impoverished.

Historically better than half the coal produced in the United States comes from underground mining. In the Appalachian region in 1969, 71.5 percent of the total output was deep mined, but coal production by strip mining increased from 218 million tons in 1969 to 269 million tons in 1970, and 60 percent of this increase was produced by a flurry of strip mining activity in the Appalachian region. This trend toward surface mining was the result of a complex of factors not the least of which was the impact of the Federal Coal Mining Health and Safety Act of 1969 on the underground mining industry.

It has been estimated that coal production overhead has increased by 20 to 25 percent in those mines which have continued to operate under the 1969 Act. Many have gone out of business, and altogether the Act has produced a rather poor record for safety in this same period of time. A recent study conducted at Morehead University for the Kentucky Coal Mine Research Institute disclosed that in 1969 (prior to the Act) an average of 3,274,105 tons of coal were produced in Kentucky per fatal accident; in 1970 this figure was down to 1,407,959 tons per fatality. Deaths increased from 33 in 1969 to 89 in 1970. Even excluding the accident at Finley Coal Company which claimed 38 lives because of a breach of regulations controlling explosives, this is a serious indication that the Act warrants extensive restudy.

The inequities of the 1969 Mine Safety Act are too complex and numerous to discuss in these remarks. There are a number of provisions that are pure nonsense. At the time the legislation was on the floor of the Senate, Senator Cooper and I tried to point out these provisions and recommend changes, but to no avail.

Now, in view of the experience under the Act there is a fair chance that some of the more onerous and troublesome provisions can now be modified and changed. Senator Cooper and I are presently formulating amendments to the Federal Coal Mine Health and Safety Act which will reinject into the Act flexibility to deal with specific problems of specific mines. Among those proposals will be the re-establishment of the non-gassy classification.

In order to deal comprehensively with environmental ramifications of coal production, regulation of deep mines both during and subsequent to extraction will have to be undertaken with equal diligence to that embodied in the aforementioned proposals for strip mine controls. Such a program must treat effectively the problems of acid mine drainage, slate dumping, uncontrolled burning of residues, and subsidence of abandoned mines.

I want this country to have the full utilization and the full blessings of its resources and its initiative, fully powered by the greatest economy and the largest energy system in the world; but without the requirement that a poor and delicate area of the country subsidize that future with the destruction of its last natural resources. I want to see coal play its rightfully dominant role in the energy requirements of this nation in the future, ranking as it does as our greatest fuel resource; but I want to see it done in an even-handed way, without the destruction of the hillsides, the valleys, the streams and rivers,

wildlife, or the families and the communities who suffer from the ravages of uncontrolled mining.

In conclusion, the ravages of strip mining must stop. That may or may not mean that surface mining must stop. That depends upon the imagination and initiative of the industry in meeting the environmental challenge.

SENATE RESOLUTION 177

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Do I understand that under the rule, the resolution previously referred to has gone to the calendar?

The PRESIDING OFFICER. It now goes to the calendar, since the period for morning business has transpired; the Senator is correct.

Mr. JAVITS. I thank the majority leader for his courtesy, and I suggest the absence of a quorum.

The PRESIDING OFICER. 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.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

REPORT ON RECEIPTS AND DISBURSEMENTS RELATIVE TO SURPLUS MILITARY SUPPLIES

A letter from the Assistant Secretary of Defense, transmitting, pursuant to law, a report on receipts and disbursements pertaining to the disposal of surplus military supplies, equipment, and materiel, for the fiscal year 1971 (with an accompanying report); to the Committee on Appropriations.

REPORT ON APPROVAL OF LOAN FOR CONSTRUCTION OF CERTAIN TRANSMISSION FACILITIES

A letter from the Administrator, Rural Electrification Administration, Department of Agriculture, reporting, pursuant to law, on the approval of a loan to Colorado-Ute Electric Association, Inc., of Montrose, Colo. (with an accompanying paper); to the Committee on Appropriations.

REPORT ON ADMINISTRATION OF PUBLIC LAWS 874 AND 815

A letter from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report of the Commissioner of Education on the Administration of Public Laws 874 and 815, for the fiscal year 1970 (with an accompanying report); to the Committee on Labor and Public Welfare.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the PRESIDENT pro tempore:

A resolution adopted by the Inter-Tribal Council of the Five Civilized Tribes, Oklahoma City, Okla., relative to certain matters concerning Indian affairs; to the Committee on Interior and Insular Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JORDAN of North Carolina, from the Committee on Rules and Administration, with amendments:

S. Res. 175. Resolution authorizing supplementary expenditures by the Committee on Rules and Administration for an inquiry and investigation relating to the use of computer services for the Senate (Rept. No. 92-400).

By Mr. LONG, from the Committee on Finance, with amendments:

H.R. 8312. An act to continue for 2 additional years the duty-free status of certain gifts by members of the Armed Forces serving in combat zones (Rept. No. 92-402).

EXECUTIVE REPORTS OF COMMITTEES

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

By Mr. LONG, from the Committee on Finance:

Richard T. Burress, of Maryland, to be a member of the Renegotiation Board.

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. JACKSON (for himself, Mr. ALLOTT, Mr. ANDERSON, Mr. BIBLE, Mr. BURDICK, Mr. CANNON, Mr. CHURCH, Mr. CRANSTON, Mr. ERVIN, Mr. FANNIN, Mr. GRAVEL, Mr. HANSEN, Mr. KENNEDY, Mr. MCGOVERN, Mr. MANSFIELD, Mr. METCALF, Mr. MONDALE, Mr. MONTOYA, Mr. MOSS, Mr. STEVENS, and Mr. TUNNEY):

S. 2724. A bill to establish a national Indian education program by creating a National Board of Regents for Indian Education, carrying out of a national Indian education program, the establishment of local Indian school boards, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. JACKSON (for himself and Mr. ALLOTT) (by request):

S. 2725. A bill to remove the statutory ceiling on funds for the development of Wolf Trap Farm Park, Va., and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. JACKSON (for himself and Mr. ALLOTT) (by request):

S. 2726. A bill to reform the mineral leasing laws. Referred to the Committee on Interior and Insular Affairs.

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

S. 2727. A bill to reform the mining laws. Referred to the Committee on Interior and Insular Affairs.

By Mr. HUMPHREY:

S. 2728. A bill to establish a Citizens' Committee to Study Congress. Referred to the Committee on Government Operations.

By Mr. HUMPHREY (for himself, Mr. HARTKE, and Mr. MONDALE):

S. 2729. A bill to authorize the establishment and maintenance of reserve supplies of soybeans, corn, grain sorghum, barley, oats, wheat, and dairy and poultry products for national security and to protect domestic consumers against an inadequate supply of such commodities; to maintain and promote foreign trade; to protect producers of such commodities against an unfair loss of income resulting from the establishment of a reserve supply; to assist in marketing such commodities; to assure the availability of commodities to promote world peace and understanding; and for other purposes. Referred to the Committee on Agriculture and Forestry.

By Mr. MUSKIE:

S. 2730. A bill to amend the Internal Revenue Code of 1954 to provide a tax credit for the purchase of durable consumer goods. Referred to the Committee on Finance.

By Mr. SPARKMAN:

S. 2731. A bill for the relief of Thomas Nagylaki. Referred to the Committee on the Judiciary.

By Mr. BURDICK (for himself, Mr. BAYH, Mr. BROOKE, Mr. COOK, Mr. GRAVEL, Mr. HARRIS, Mr. HART, Mr. MANSFIELD, Mr. MCGOVERN, Mr. METCALF, Mr. MOSS, and Mr. WILLIAMS):

S. 2732. A bill relating to the nullification of certain criminal records. Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JACKSON (for himself, Mr. ALLOTT, Mr. ANDERSON, Mr. BIBLE, Mr. BURDICK, Mr. CANNON, Mr. CHURCH, Mr. CRANSTON, Mr. ERVIN, Mr. FANNIN, Mr. GRAVEL, Mr. HANSEN, Mr. KENNEDY, Mr. MCGOVERN, Mr. MANSFIELD, Mr. METCALF, Mr. MONDALE, Mr. MONTOYA, Mr. MOSS, Mr. STEVENS, and Mr. TUNNEY):

S. 2724. A bill to establish a national Indian education program by creating a National Board of Regents for Indian Education, carrying out of a national Indian education program, the establishment of local Indian school boards, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. JACKSON. Mr. President, I am introducing for appropriate reference a bill to be cited as the comprehensive Indian education bill, together with several cosponsors.

The purpose of this bill is to provide improved education opportunities to all Indian children regardless of what schools they attend. The Federal Government has a unique responsibility relative to Indian education. Virtually *every* treaty that our Government negotiated with various Indian tribes since 1778 has promised education in return for Indians relinquishing their lands. The Nation's record in keeping the commitment has been one of broken promises and neglect.

The extensive hearings conducted by a Special Subcommittee on Indian Education of the Labor and Public Welfare Committee, chaired first by the late Senator Robert Kennedy and later by Senator EDWARD KENNEDY, reveal this history in tragic detail. The Interior Committee has no intention of duplicating this investigation. The Indian people are weary of being studied. They want results.

During the hearings held September 20 on S. 2482, a bill to authorize financial support for improvements in Indian education and for other purposes, before the Interior and Insular Affairs Committee, the Indian witnesses, without exception urged that a Comprehensive Indian Education Act be enacted by the 92d Congress.

This bill, which I introduce today, has been developed in direct response to these appeals and similar appeals from educa-

tors around the country. In addition to formal hearings, I have directed the committee staff to confer formally and informally with Indian leaders and educators so that we can have the benefit of their views in perfecting this bill before it is considered by the committee in executive session.

The bill contains five major titles. The first establishes an 11-member National Board of Regents for Indian Education within the Department of the Interior. This board, appointed by the President from lists of nominees submitted by Indian tribes and organizations, will assume the direction and control of the Bureau of Indian Affairs schools. The board is authorized to create local Indian boards of education for each BIA school, will have budgetary control over the present BIA education program, and will act in an advisory capacity to other Federal agencies with Indian education programs.

Title II of the bill establishes a program in the U.S. Office of Education to assist local public schools enrolling Indian children. It provides for local committees, composed of Indian parents and teachers, to assist school boards in developing and implementing programs to improve the educational achievement of Indian pupils. This title also provides funds for contracts with local and State education agencies and with Indian tribes, institutions, and organizations for pilot projects and innovative programs in Indian education, especially in such areas as dropout prevention, and bicultural and bilingual education. It provides a program of grants or contracts for basic education, including literacy programs, for adult Indians. It also establishes an administrative unit in the Office of Education for Indian education.

Title III amends the Higher Education Act of 1965 by adding a new program designed to encourage Indian people to enter and remain in the education profession as school superintendents, principals, teachers, school nurses, librarians, and other instructional personnel. This is an essential component of the act since, as more self-determination over Indian education is developed, there will be a real need for Indian educational leadership to staff the schools.

Title IV of the bill amends the Johnson-O'Malley Act to provide assistance for school construction to local public schools on, or serving, Indian reservation pupils. Legislation of this type has passed the Senate in previous years. It also would provide construction funds to local Indian school boards on the reservation as such funds become necessary.

Title V contains general provisions, including a requirement that the Secretaries of the Interior, HEW, and Labor cooperate with the National Indian Board of Regents in developing programs of vocational, career, and higher education for Indian youth and adults and report back to the Congress on or before January 1973.

This bill is designed to provide maximum involvement of the Indian people in the development and implementation of educational programs, whether in BIA schools or public schools. It recognizes the strong desires of Indian people for self-determination. It in no way encourages a termination policy either of the Bureau of Indian Affairs or of tribal or reservation status. It provides to the Indian people an opportunity to shape their own destiny—an inherent right of all citizens which the Indian people have too long been denied.

INDIAN EDUCATION—S. 2724

Mr. KENNEDY. Mr. President, I am pleased to join with Senator JACKSON in introducing a comprehensive Indian education bill that brings together various bills and approaches to Indian education that have been discussed extensively during the past few years. I might note at the outset that earlier this month the Senate passed, by unanimous rollcall vote, a bill originally introduced by myself and Senator MONDALE that establishes a broad range of new Indian education programs: one to support special Indian education projects, requiring extensive Indian involvement in public schools; one to support special demonstration projects covering the widest latitude; and one to support adult education projects. This comprehensive bill, as introduced today, contains S. 2482 in its entirety, with some minor changes.

The comprehensive bill also contains a special construction section which, as independent legislation, passed the Senate last year. Our hearings on Indian education before the Education Subcommittee in April of this year pointed up the extraordinary need for a major infusion of Federal funds for construction of schools serving Indian children, and I thus fully support the special attention given this subject in the comprehensive bill. The construction provision unfortunately has no requirement for comparability in the local expenditure of funds for Indians, and in fact does not require that funds going to school districts for construction because of Indian enrollment must be used to expand, improve, or build the very schools which those Indian children attend. I am sure that these can be provided while the bill is before the appropriate committee.

The original Indian education bill I introduced over a year ago contained a section setting up a National Board of Indian Education outside the Department of the Interior. After 3 days of hearings on the bill before the Education Subcommittee, it became clear that the Indian people did not want to see a fragmentation of Interior Department programs and services for Indians. And while the witnesses generally agreed with the sponsors of the bill that some structural changes were necessary in Bureau education programing, the Indian people did not want to see the programs removed from Interior's purview. This sentiment was also echoed at Interior Committee hearings during the summer.

The present bill provides for both structural reform and retention of education programs within Interior. Because it appears to me to be generally reflective of the views of the Indian people, I am joining as a cosponsor of this measure. I would add these further suggestions, however, which I feel should be considered during committee deliberations on the bill.

First, traditionally there has been a problem with BIA personnel being unresponsive to the needs and wishes of Indian communities, especially relating to self-determination. I would allow the new Board of Regents to accept the transfer of any Bureau personnel it wishes, but the Board should under no circumstances be automatically vested with the full compliment of Bureau education personnel, many of whom may have ideas or commitments in variance with those of the Indian people. Further, on the matter of personnel, the new bill should provide explicitly—where in the past there has been some confusion and conflict—that Indian preference employment requirements apply to appointment, training, promotion, and retention of Board employees.

Second, the bill should make clear that various levels of community control are acceptable, depending entirely on the wishes of each individual community. Elected local school boards should be able to run the entire operation, or if they desire, they should have the option to act solely in an advisory capacity until they are ready to take over. Board general contracting authority should promote maximum flexibility in this area.

Next the bill should explicitly provide that the Board must establish procedures for the hearing and settlement of complaints and grievances involving or arising from the administration of all programs under its jurisdiction. Traditional BIA complaint-handling procedures have been rife with delays and whitetape.

Finally, I believe that instead of set-asides of funds going from the Office of Education through the Secretary of the Interior and on through the Board of Regents, programs comparable to the Indian entitlement part of S. 2482 and the Elementary and Secondary Education Act provisions for public schools should be developed exclusively for BIA schools, administered and budgeted directly through the Interior Department and the Board of Regents.

Since this bill contains certain titles which fall within the jurisdiction of the Labor and Public Welfare Committee—for example, provisions amending impacted areas legislation and SEA—I am hopeful that that committee will have the opportunity to review those titles within its purview after the bill has been reported from the Interior Committee, to which it will initially be referred.

The introduction of the Comprehensive Indian Education Act continues the efforts initiated 4 years ago by the Special Subcommittee on Indian Education, and carried forward earlier this month with Senate passage of S. 2482. I look forward to sustained momentum on this subject, so that before the end of this Congress a full range of legislative initiatives relating to Indian education will be signed into law.

By Mr. JACKSON (for himself and Mr. ALLOTT) (by request):

S. 2725. A bill to remove the statutory ceiling on funds for the development of Wolf Trap Farm Park, Va., and for other

purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. JACKSON. Mr President, I send to the desk for appropriate reference a bill to remove the statutory ceiling on funds for the development of Wolf Trap Farm Park, Va.

This legislation was submitted and recommended by the Department of the Interior, and I ask unanimous consent that the executive communication accompanying the draft proposal be set forth in full at this point in the RECORD in my remarks.

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

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., October 7, 1971.

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

DEAR MR. PRESIDENT: Enclosed is a draft of a proposed bill "To remove the statutory ceiling on funds for the development of Wolf Trap Farm Park, Virginia, and for other purposes".

We recommend that the bill be referred to the appropriate committee for consideration, and we recommend that it be enacted.

The Act approved October 15, 1966 (80 Stat. 950), authorized the Secretary of the Interior to establish the Wolf Trap Farm Park in Fairfax County, Virginia, ". . . for the purpose of establishing in the National Capital area a park for the performing arts and related educational programs, and for recreation use in connection therewith. . . ." The Act limited the size of the park to 145 acres, and authorized not to exceed $600,000 for purposes of the park. The enclosed draft bill would amend the 1966 Act by deleting the appropriation limitation of $600,000.

All of the $600,000 authorized in the 1966 Act has been appropriated and expended. With these funds, the initial portions of the road, trail, and utility system, and a temporary administrative headquarters have been developed, and 20.98 acres of land have been acquired along with 12.38 acres of scenic easements. Already completed is the Filene Center, which has hosted during the 1971 season a variety of cultural and educational performances. Visitation during this first season, July 1, through September 9, 1971, was approximately 241,268. The center has been constructed entirely with funds donated for the purpose by Mrs. Jouett Shouse, owner of Wolf Trap Farm, who, with the American Symphony Orchestra League, has also donated approximately 97 acres of the farm for the park.

With completion and initial use of the Filene Center, it has become clear that additional improvements and complementary facilities for public and administrative use are needed or will be needed. These include visitor parking, a permanent concession building, visitor pavilion, maintenance building, comfort stations, landscaping, picnic sites, walks and trails, and a secondary amphitheatre. Accordingly, we recommend that the appropriation limitation in the 1966 Act be removed so that appropriations may be submitted to fund those improvements and facilities which have priority. The enclosed draft bill would accomplish that purpose.

The need for development over and above the $600,000 authorizd was brought to the attention of the Committees on Interior and Insular Affairs during consideration of the authorizing legislation. During hearings before the Senate Subcommittee on Parks and Recreation, on June 28, 1966, this Department's witness, Director Hartzog of the National Park Service, indicated that the development cost of $476,500 (which, together with an estimated $107,500 for land acquisition became the $600,000 statutory limitation) was to develop the park during the first five years only. The Department was unable at that time to predict the cost and type of such facilities as would be needed after the initial five years of the project development.

On July 15, 1966, Director Hartzog stated to the House Subcommittee on National Parks and Recreation that:

"I think in all fairness to the committee I should say that the projections of the Federal cost here of $476,500 is our estimate of what should be done in the first five years of the development of this park. If this park expands in its use, if the reception of this program is such . . . it does not provide for taking care of additional crowds. If that happens I am going to be back to the Committee to lay the question before you and ask your consideration for additional money to accommodate the additional usage."

At the time the authorizing legislation was being considered, the design of the main amphitheatre, now the Filene Center, was not known. Mrs. Shouse did make a firm offer to donate $1,750,000 to construct an amphitheatre of 3,000 to 3,500-seat capacity. However, as constructed the center now seats 3,500, with additional open-air space for 3,000, and Mrs. Shouse has donated in excess of $2 million for its completion. With the experience gained in this past inaugural season behind us we are better able to identify additional needs for visitor and administrative facilities. Studies are now underway to determine what measures can be taken before the 1972 season begins. The early enactment of the enclosed bill will permit requests for appropriations to accomplish the work in an expeditious manner.

The Office of Management and Budget has advised that enactment of this proposed legislation would be consistent with the Administration's objectives.

Sincerely yours,

———— ————,
Assistant Secretary of the Interior.

By Mr. JACKSON (for himself and Mr. ALLOTT) (by request):

S. 2726. A bill to reform the mineral leasing laws. Referred to the Committee on Interior and Insular Affairs.

Mr. JACKSON. Mr. President, on behalf of the ranking minority member of the Committee on Interior and Insular Affairs (Mr. ALLOTT) and myself, I send to the desk for appropriate reference a bill to reform the mineral leasing laws.

This legislation was submitted and recommended by the Secretary of the Interior and I ask unanimous consent that the executive communication accompanying the draft proposal be set forth in the RECORD at this point in my remarks.

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

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., October 12, 1971.

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

DEAR MR. PRESIDENT: Enclosed is a draft bill "To reform the Mineral Leasing Laws."

We request that the bill be referred to the appropriate committee and that it be enacted.

The Mineral Leasing Act of February 25, 1920, as amended and supplemented (30 U.S.C. §§181–287), governs the disposition of oil, gas, coal, and certain other minerals on hundreds of millions of acres of public land. During the 51 years of its existence it has played a major role in the development of the Nation's mineral economy, has contributed needed funds for the schools and roads of the various States and for the reclamation fund, and has enabled the Federal Government to control in some measure the use of the public domain. Time, however, has revealed major deficiencies in the Act.

The Mineral Leasing Reform Act of 1971 would amend the existing mineral leasing laws in six major respects: (1) it would incorporate specific requirements to protect the environment; (2) it would substitute one general mineral leasing statute for the several different statutes now in existence; (3) it would concentrate greater responsibility for the leasing or sale of federally owned minerals in the Department of the Interior; (4) it would extend the leasing laws to mineral deposits in certain land not now subject to any form of disposition; (5) it would extend the leasing principle to certain minerals now covered by other disposal laws; and (6) it would extend the principle of competitive bidding. Each of these six changes is an important step in bringing the mineral leasing system into conformance with modern concepts of resource management.

(1) We feel that the protection of the environment should be a major concern of any legislation to reform the mineral leasing laws. The Administration has proposed the "Mined Area Protection Act of 1971" which has been introduced as S. 993, to encourage States to regulate the environmental aspects of mining on State and private land. The proposed "Mineral Leasing Act of 1971" contains a section which would apply parallel provisions to the public lands. It would require, among others, that the operator file an operation plan with the Secretary for approval before he commences any activity which might cause a significant disturbance of the environment. The plan would be to assure that the operation would not violate air and water quality standards and would control erosion, subsidence and other specified environmental damage. The regulations would require that reclamation be made an integral part of the operation, but would allow the operator maximum flexibility to determine the most economically feasible means of achieving the environmental objectives.

(2) The Mineral Leasing Act of 1920 applies only to public domain, i.e., land that was never in State or private ownership. Mineral leasing on lands acquired by the United States from State or private owners is covered by the Mineral Leasing Act for Acquired Lands passed in 1947 (30 U.S.C. 351–359). This distinction as to the disposition of minerals is based largely on an accident of history. Under the mining law of 1872 a distinction between public domain and acquired lands was necessary, because it was felt that lands which the United States has acquired for a specific purpose should not be available for private appropriation for mining.

However, where full discretion and control over the disposition of minerals is retained by the United States and where title to the deposits and the lands containing them is retained by the United States, there is no need for separate leasing systems for acquired lands and for public domain.

(3) The proposed bill would allow each surface managing agency to dispose of sand and gravel and other "construction minerals" on lands under its jurisdiction. It would also allow the General Services Administration to convey mineral deposits when it disposes of a full fee title to property declared excess under the Federal Property and Administrative Services Act of 1949. With those two exceptions the proposed bill would consolidate the responsibility for administering federally owned leasable minerals in the Department of the Interior. Within the Executive Branch the Department of the Interior has paramount competence and knowl-

edge in the minerals field. The recognized expertise of the Geological Survey, the Bureau of Mines, and the Bureau of Land Management has led most Federal agencies to delegate minerals management of lands under their jurisdiction to the Department of the Interior. Efficiency and economy dictate that this practice be expanded where practicable.

The proposed bill recognizes that the surface managing agency has a strong interest in minerals extraction on its lands. Sections 105 and 108 make it clear that the surface administering agency must consent to any disposal and may require conditions to be included in the lease to protect the nonmineral interests in the land.

(4) Mineral deposits in certain Federal lands are at this time not available for leasing under any statute. A major omission at the present time is acquired lands set aside for military purposes. Only when mineral deposits in the acquired lands in a military reservation are being drained or threatened by drainage can the Secretary take protective action and lease them 40 Ops. Atty. Gen. 41 (1940). Similarly, deposits in both public domain and acquired lands within incorporated cities, towns, and villages are barred from leasing, except in cases of drainage. In many cases mineral development is possible without damage to private property. The proposed legislation would make deposits in all Federal lands leasable except the Outer Continental Shelf (which is subject to another statute), lands in national parks and monuments, national wildlife refuges and national wildernesses, lands in naval petroleum or oil shale reserves, and Indian lands. Lands in incorporated cities, towns, and villages could be leased for oil and gas only after consultation with local authorities and for other minerals only with the consent of such authorities.

(5) The proposal would place certain minerals presently subject to the location system under the Mining Law of 1882 or to sale under the Materials Act, under the Mineral Leasing System. The Mineral Leasing Act presently covers coal, oil and gas, tar sands, oil shale, phosphates, potassium, and sodium. It also covers sulphur but only in Louisiana and New Mexico. The proposed bill would (1) cover all minerals in acquired lands, including the so called "hard rock" minerals which are currently disposed of under a variety of special statutes, (2) define oil and gas to include all hydrocarbons except coal and oil shale thereby avoiding a difficulty in the present law of distinguishing between tar sands and oil and gas, (3) include sulphur in all States, (4) include certain compounds which are subject to controversy as to which law covers them, (5) add calcium and magnesium as leasable minerals, (6) create a category of "bedded minerals" which gives the Secretary of the Interior discretion to provide for the leasing of minerals found in beds of mineable thickness rather than in lodes or veins, and (7) create a category of "construction minerals" which would include the so called "common varieties" of minerals now subject to sale under the Materials Act as well as uncommon varieties of those same minerals and certain other similar minerals which are used in construction. Such construction minerals would be subject to sale or lease at the option of the land administering agency. The bill also provides for the leasing of minerals, not otherwise subject to its provisions, when they are associated with, or related to, minerals subject to a lease.

(6) One of the most heavily criticized aspects of the present leasing system is the extent of noncompetitive leases awarded by "lottery". The Public Land Law Review Committee recommended an expansion of competitive bidding. The proposed bill would provide that, with minor exceptions, all leases would be issued competitively.

In addition to these six basic principles the proposed bill incorporates provisions to remedy a number of additional specific defects, which have appeared through the years in the existing leasing laws.

We regard this revision of the mineral leasing laws as a balanced approach to the problem of providing adequate exploration and development incentives, a uniform, clear, and workable system of disposal, a fair return to the public and adequate protection of the environment. All these factors are urgently needed. We strongly recommend, therefore, the enactment of the Mineral Leasing Act of 1971.

The Office of Management and Budget has advised that the enactment of this proposed bill would be in accord with the program of the President.

Sincerely yours,

ROGERS C. B. MORTON,
Secretary of the Interior.

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

S. 2727. A bill to reform the mining laws. Referred to the Committee on Interior and Insular Affairs.

Mr. JACKSON. Mr. President, on behalf of the ranking minority member of the Committee on Interior and Insular Affairs (Mr. ALLOTT) and myself, I send to the desk for appropriate reference a bill to reform the mining laws.

This legislation was submitted and recommended by the Secretary of the Interior and I ask unanimous consent that the executive communication accompanying the draft proposal be printed in the RECORD at this point in my remarks. There being no objection, the communication was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., October 12, 1971.

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

DEAR MR. PRESIDENT: Enclosed is a draft bill "To reform the mining laws".

We request that the bill be referred to the appropriate committee and that it be enacted.

The Mining Law of 1872, as amended, and certain other related and supplemental laws govern the disposition of much of the mineral wealth on hundreds of millions of acres of federally owned land. During the almost one hundred years of its operation, the Mining Law of 1872 has played an important role in the development of this country. It has contributed to the settlement of large areas of the West and has provided much of the mineral base for our industry and technology.

Since 1872, however, the country's needs have changed a great deal, and as a result changes have been necessary in the Mining Law of 1872. In 1920 certain minerals, principally oil and gas, and coal, were taken out from under the Mining Law of 1872 and placed under a mineral leasing system. In 1946 Congress decided that certain other so called "common variety" minerals, principally sand, gravel and building stone, were more appropriately disposed of in fixed quantities at a negotiated price rather than letting the first person to discover it have the entire deposit.

A basic objective of the original Mining Law of 1872 was to encourage the prospecting for and development of minerals by offering as an incentive the right to a patent for the minerals discovered and the land they were discovered in. Where mining conflicted with other uses of public land the Secretary of the Interior had two choices; to withdraw the land from mining altogether or to permit mining locations to continue irrespective of its effect on other uses or the environment.

The two major revisions mentioned above, the Mineral Leasing Law of 1920 and the Materials Disposal Act of 1946, incorporated two additional objectives with respect to those minerals to which they applied; discretionary authority to harmonize mining activity with the needs of other users and of the environment, and payment to the Federal Government for the minerals taken off the public domain.

The proposed "Mining Law of 1971" would apply these additional objectives to all the minerals still covered by the Mining Law of 1872. These are the so-called "hard-rock" minerals such as gold, silver, lead, zinc, copper, and uranium, which are located on public domain lands. It would retain the basic location-patent system with some significant changes.

First it would prohibit any commercial prospecting on the public domain unless the prospector had obtain either a prospecting license or an exploration development and production permit. The former would be issued for a nominal fee to any person upon application. It would not allow any significant surface disturbance. It would give the Secretary some measure of notice and control over prospecting on the public domain.

The exploration development and production permit would authorize exclusive prospecting over a given area as well as development and production if a mineral deposit were discovered. It would require the payment of rent and royalty on minerals extracted as well as conditions to protect the environment.

The proposed bill expressly applies to public domain land except lands in the National Park System, the National Wildlife Refuge System, the National Wilderness Preservation System, lands held by the petroleum and oil shale reserves or lands on the Outer Continental Shelf. Where the surface of the land is under the administration of a Federal agency other than the Department of the Interior, the Department of the Interior would issue the permit to explore and develop only upon the consent of the surface agency and upon such terms and conditions for the protection of the nonmineral values as that agency shall specify.

Where the administering agency determines that specific land should be removed from the application of the Act to provide for a higher use or to protect or enhance the environment the Secretary is authorized and directed to remove it.

Where lands subject to permit are believed to contain commercially valuable mineral deposits, the Secretary shall require permits to be based on competitive bidding. In addition, he shall require competitive bidding where two or more permit applications are filed for the same land on the same day.

Upon discovery of a mineral deposit capable of commercial development, the permittee would be entitled to a patent to the mineral deposit (but not the land) together with certain rights to rent the surface of the area covered by the permit and nearby Federal lands. The patent would require a royalty to be paid of at least 3 percent and would terminate after the mineral deposit is exhausted or if the patentee abandoned the mine either by written notice or by failing to operate it for 30 years.

The proposed bill would repeal the Mining Law of 1872, as amended. Any valid rights existing on the date of enactment would be preserved, except that unpatented mining claims would have to be recorded within 1 year or be conclusively presumed abandoned.

Pressure to reform the Mining Law of 1872 has been growing for many years, both within the mining industry as well as the public at large. Increasing conflicts between mineral activity and other uses of the land, concern

for abuses of the mining law to obtain vacation homesites, concern for environmental protection and the frustration and uncertainty to mineral developers of a complex system of overlapping and archaic location requirements, have contributed to this pressure.

We feel that the proposed bill represents a balanced approach to the problem of promoting the exploration and production of the minerals on which our society depends, coordinating competing uses of the land, providing a fair return to the public, and providing the maximum feasible protection of the environment.

Reform of the mining laws is long overdue. We urge that Congress act on this proposal without delay.

The Office of Management and Budget advises that enactment of this proposed bill would be in accord with the program of the President.

Sincerely yours,

ROGERS C. B. MORTON,
Secretary of the Interior.

By Mr. HUMPHREY:

S. 2728. A bill to establish a Citizens' Committee to Study Congress. Referred to the Committee on Government Operations.

THE CITIZENS' COMMITTEE TO STUDY CONGRESS

Mr. HUMPHREY. Mr. President, I am today introducing legislation that establishes a blue-ribbon Citizen's Committee on Congress—to thoroughly examine the legislative branch to recommend ways of making it a more responsive institution, and to provide a public focus for the reform of Congress.

Mr. President, legislatures all over the world are challenged institutions. Though Congress is one of the last strong representative bodies, it also suffers the same malaise. Editorial writers and news commentators never tire of calling it slow, creaky, and ineffective. And, while the public generally holds the individual Congressman or Senator in high regard, the same tribute is seldom paid Congress as a collective body.

One writer said:

The job of Congress is to act and to dispose of legislation.

But, Congress should be more than a disposer or passive actor. It should be an informed, representative, policy setting body. It has the responsibility, as Woodrow Wilson said 80 years ago, to "look diligently into every affair of government and to talk much about what it sees. It is meant to be the eyes and ears and to embody the wisdom and will of its constituents."

In 1971, Congress is not fulfilling that purpose. It is not completely informed. It is often unrepresentative. It is slow to change. And, it seldom asserts policy initiatives.

Congress as a completely responsive institution is in trouble.

Why?

First, its procedures have not kept pace with the changing nature of the American domestic environment; as a result Congress as a collective has not faced the hard question of what kind of an institution it should be and what functions it should perform.

Second, it has lacked the will to change. It has failed to overturn rules and traditions that have outlived usefulness, and it has negated the responsibility of majority rule through an all-controlling committee system.

Third, Congress has always dealt with reform demands by establishing an in-house mechanism to suggest innovations in functions, procedures, and structures.

CONGRESS AND THE CHANGING DOMESTIC ENVIRONMENT

Our domestic environment has changed. There have been great challenges and great disappointments. While we have accomplished much in the field of human rights, civil rights, environmental rights, political rights, and economic rights, we still have much to do.

The question is this: How relevant are our institutions to today's demands and today's society?

Technological, social, economic, and political changes have placed great strains on the ability of our institutions to comprehend the nature, the complexity, and the interrelationships of problems.

With all of our domestic unsettledness, though, and precisely because we are an optimistic people, we demand excellence, we demand well-being, we demand progress, and we demand solutions.

Yet, who can argue that our institutions have completely reflected this new social awareness, this new economy, or the desire for solutions to our problems?

The steelworker who pays high taxes and still cannot pay his mortgage, the welfare caseworker who every day becomes more and more discouraged at the "system," the small businessman who spots a profitable market but cannot get adequate financing, the city official frustrated at the plethora of Federal grants, and the Member of Congress who has helped create but now cannot comprehend his own handiwork all agree: Our governing institutions are too musclebound to respond effectively to the needs of people. It has become impossible to define responsibility and assure accountability.

As a result, the United States faces an unprecedented problem. There is today a lack of confidence and credibility in Government at all levels—Federal, State, and local.

Congress is not excepted from the crisis of confidence. Just the opposite should be true, however. Congress must and should be the exception. It is this body that the hand of the electorate touches most directly and frequently. It is to this body that people turn when they cannot get answers elsewhere.

Congress has simply become overwhelmed by domestic and worldwide events.

The evidence can be clearly seen in the relationship between the Congress and the executive. What has happened is that while Congress is nominally an equal partner in the governing of the United States, in reality, this is but a paper equality. It was not by chance, but by clear design, that the Founding Fathers established the Congress in article I of the Constitution. But, Congress has become the second branch of Government. And unless changes are made in procedure, in collective will, in structures, unless Congress takes adequate stock of changes in American society, it will remain subordinate to the executive.

Look at the facts:

Congress today is more dependent on the executive branch than ever before. Most key bills are administration bills, the key testimony is apt to be administration testimony, the key analysis is administration analysis, and the key support is often administration support.

Congress has its share of experts, but neither the time, the computers, nor the data sources to adequately challenge or scrutinize executive policies in a systematic manner. Congress does and can challenge the political implications of executive programs. But what is needed is something broader. Congress must be able to anticipate crises rather than just react to them.

Congress has lost much of the control over the legislative intent of laws. Almost daily new regulations are promulgated by executive agencies. Congress becomes aware of them only when a substantial portion of the population is affected and protests. In short, rulemaking in a complex world becomes policymaking, and Congress too often remains on the outside of the process.

CONGRESS, ITS PROCEDURES, AND MAJORITY WILL

If Congress is ever to meet its responsibilities, then it must become properly organized. There is no denying it: procedures do influence policies and programs.

Congress is a fragmented institution. Decisions are made by nearly invisible subcommittees, and no single mechanism exists for looking at the broad overall objectives of legislation as it affects the public interest.

The Committee for Economic Development's report "Making Congress More Effective" put it this way:

Too many committees and subcommittees fragment broad policy issues into bits and pieces of legislation. There is inadequate communication between separate independent power centers. The coordination essential to consistent and coherent decision-making is lacking. Review of agency performance is badly subdivided and variable in quality, often focusing upon trivia while neglecting evaluative inquiries into overall achievements. Continuous feedback of agency progress on approved projects and on-going programs is the exception rather than the rule.

Consider just two areas of fiscal policy and national security affairs.

The budget of the United States is examined by over 31 committees and subcommittees. Administrative functions that might be the responsibility of two or more agencies are never closely examined as a single entity. Thus, public welfare programs—public assistance, food stamps, public housing—are scrutinized by the House Ways and Means Committee, the Health, Education, and Welfare appropriations subcommittees, the House and Senate Agriculture committees, the Senate Finance committees, the House Housing subcommittee, and the Urban Affairs subcommittee of the Senate.

The subcommittees and committees do work hard. The members are diligent, and they produce an impressive record. However, they are limited. They cannot look at the entire budget as a single entity. They must instead look at parts;

and consequently they tend to focus on incremental changes in the budget—a dollar increase here, two new jobs there. As a result, the question is seldom asked "Why is a particular program needed?" "Has it outlived its usefulness?" or "Is there another and maybe better method of accomplishing the goal?"

In the field of national security, the Congress lacks an effective mechanism to adequately consider all the ramifications of change in the world community, the strategic implications of the atomic age, the largeness of the defense budget, the issues of arms control. Authority is presently split among the Armed Service Committee, the Foreign Relations and Foreign Affairs Committees, the Atomic Energy Committee, and the Appropriations Committees.

What is needed is a counterpart to the executive branch's National Security Council—a Joint Congressional Committee on National Security which could draw on the experience of legislative leaders in various national security areas.

I have recently made just such a proposal to the Congress. I believe that such a committee is desirable because it would provide for analysis and evaluation of national security by both Houses of Congress; it would permit closer consultation and cooperation, and it would permit a comprehensive review of our involvement in Vietnam and help heal the devisiveness in our country that has resulted from the secrecy of national security decisionmaking.

The Joint Committee on National Security Policy would, I believe, assist Congress in asserting its constitutional role in foreign policy.

But at the heart of conflicts over procedures lies the inability of the majority to work its will.

Seniority and the committee system together place constraints on majority will—constraints that can be and are far reaching in their policy effects. For years, the House of Representatives never held a vote on the Vietnam war. For years medicare and medicaid were delayed through committee bottlenecks.

All of us—Representatives and Senators—were sent to Washington to speak out and make decisions on a variety of important national issues. But, what do we find? We are not Congressmen and Senators—we are members of committees.

And, very little is done outside the framework of congressional committees.

We are held responsible for our votes on all issues. Yet, the only issues on which we can usually make a substantive legislative contribution are issues related to our committee assignments.

This is wrong and it must change.

INDEPENDENT STUDY OF CONGRESS

The Congress of the United States requires an independent analysis of its functions, its structures, its procedures, its strengths, its shortcomings, and its relationships to changing U.S. society and the world community.

This is why I have sponsored legislation creating a Citizens Committee to Study Congress.

A prestigious independent Citizens' Committee can accomplish two goals that the normal in-house mechanisms of self-examination can never achieve. First, it can bring a sense of detachment and perspective that should result in an objective, unbiased examination of Congress.

Second, a citizens' committee can provide impetus for reform. By holding hearings around the Nation, it can be a means of education, a mobilizer of public activism, and a vehicle for public participation in the evaluation of Congress.

My bill establishes a 15 member independent committee to study all facets of Congress. Its goal is not just to produce a listing of reforms, but to produce an understanding of Congress as an institution subject to the pulls and strains of governance.

It authorizes the Speaker of the House of Representatives, the President pro tempore of the Senate, and the President of the United States to appoint members to a selection committee. This committee will, within 1 month, appoint 15 members of the citizen's committee.

The citizen's committee would be as broadly representative of the public as possible. No more than two Congressmen, two Senators, and two officials from the executive branch. The nine other members should be selected from the public at large. One appointee will be designated chairman by the selection committee. No less than six nor more than nine will be from one political party.

The bill provides for the appointment of the full committee of an executive director, and authorizes supportive staff personnel.

The committee shall be empowered to conduct an extensive study into congressional functions, powers, and procedures. It is expected that the committee will make periodic reports to the Congress with a final comprehensive report at the end of its 2-year life.

Under this legislation, the citizens' committee would be charged with providing guidelines and recommendations in four prime areas:

First, the committee should examine the role of Congress in asserting policy initiatives. This means that the committee must come to some conclusions as to what is a policy initiative, what must be done if Congress is to reassert a role in policy initatives, and in what areas Congress can best assert such initiatives.

It would mean a study of the role of political parties, of policy committees, of the leaderships, and of the application of new technology and data processing techniques.

It would mean that Congress must equip itself for policy analysis. Congress must simply have the tools to tell what proposed policies will do, who will benefit, what the consequence of alternative policies might be, and what the policies will cost. And, it must have this information independent of the executive branch.

Policy analysis means employing staff experts who can concentrate their attention on specific problem areas of American society. It means using the most up-to-date management techniques. It means using computer technology for budgetary analysis and program evaluations. It means obtaining independent, quality studies on important public questions. It means in-depth issue analysis. It means blocking out congressional time to study and to think. And, it means questioning and requestioning the foundations of all programs.

The criteria should be this: Is the program necessary? Is it accomplishing its purposes? Are the people involved in the planning and execution of the program? Is the cost reasonable to the ends desired? What are the consequences of the policy for the public interest? What other alternatives might accomplish the purpose desired?

A second area is programs and evaluation. How best can Congress equip itself to efficiently monitor the programs it creates. How can Congress make the best use of technology, information, and utilization of personnel to perform its constitutional oversight functions. How can it educate the public as to limits, expectancies and promises of programs?

The third area is the institution itself—with its system of powers, priorities, privileges, and traditions. We need to examine our decisionmaking mechanism, the committees, the staffs, the seniority system, and we must come to some conclusions about what we want the committees to do—both now and in the future.

We have got to have some way of rationalizing rules and procedures with democratic values of majority rule and minority rights.

We must legitimately ask and answer: Are we sufficiently organized to handle the crush of demands placed on us as an institution?

Fourth, it is necessary to examine the social, economic, political, and international environment and to relate the change and challenges inherent in it to the functioning of Congress.

Whatever the recommendations, whatever the standards of evaluation and criteria for judgment, the committee should recognize that studies cannot be done in a vacuum. The endeavors of this committee should not be idle efforts. It should try to understand what Congress is, what functions it performs, how, if at all, these functions have changed, and what functions Congress is likely to perform in the future.

The prime objective of this committee should be this: We should try to get ahead of our problems. We need to ask and answer: What kinds of institutions will we need to handle the problems of the next 50 to 100 years?

I predict that the report of this committee will not gather dust, as so many others have. Very frankly, the public nature of the committee contains the seed of public insistence that the committee will provide the basis of discussion and debate leading to reform of Congress.

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

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

S. 2728

A bill to establish a Citizens' Committee To Study Congress

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) there is established a committee to be known as the Citizens' Committee to Study Congress (hereinafter referred to as the "Committee") to make a complete study relating to the functions, powers, duties, and operation of the Congress.

(b) The members of the Committee shall be chosen by a selection committee composed of 3 members, one of whom shall be appointed by the President, one of whom shall be appointed by the President pro tempore of the Senate, and one of whom shall be appointed by the Speaker of the House of Representatives. Any member of the selection committee not otherwise employed by the United States Government shall receive $100 for each day (including travel time) that he is performing duties as a member of the selection committee. Each member of the selection committee shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of his duties as a member of the selection committee.

(c) The selection committee shall choose, not later than 30 days after the last member of the selection committee has been appointed, 15 members to serve on the Committee. Not more than two of the members shall be Members of the House of Representatives; not more than two of the members shall be members of the Senate; and not more than one of the members shall be an officer or employee of the executive branch of the United States Government. The selection committee shall designate one of the members as chairman of the Committee.

(d) Eight members of the Committee shall constitute a quorum. Any vacancy shall be filled by the selection committee within 30 days after the vacancy occurs.

(e) Any member of the Committee not otherwise employed by the United States Government shall receive $100 for each day (including travel time) that he is performing duties as a member of the Committee. Each member of the Committee shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of his duties as a member of the Committee.

SEC. 3. (a) In conducting its study, the Committee shall—

(1) consider the role of the Congress in establishing policy for the operation of the United States Government;

(2) determine how the Congress may best exercise its function of reviewing and evaluating programs and activities of the United States Government;

(3) examine the operation of the Congress itself (including but not limited to its powers, priorities, privileges, traditions, the means by which the Congress makes decisions, its committee system, and its staffs);

(4) examine the social, economic, and political factors which affect the operation of the Congress and which may hereafter affect such operation; and

(5) examine and consider such other matters as the Committee may deem appropriate to provide an understanding of how the Congress has operated and how the Congress should operate in the future.

(b)(1) Not later than 2 years after the date of enactment of this Act, the Committee shall submit a final, comprehensive report to the Senate and the House of Representatives with respect to its study. The Committee shall also make such reports, from time to time, to the Senate and House of Representatives as the Committee deems necessary. Any report of the Committee shall contain such findings, statements, and recommendations as the Committee considers appropriate.

(2) Any report of the Committee shall be printed as a public document and made available for sale to the public.

(c) Thirty days after the Committee submits its final, comprehensive report, the Committee shall cease to exist.

SEC. 4. (a) The Committee or, on the authorization of the Committee, any subcommittee thereof, may, for the purpose of carrying out the provisions of this Act, hold hearings, administer oaths for the purpose of taking evidence in any such hearings, take testimony, and receive documents and other writings. Any member authorized by the Committee may administer oaths of affirmations of witnesses appearing before the Committee, or any subcommittee thereof.

(b) In order to carry out the provisions of this Act, the Committee is authorized—

(1) to appoint and fix the compensation of an Executive Director and such additional personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointment in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

(2) to obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code;

(3) appoint such advisory committees as it deems necessary;

(4) to promulgate rules and regulations governing the operation of the Committee and its organization and personnel;

(5) to procure supplies and services;

(6) to enter into contracts; and

(7) to take such other action as may be necessary to carry out this Act.

(c) Each department, agency, and independent agency of the executive branch of the United States Government is authorized and requested to furnish to the Committee, upon request made by the chairman, such data, reports, and other information as the Committee deems necessary to carry out its functions under this Act.

SEC. 5. There are authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

By Mr. HUMPHREY (for himself, Mr. HARTKE, and Mr. MONDALE).

S. 2729. A bill to authorize the establishment and maintenance of reserve supplies of soybeans, corn, grain sorghum, barley, oats, wheat, and dairy and poultry products for national security and to protect domestic consumers against an inadequate supply of such commodities; to maintain and promote foreign trade; to protect producers of such commodities against an unfair loss of income resulting from the establishment of a reserve supply; to assist in marketing such commodities; to assure the availability of commodities to promote world peace and understanding; and for other purposes. Referred to the Committee on Agriculture and Forestry.

REINTRODUCTION OF STRATEGIC STORABLE AGRICULTURAL FOOD COMMODITIES ACT OF 1971

Mr. HUMPHREY. Mr. President, on October 4, I introduced a bill to establish and maintain a strategic storable agricultural food commodities reserve and I called upon the Secretary of Agriculture to make an early announcement of the feed-grain program for 1972 giving assurance of adequate income for farmers in 1972 and to relieve the low price and income situation for the 1971 crop.

On Monday of this week the Secretary made the early announcement. I thank him for that. The early announcement will give time for the President or the Congress to correct the deficiencies of the program that the Secretary announced.

Because the program the Secretary announced provides no definite assurance of improved farm income, I am reintroducing the food reserve bill I introduced earlier to add some income and price guarantees. The Secretary would have to pay for the commodities that the bill requires him to buy in establishing the food reserve. This would insure improvement in farm income from the current low levels for 1971, as well as 1972 crops.

The new bill sets the minimum price which the Secretary must pay for commodities he is required to purchase for the national food reserve. The minimum acquisition prices are established at 90 percent of the authorized maximum prices.

The authorized maximum acquisition prices are:

For corn—$1.35 per bushel.

For other feed grains—prices reflecting feed value equivalent to the $1.35 for corn.

For wheat—$1.55 per bushel.

For soybeans—$3.00 per bushel.

For dairy and poultry products, prices determined by the Secretary of Agriculture to be equivalent to 90 percent of the parity price for milk for manufacturing as indicated by historical statistical relationships.

The new bill also sets the minimum price at which the Secretary can sell out of the food reserve at 120 percent of the established price. This is just to make sure that the miscalculations and looseness in administration do not result, as they often do, in allowing the drift of actual market prices to be depressed below the level set by law. With the 5-percent leeway, sales by the Secretary should not depress actual market prices below the parity income level.

The new bill also raises the reserve level for feed grains from 25 million tons to 30 million tons. Most recently available reliable data indicate that removal of no more than 25 million tons will not reduce the artificial surplus sufficiently to make the minimum purchase price effective.

Moreover, careful long term calculations indicate that a properly insulated total reserve including privately held carryovers of 40 or 45 million tons might not be excessive.

The mere existence of such a relatively comfortable reserve would forestall the kind of panic demands for production increases that characterized official calculations during the winter and early spring of a year ago, which led to the current artificial surplus and current depressed prices and income of food grain farmers.

The Nation needs a strategic and safety reserve of food commodities. Such a reserve will serve consumers, the Nation, and the world we help feed well. The purchases for and sales from such a reserve can help to stabilize family farm income at or near the parity level. Considering the concept of equality of rewards and sacrifices projected under phase II of the economic program, the revised food reserve bill I am introducing today will help prevent inflation while

helping to protect farmers from inequities that may develop in the program.

I also ask unanimous consent to have the text of the bill printed at this point in the RECORD.

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

S. 2729

A bill to authorize the establishment and maintenance of reserve supplies of soybeans, corn, grain sorghum, barley, oats, wheat and dairy and poultry products for national security and to protect domestic consumers against an inadequate supply of such commodities; to maintain and promote foreign trade; to protect producers of such commodities against an unfair loss of income resulting from the establishment of a reserve supply; to assist in marketing such commodities; to assure the availability of commodities to promote world peace and understanding; and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be cited as the "Strategic Storable Agricultural Food Commodities Act of 1971".

SEC. 2. Notwithstanding the provisions of any other law, the Secretary of Agriculture shall establish, maintain, and dispose of a separate reserve of inventories of wheat, feed grains, soybeans, dairy products and poultry products as provided in this Act.

Such reserve inventories shall include not more than the following quantities: (1) three hundred million bushels of wheat; (2) a total of thirty million tons of feed grains; (3) one hundred million bushels of soybeans and (4) dairy and poultry products at levels determined by the Secretary.

SEC. 3(a). The maximum price the Secretary shall pay for any commodity shall be $1.35 per bushel for corn and other feed grains at prices reflecting feed value equivalent to corn; for wheat $1.55 per bushel; for soybeans $3.00 per bushel, adjusted by the percentage increase in the index of prices paid by farmers after 1971 and for dairy and poultry products as determined by the Secretary to be historically as equivalent to 90% of the parity prices for manufactured dairy products.

(b) The minimum price the Secretary shall pay for any commodity shall be 90 per centum of the price specified in Section 3(a).

(c) Such maximum and minimum prices and the quantity to be procured during the marketing year and the estimates used in arriving at the same shall be announced during such marketing year on the last Friday of July for wheat, on the last Friday of October for feed grains, on the last Friday of September for soybeans and on the last Friday of April for dairy and poultry products: *Provided,* That for the 1971 marketing year such announcements shall be made as soon after the effective date of this Act as is reasonably possible.

(d) The Secretary is authorized to proportion purchases and reserve stocks of the various varieties and grades of each of the above commodities to correspond to usual marketing demands.

SEC. 4. (a) Except when a state of emergency has been proclaimed by the President or by concurrent resolution of Congress declaring that such reserves should not be sold the Secretary shall offer each commodity in the reserve for sale at a price of 105 per centum of the price as provided in Section 3(a), *Provided,* That such sales shall in no event be less than the market price for the commodity at the time of sale: *Provided further,* That sales during any marketing year shall be limited to the net quantities by which estimated domestic consumption and exports exceed estimated domestic production and imports.

(b) The Secretary is also hereby authorized to dispose of commodities in such reserve as follows:

(1) For use in relieving distress (a) in any area of the United States, including the Virgin Islands, Guam and the Commonwealth of Puerto Rico, declared by the President to be an acute distress area because of unemployment or other economic cause if the President finds that such use will not displace or interfere with normal marketing of agricultural commodities and (b) in connection with any major disaster determined by the President to warrant assistance by the Federal Government under Public Law 875, Eighty-first Congress, as amended (42 U.S.C. 1855 et seq.).

(2) For use in connection with a state of civil defense emergency as proclaimed by the President or by concurrent resolution of the Congress in accordance with the provisions of the Federal Civil Defense Act of 1950, as amended (50 U.S.C. Appl. 2251–2297), or for use in a major disaster as defined in section 102 of the Disaster Relief Act of 1970 (Public Law 91–606).

(3) For sale in assistance in the preservation and maintenance of foundation herds of cattle (including producing dairy cattle), sheep, and goats and their offspring, under section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1427), and to provide feed for livestock in any emergency area under the Act of September 21, 1959, as amended (7 U.S.C. 1427, note).

(4) For use to meet famine or other urgent or extraordinary relief requirements outside the United States as determined by the President.

(c) The Secretary may buy and sell at an equivalent price allowing for the customary location and grade price differentials, substantially equivalent quantities in different locations or warehouses to the extent needed to properly handle, rotate, distribute, and locate such reserve. Such purchases to offset sales shall be made within two market days.

(d) The Secretary may accept warehouse receipts in lieu of taking physical possession of the grain, but in such cases the obligor under the warehouse receipt shall be required at all times to have the grade stated on the warehouse receipt or a better grade available for delivery.

(e) The Secretary shall make a daily list available showing the price, location, and quantity of the transactions entered into hereunder.

SEC. 5. The Secretary shall use the Commodity Credit Corporation to the extent feasible to fulfill the purposes of this Act; and to the maximum extent practicable consistent with the fulfillment of the purposes of this Act and the effective and efficient administration of this Act shall utilize the usual and customary channels, facilities, and arrangements of trade and commerce. The Secretary is authorized to store grain purchased under this section in producer-owned and commercial storage facilities.

SEC. 6. There is hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

SEC. 7. The purchase authority under sections 2 and 3 of this Act with respect to each of the commodities specified shall expire at the end of the marketing year for the 1975 crop of such commodity.

DEFICIENCIES OF ADMINISTRATION'S 1972 WHEAT AND FEED GRAINS PROGRAMS AND WHAT SHOULD BE DONE TO CORRECT THEM—THE 1972 FEED GRAINS PROGRAM

Mr. HUMPHREY. Mr. President, the 1972 wheat and feed grain programs as announced by the Department of Agriculture have the following major deficiencies:

First. The 1972 feed grains program will be one of the most costly programs to date.

Second. The Department's programs have led to an increase in carryover stocks of both wheat and feed grains this year and will likely contribute additional carryover stocks of these commodities next year, despite the increased set-aside called for in the 1972 feed grains program.

Third. Based upon our experience with the 1969 feed grains programs, when 39 million acres were diverted, it is highly unlikely that a set-aside program of 38 million feed grain acres will hold production in line with utilization.

The increased payments announced for the 1972 program may bring an equivalent reduction in production as the 1971 record levels but will not reduce production sufficiently to improve market prices over what they are now. This of course will mean a continued lower income situation for feed grain farmers.

A basic reason underlying this failure of the 1972 program to reduce production in line with demand is that farmers can, and likely will, expand their feed grains and wheat production on their non-set-aside acres. This is to say that a farmer can sign up in the program, set-aside a certain percentage of his acreage, and turn around and expand his production on the remaining land on his farm in that there is no feed grain base acreage requirement included in this or next year's program.

The 1970 Agricultural Act provides authority for the Secretary of Agriculture to initiate a base acreage program for feed grains. And, it is exactly what the Secretary of Agriculture should do with respect to the 1972 feed grains crop. The program as announced by the Secretary not only fails to offer any prospect for increased income to feed grains producers, but will very likely result in further reductions of income plus add further to the surpluses which were created by this year's program.

I think feed grain farmers as they learn the details of this program will be sick about it, both in terms of its failure to strengthen his income as well as the increased cost which he will have to pay for it as a taxpayer.

THE 1972 WHEAT PROGRAM

The 1972 wheat program announced earlier by the Department of Agriculture is basically the same as this year's program except for a small increase in the set-aside requirement. As such, it too will likely fail to bring production in line with utilization demands, thereby contributing even further to the carryover of wheat stocks next year.

Preliminary reports on winter wheat plantings indicate at least a 20-percent increase in plantings this year over last. The Department has taken no further action in connection with these reports.

Again, under the 1970 Agricultural Act, the Secretary does have authority to institute an additional voluntary set-aside program for wheat which would permit the retirement of additional acres over and above those set-aside acres now required under the announced wheat program for 1972.

RECOMMENDATIONS

In my judgment the specific actions which the Secretary of Agriculture

should institute regarding the 1972 wheat and feed grains programs are as follows:

First. Institute a base acreage program for feed grains.

Second. Increase the loan level for corn to $1.25 per bushel. This will still result in a price which would make us competitive on the world market, especially if we experience a devaluation of the American dollar.

Third. Institute an additional diversion acreage program for wheat.

Fourth. Increase the loan level for wheat to $1.40 per bushel.

In addition to the above, the following actions should also be taken with respect to the current and future programs for our major farm commodities:

First. Increase the national base acreage allotment for cotton from the current 11.5 million acres to 12.5 million acres.

Second. Increase the current minimum loan level for corn—1971 corn—by 25 percent.

Third. Enact the new Humphrey Strategic Storable Agricultural Food Commodities Act of 1971 which establishes reserve inventories of wheat, feed grains, soybeans, dairy, and poultry products.

I ask unanimous consent to have printed in the RECORD at this point the Department of Agriculture's official announcement covering the provisions of the 1972 feed grains program.

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

SECRETARY HARDIN ANNOUNCES 1972 FEED GRAIN PROGRAM AND SOYBEAN LOAN LEVEL

WASHINGTON, October 18.—Secretary of Agriculture Clifford M. Hardin today announced a feed grain program for 1972 designed to increase farm income and reduce carry-over stocks.

The new program raises the feed grain set-aside to 25 percent of the base (20 percent this year), boosts set-aside payments (40 cents per bushel for corn from 32 cents this year), brings barley into the feed grain program, adjusts loan levels for grain sorghum and barley (consistent with the feeding value of corn), extends farm stored grain reseal provisions, and offers farmers two new options to set aside additional acreage beyond the minimum qualifying 25 percent.

The program is designed to achieve a feed grain set-aside of at least 38 million acres in 1972 compared with 18.2 million acres this year.

The new program continues corn loan levels at $1.08 (No. 2 basis) and the guarantee at $1.35 per bushel. The soybean loan level will be maintained at $2.25 per bushel.

The feed grain program will work this way:

1. During sign-up, starting Jan. 17, a farmer can decide whether to set aside a minimum 25 percent of this feed grain base acreage to qualify for loans and payments.

Loans will be $1.08 per bushel for corn (No. 2 basis), the same as in 1971; $1.79 per hundredweight for grain sorghum ($1.73 in 1971); 86 cents per bushel for barley (81 cents in 1971); and 54 cents and 89 cents per bushel, respectively, for oats and rye (the same as in 1971).

Set-aside payments will be 40 cents per bushel for corn, 32 cents per bushel for barley, and 38 cents per bushel for grain sorghum. These are paid on the established farm yield times one-half the barley, corn, or grain sorghum base. Payments in 1972 will again be made to farmers as soon as possible after July 1.

2. At sign-up time, the farmer can agree to set aside an additional amount of acreage, up to 10 percent of his corn or grain sorghum base and up to 20 percent of his barley base. The government will accept this additional voluntary acreage set-aside at sign-up time and will make set-aside payments for corn of 52 cents per bushel times the established farm yield on the additional voluntary set-aside acreage. Set-aside payments for barley will be 42 cents per bushel and for grain sorghum 49 cents per bushel, also figured on the established farm yield times the additional voluntary set-aside acreage.

3. Also at sign-up time, the farmer may offer to set aside still another 5 percent or 10 percent of his corn or grain sorghum base acreage. The Secretary of Agriculture will announce by mid-March whether to accept any of the additional acreage. This will give the Secretary greater flexibility in reducing acreage to make the program most effective. Set-aside payment rates will be the same for this additional voluntary set-aside as under option No. 2 above.

Payments to farmers under options No. 2 and No. 3 will also be made as soon as possible after July 1.

The 1972 program offers flexibility greater than the 1971 program, both to the farmer and to the USDA, Secretary Hardin said. "The farmer is allowed to plant whatever crop he wishes on that part of his farm not in set-aside or conserving base. Soybeans have been added to the list of crops which may be planted to protect the feed grain base or wheat allotment."

"The feed grain program will give farmers maximum freedom to choose how much acreage they will plant in 1972 and what they plant. At the same time, it permits the Department of Agriculture to exercise a choice in adjusting the program ahead of planting to make it the most effective for farmers."

Secretary Hardin further announced that again next year, farmers will receive set-aside payments as soon as possible after July 1.

"Early payments have become part and parcel of our farm programs," Hardin said. "They have proved a benefit to the farmer and the agricultural economy by helping the farmer meet production expenses, and with the commodity loan, market his product in an orderly manner."

By making it possible for farmers to plant crops in terms of market potential and productive capacity, while retaining program benefits, producers are able to plan their farm operations for the best possible return on their investment, the Secretary pointed out.

Participants in the 1972 feed grain program will be guaranteed a national average of $1.35 per bushel on the production from one-half of their corn base, the same as in 1971, and $2.29 per hundredweight on one-half of the farm's grain sorghum base. Producers will be guaranteed $1.10 per bushel on one-half of their barley base.

In another action to promote the orderly marketing of wheat and feed grains, farmers have been given the option of extending their loans on farm-stored commodities beyond the regular maturity dates. In the case of corn, loans on the 1969, 1970 and 1971 crops in farm storage are extended to May 31, 1973. Loans are extended through the 1972–73 storage period on the 1968 through 1971 crops of wheat, barley and oats under farm storage reseal programs. Loans are extended through the 1972–73 storage period on the 1969, 1970 and 1971 crops of grain sorghum under farm storage reseal programs.

Because of the close relationship between feed grains and soybeans the Secretary also announced that the loan level for 1972–crop soybeans will be at a national average of $2.25 per bushel, No. 1 grade, 12.8–13.0 percent moisture. Because of the limited supply of soybeans for the current 1971–72 marketing year and relatively strong prospective prices, there will be no reseal program for the 1971–crop soybeans.

Set-aside payments for a farm will be determined by multiplying one-half the feed grain base times the farm yield times the payment per bushel. As in 1971, participants in the 1972 set-aside program will receive the full payment regardless of what they plant on their acreage, except for quota crops. However, the 1970 Act provides that farmers who plant less than 45 percent of their feed grain base in 1972 to feed grain, wheat or soybeans, will have their 1973 base reduced by the amount of the underplanting, up to 20 percent of the base. If no feed grain or authorized substitute crops are planted for three consecutive years, the entire base is removed from the farm. All base acreage lost by farms will be placed in a national pool for reallocation to other farms which plant feed grain.

Having met the set-aside and conserving base acreage requirements for feed grain, however, a producer may plant as much feed grain acreage as he wishes, or as much of any other crop not restricted by quota.

Acreage which is not planted due to a natural disaster or a condition beyond the control of the producer will be considered planted to feed grain to preserve the base, and any producer who makes a set-aside but elects to receive no payment will not suffer loss of base.

As in the 1971 program, a producer may participate in the 1972 feed grain program on any farm or all farms in which he has an interest.

The Agricultural Act of 1970 limits feed grain payments to any person to $55,000. The limitation of payments provision does not apply to loans or to sales of eligible feed grain to Commodity Credit Corporation.

Simultaneously with his announcement of the 1972 feed grain program, Secretary Hardin also announced the upland cotton program for 1972.

The Secretary said farmers who take advantage of the management options offered under the 1972 feed grain and cotton programs should benefit from the anticipated effects of the Administration's economic stabilization program. This program, he pointed out, is designed to hold down inflation and stabilize production costs.

The feed grain and cotton programs for 1972 are being announced early this year to give farmers more time to make important decisions about planting and agricultural financing.

By Mr. MUSKIE:

S. 2730. A bill to amend the Internal Revenue Code of 1954 to provide a tax credit for the purchase of durable consumer goods. Referred to the Committee on Finance.

Mr. MUSKIE. Mr. President, for over 2½ years, our Nation's economy has been plagued by the strange and destructive combination of a stagnant economy with accelerating inflation. Inflation which was at the 4.2-percent level in 1968, rose to 5.4 percent in 1969 and to 5.9 percent in 1970. For the last 12 months, the rate of inflation has been at an intolerable level of 4.5 percent. Unemployment, which was 3.3 percent on January 1, 1969, skyrocketed to 6.2 percent by December 1970, and remains at 6 percent of the labor force today, just where it was 10 months ago; 1971 must be regarded as one of the most troublesome years for our economy since the 1930's. Only in two post World War II years has the unemployment rate been higher, and in none of those years were we plagued by the kind of inflation we are facing today.

The problem of inflation has finally received the attention it deserves from the President. Hopefully, the President's

plan to keep prices from rising will be successful and hopefully phase II of the President's program will be administered in a way that is fair to workers in all sectors of our economy.

But no matter how successful our anti-inflationary program may be—and we will all work to make it as successful as possible—additional measures are necessary to get our economy going again. Today we are operating at a level of production that is $70 billion below our full employment capacity. Gaining this lost capacity, which is approximately equal to the entire gross national product of Canada, would greatly aid in the solution of many urgent problems of our society. If our economy was operating as it should be, poverty would be declining instead of rising and the mounting fiscal crisis of our States and cities could be alleviated. Most important, of course, is the fact that the three million jobs sacrificed by our slack economy could be created, bringing economic security to millions of American families.

Unfortunately, the fiscal measures contained in H.R. 10947, the President's economic program to stimulate the economy as passed by the House and now pending before the Senate, are an inadequate and unfair approach to these goals.

The bill as passed by the House, when the administration's new depreciation rules are included, would result in a permanent reduction in the effective corporate tax rate of approximately 15 percent. The annual loss of revenue due to this business tax reduction is $5.2 billion in 1972, rising to almost $10 billion in 1980. In total, the President's action would make 1971 the year of the biggest business tax cut in the history of this country.

In contrast, under the bill an average family of four would receive a tax cut of about 36 cents per week in 1971, slightly over $1 a week in 1972, and no more cuts thereafter. It should also be remembered that the tax reductions for individuals contained in the bill, with one single exception—the increase in the low-income allowance—were already part of our tax law. Nothing has been done except to change the timing of congressionally enacted tax cuts.

The gross inequities of H.R. 10947 might be bearable if they were necessary. After all, one does not give the football to everyone on the team. But the President, by suggesting this series of business tax cuts, has given the ball to the player least able at this time to run with it. The President, by already implementing new accelerated depreciation rules and now proposing a "job development investment tax" is emphasizing capital formation—business investment in plants and equipment. I certainly agree that business investment plays a critical role in our economy, but I cannot agree that our economy would be effectively stimulated by tax reductions to business today.

The "job development investment credit" is, of course, the old investment tax credit with a new name. Perhaps the President felt that a new name for an old measure was necessary because, less than a year and a half ago, he spoke of the investment tax credit in a special message to Congress as a "subsidy to business investment that no longer has priority over other pressing national needs." I can only say that the President was right the first time.

Some argue that, if the investment tax credit was a good idea in 1962 under a Democratic administration, then, by an all too simple logic, it must be a good idea in 1971 under a Republican administration. This is like arguing that, if it were a good idea to pour water into a pitcher when it is half empty, it must be a good idea to continue to pour water when the pitcher is full. Proposing the investment tax credit now ignores the substantial capital investment boom of the 1960's generated by the previous investment tax credit.

In 1962, business investment was the lagging sector of our economy. At that time, industrial capacity was inadequate to meet our full-production demands. This is just not the case today. As a percentage of GNP during the last half of the 1960's, nonresidential fixed investment has remained at historically high levels.

To demonstrate this fact, I ask unanimous consent that portions of a table appearing on page 515 of the House Ways and Means Committee hearings on H.R. 10947 and prepared by James Knowles of the Joint Committee on Economics be inserted in the RECORD at this point.

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

Non-residential fixed investment as a percentage of GNP in constant 1958 dollars

	Percentage of actual GNP
1966	11.3
1967	10.8
1968	10.7
1969	11.1
1970	10.9

Mr. MUSKIE. Mr. President, contrary to what many are saying, business investment has not recently fallen off precipitously. In real terms, business investment for the first half of 1971 was $78 billion, which is only slightly below the record peak of $80.1 billion reached in 1969. With operating capacity in industry at about 72 percent and the number of unemployed up to 5.1 million or 6 percent of the labor force, there is little reason to believe that the investment tax credit is needed or will result in significant economic stimulus.

Thus, the proposed business tax cut will increase profits, not jobs. This is not only my conclusion, but also the conclusion of businessmen surveyed by the New York Times. The survey was published on September 20, 1971, under the headline "Tax Credit Seen as a Spur to Profits, Not Jobs." The Times article begins with this interesting sentence:

> President Nixon's proposed tax credit of 10 percent in new business and equipment appears more likely to increase corporate profits than to create additional jobs for unemployed workers next year.

In industry after industry, spokesmen revealed that the proposed investment tax credit would not lead to increased capital investment for at least a year. I ask unanimous consent that the article be printed in the RECORD at the conclusion of my statement.

If business investment is not the weak part of our economy, then where is the problem? The New York Times article gives us a clue:

> It was generally agreed by those surveyed that the consumer holds the key to prosperity because of his accumulated savings.

Statistics support this conclusion. The savings rate as a percentage of disposable personal income has been and remains extraordinarily high. During the last six quarters—that is, since the beginning of 1970—savings have been high, ranging from about 7 to 8.3 percent in the fourth quarter of 1970 to 8.2 percent in the second quarter of 1971. The savings rate of 8 percent or more during the last four quarters ending in July of this year is the highest rate of savings since 1946. The high rate in 1946 was clearly caused by the forced savings brought on by wartime conditions. It is also interesting to note that despite the substantial pickup in economic activity during the Korean war mobilization, the savings rate, although high, was substantially below the recently prevailing rate.

Extraordinary savings have been reflected in weak increases in personal consumption expenditures expressed in real terms. From 1969 to 1970 personal consumption increased only by 1.4 percent and purchases in durable goods actually declined. From the second quarter of 1970 to the second quarter of 1971, personal consumption increased only by 3 percent, a very poor showing when compared to the 5.2 percent rise of the 1967–68 period.

Clearly the problem with our economy is that while consumers have money, they have not been spending enough of their savings. I propose that we attack the problem where it exists. Therefore, I am introducing today a bill providing a temporary tax credit to stimulate consumer spending and particularly the purchase of durable goods. This bill would do more to create jobs and restore our economy to its potential than the investment tax credit.

The durable goods that consumers buy represent discretionary decisions; their purchase can be postponed or can be advanced in time. Total spending on durable goods can rise or fall sharply depending upon economic conditions. The discretionary character of this spending provides the economic justification for cutting the excise tax on automobiles. Other consumer durable goods have the same discretionary character, and their purchase can and should be similarly stimulated by a tax incentive. Air conditioners for homes deserve as much consideration as automobiles and deserve higher priority today than the air-conditioning of executive offices. And there is no reason to provide tax incentives for executive desks and none for the purchase of children's desks at home.

The entire range of durable goods bought by households represents an area that will quickly respond to a temporary

consumer tax credit, which I am now proposing. In this way, the Federal Government can offer a helping hand to those families willing to make purchases now and contribute to national prosperity.

In developing a consumer tax credit, it is essential to combine equity with effective stimulation. To insure equity, the provisions of the consumer tax credit must involve some complicated arithmetic. But the complications of arithmetic will not burden the taxpayer; he will be provided with a simple table on his tax return enabling him to calculate the amount of the credit.

Obviously, it is easier for middle income and upper income taxpayers to acquire a large volume of durable goods than for those in lower incomes, and thus receive a full credit. To make the credit fair, my bill provides that no taxpayer can receive a tax credit exceeding $100. And the effort required to earn the full $100 credit is carefully geared to an individual's ability to pay.

In the case of those taxpayers at the bottom of the income scale, I see no need to tie a tax cut to the purchase of particular goods. There is no reason to distort the buying patterns of those at the bottom end of the taxpaying scale, and buyers in this group will almost automatically convert tax reductions into increased purchases. Hence, the consumer tax credit provides for a $100 tax credit to all lower income taxpayers—families with adjusted gross income of approximately $5,000 and below.

For taxpayers with adjusted gross incomes of approximately $11,000 and above, the consumer tax credit provides a tax reduction amounting to 10 percent of the purchase of durable goods—other than automobiles—up to $100. To receive the full $100 credit, taxpayers in the group above middle income would have to purchase $1,000 worth of eligible durables. Those purchasing less than that amount will receive a proportionate share of the tax credit.

For those families in the intermediate range with an adjusted gross income between approximately $5,000 and $11,000, as income declines a decreasing amount of purchases of durable goods is required in order to obtain the full $100 credit. For example, a family with an $8,000 income will earn the full credit by spending $640 on durable goods. I have a memorandum providing more details on the operation of the consumer tax credit which I ask unanimous consent be printed at the end of these remarks.

Because of the urgent need to stimulate the economy, I am proposing that this measure be made retroactive to October 1, 1971. The tax credit for 1971 will be limited to $25 per family. For 1972, a full $100 credit will be given. There is no credit after 1972.

Overall, this consumer tax credit should provide an addition to family income of more than $1 billion this year and roughly $5 billion next year. Those dollars will primarily flow into the economically lagging area of consumer durable goods and will create more jobs and more income initially in that sector. That initial stimulation will be multiplied as new jobholders spend their income and as these critical industries have an increased demand for their products.

In conclusion, I would like to state that another disturbing aspect of the President's proposed business tax reduction is that they offer permanent tax measures to solve short-term economic problems. The President's tax plan permanently abandons Federal revenue that will be desperately needed in the future. And the President's plan ignores any discussion of national priorities. But this Nation cannot afford new permanent income tax cuts at this time. The American public wants, needs, and deserves better public services. And they can have them in a prosperous economy only if we stimulate our economy responsibly.

It is no favor to the American businessman to promise him that his tax bills would be lowered permanently. In the long run, such a course will only result in rising taxes or declining public services.

I realize that the bill I am introducing today calls for a tax measure different from anything previously enacted in our history. Yet, I believe it is the way to regain full employment both efficiently and equitably. We need action—but action that is fair.

As I said in Tennessee 4 weeks ago, the President has called for the greatest single corporate tax cut in any year in the history of this country. At the same time, social security tax increases may wipe out even the very modest gains he promises for middle-income families. I did not support—and I will never support—a program like this, with approximately $14 billion in benefits for businesses and only $5 billion for America's workers and consumers.

This is not right. It is not fair. It is not good economics. And it is not good social policy.

I ask unanimous consent that a speech I gave discussing the details of the proposal be printed in the RECORD at this point, along with a memorandum explaining the details of the credit's operation, and an article from the New York Times.

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

REMARKS BY SENATOR EDMUND S. MUSKIE AT THE HAMILTON COUNTY DEMOCRATIC RECEPTION, CHATTANOOGA, TENN.

CONSUMERS COME FIRST

I am proud to be in Tennessee—a state which has shown the nation what can be good and great about the South.

I am here to speak with you about promises made and promises broken.

About an Administration which is playing politics with prosperity . . .

And about the South, which must help bring new leadership to America.

The Democratic party will succeed in this region not because it builds barriers between human beings, but because it appeals to the best hopes of every citizen and every race—that together we can build a better country, a place of prosperity for all our people.

But today's America is far from prosperous.

The fight for economic security—a fight waged by Franklin Roosevelt and Estes Kefauver, by George Norris and John Kennedy and Lyndon Johnson—that fight is being lost under Richard Nixon.

For three years, this Administration told us that things would get better if we left them alone.

But in 1971, over five million workers are out of work.

And since 1969, the purchasing power of your dollars has declined again and again.

For almost a third of a decade, a Republican President has monitored the statistics . . . while you and your families, your friends and your neighbors have felt the full, crippling impact of economic recession.

The statistics do not show the anguish of a father whose children ask why he stays at home.

They do not show the frustration of a housewife when her refrigerator breaks down and there is no money for repairs.

And they do not show the indignity of skilled craftsmen forced to plead for menial labor.

For millions of Americans, the last thirty-two months have been hard times . . . a time of pain and anxiety and spreading doubt. Now the President has acted . . . after a period of prolonged neglect. He talks about the biggest economic program since 1933. No wonder . . . this country is in the midst of the biggest economic disaster since the Great Depression.

There was an almost audible sigh of relief across this land when the President recognized that . . . when he finally stopped trying to cheerlead the country back to prosperity. But the blunt truth is that the Administration which was doing nothing has now done the wrong thing.

There are two ways to create growth in the American economy . . . by helping those who are truly in need . . . or by doing more and more for those who are already well off.

Who did the President pick to pay the price of stopping inflation? The average income American.

And who did he pick to reap the benefits of tax cuts and economic stimulation? Corporations and the wealthy.

The President has just called for the greatest single corporate tax cut in any year in the history of this country. At the same time, social security tax increases may wipe out even the very modest gains he promises for middle income families. I did not support—and I will never support—a program like this . . . with approximately $14 billion in benefits for big business . . . and only $5 billion for America's workers and consumers.

This is not right. It is not good economics. It is not good social policy. And it is not fair.

A prosperous economy requires two things . . . an industrial capacity which can grow in response to the demand for goods and services . . . and enough consumer spending to generate that demand.

President Nixon has decided that the best plan is to increase industrial capacity. He hopes to encourage the production and installation of new plant machinery through federally subsidized corporate investment. But business needs markets, not special privileges—buyers, not a tax break—sales, not an $8 billion investment credit.

Corporate capacity is at 70% in 1971. That means a third of the world's greatest industrial plant is lying idle, along with millions of workers trained to use the tools of production. At the same time, spending on capital goods is remarkably strong, while the economy remains weak. Why, then, should we turn to a corporate tax giveaway . . . just to provide more gains for those who are already far ahead?

The key to prosperity is not to let money trickle down to people. The key is higher consumer demand—so money can move up from people and stimulate industry into hiring new workers and putting idle capacity to work.

Consumer spending is currently in a dangerous depression. Taxpayers normally save 6% of what they earn. But this year, they are saving at a rate of 8%. We can rebuild

the economy only by restoring their confidence—only by getting customers into stores—only by converting savings into purchasing power. All the plant machinery in the world will mean nothing if there is too little to produce because sales are too low.

So the critical challenge now is to stimulate consumer demand. That is the only sure ticket back to prosperity. In 1971, what is good for the consumer is good for business . . . and even better for workers.

That is why I proposed a Consumer Tax Credit in Los Angeles two weeks ago. And I will introduce legislation in the Senate to make the idea a reality . . . to allow up to a $100 tax credit toward the purchase of consumer durables except automobiles . . . items ranging from a newly married couple's furniture to a long awaited T.V. set for a retired worker.

Like all legislation, the Consumer Tax Credit has its own special complexities—formulas and ratios and income cut-offs. They are designed to assure maximum stimulation and maximum fairness to low and average income Americans.

But I do not intend to explain all the technical data here tonight. Instead, I want to focus on the truth behind the technicalities. I want to talk about the meaning of a consumer credit for the people of Tennessee.

Take a family of four in Memphis with a taxable income of $12,000. Under the Consumer Credit, their taxes will go down . . . by $100 for the first thousand they spend on consumer durables. So if they buy a new dishwasher and a new couch which together cost that much, they can subtract a hundred dollars from what they owe the federal government at the end of the year.

Take another family, a family in Nashville with a taxable income just under five thousand. We can't expect them to put a thousand dollars a year into durables—the cost of food and clothing alone may not leave them with that much money. So under the consumer credit, they will receive an automatic $100 reduction in income taxes. We know they will spend every penny of that . . . for vital goods and services they could not otherwise afford.

Now move over to Shelbyville and take a look at one last family. Their taxable income of seventy-five hundred is just enough to give them a choice between saving and spending—but not enough to pay for a thousand dollars in durable goods next year. So the consumer credit will allow them an automatic tax cut of $44 . . . and a further tax cut equal to 10% of their durable purchases up to $560. If they spend that amount on a color T.V. and a dining room set, they will end up with a $100 reduction in income taxes.

Here in Tennessee and across the country, a consumer credit will offer taxpayers at every level the chance for an extra $100 in purchasing power. All that is asked in return is that they spend tomorrow more than they did today—that they reach beyond yesterday's buying habits toward a more decent standard of life. And their increased spending will also mean more sales for stores, more work for factories, and more jobs for the unemployed. In the end, with every family investing additional dollars in its own future, the consumer credit will give our economy a massive $7 billion shot in the arm.

That is the right way to create jobs—jobs for machinists and electricians, jobs for factory workers and repairmen, jobs for salesmen and carpenters.

And it is also the fairest way to create jobs—the way the Democratic party has always tried to build prosperity . . . by putting money in the wallets and pocketbooks of families—not just in the coffers of corporate treasuries.

It is not fair to let just a handful of well-off Americans find out what their country can do for them. We must now turn away from the policy the President wants . . . toward a policy to serve all our people. A President who is willing to travel to Peking for negotiations with the Communist Chinese should also be willing to travel down the street for an economic conference with organized labor.

Since 1969, Tennessee has had some success in defending its economy from inaction in Washington. But give this Administration a few more years . . . and unemployment here will far exceed 4.6%. I don't think you want to see that happen. I don't think the Volunteer State will vote for an administration which pledged prosperity . . . produced recession . . . and now promises the economic miracle of getting us back where we were when they started.

Ever since Franklin Roosevelt reshaped a depressed economy into a thriving nation, the Democratic Party has shared a fundamental faith with Tennessee. It is the faith which built the TVA as surely as bricks and money and mortar. It is an unshaken belief that the people of this nation are the source of its vision, and its strength, and its destiny. They deserve a government which stands against special privilege . . . and for economic justice.

More than almost anything else, our economy reflects our sense of values . . . our capacity to be decent and fair . . . whether we can respect our common humanity . . . whether we can trust each other.

And any President who sacrifices the needs of 200 million Americans in order to give a $14 billion bonus to big business—that President deserves to be called a one-term President.

We will give him that title—together—in 1972.

We can do that much—and then together we can do so much more.

Background on the Muskie Consumer Tax Credit

I. PURPOSE

To replace the Investment Tax Credit with a temporary tax credit to stimulate consumer spending. With a substantial business tax reduction given this year due to accelerated depreciation allowances which I continued to oppose with industrial capacity being used at only little more than 70 percent, and with business investment continuing at relatively high levels even during a period of recession, there is little reason to believe that the Investment Tax Credit is needed or will result in significant economic stimulus.

The Consumer Tax Credit, unlike the proposed Investment Tax Credit, is a temporary tax reduction that limits stimulation to the period when it is needed. It will not create stimulation years in the future when it may not be needed and in fact could be inflationary. The Consumer Tax Credit will not reduce revenues beyond 1972 when they will be urgently needed for the full funding of social programs such as health, housing, and education. With all economic forecasts indicating no uncommitted federal revenues until at least fiscal year 1976, the consumer tax credit will stimulate the economy without further draining revenues.

In order to achieve a full employment economy, we need greater consumer spending. The problem is not a lack of consumer purchasing power—consumer saving has remained at almost record high. What is needed is a measure that puts money into the hands of the consumer in a way that encourages spending. Because the Consumer Tax Credit can be conditioned upon actual consumer purchases, it provides both more purchasing power and the incentive to spend. Thus it will create more stimulation than an equivalent tax reduction.

The Consumer Tax Credit channels spending into an area of our economy that traditionally is very susceptible to economic slack and now needs stimulation.

II. EFFECT OF CONSUMER TAX CREDIT

Upper Income Taxpayers: For upper income taxpayers (those whose gross income is approximately $11,000 and above), the Consumer Tax Credit provides a 10% tax credit, up to $100, for the purchase of durable goods. Taxpayers in this group will receive the full $100 credit if they purchase $1,000 of durables. Taxpayers who purchase less than $1,000 of durable goods will receive a proportionate share of the tax credit.

Lower Income Taxpayers: Any additional income generated by a tax cut for lower income taxpayers will be immediately spent. Therefore, there is no need to tie such a tax cut to the purchase of particular goods; in many cases, this would cause severe distortion of buying patterns. For these reasons, the Consumer Tax Credit provides for lower income taxpayers (those with gross incomes of approximately $5,000 and below) a $100 tax credit without requiring a tie to the purchase of any particular goods.

Middle Income Taxpayers: Middle income taxpayers (those with gross incomes between approximately $5,000 and $11,000) need not purchase the same amount of goods as upper income taxpayers in order to obtain the full $100 Consumer Tax Credit. This feature retains the stimulative effect of the tax credit while making it fully equitable.

III. DESCRIPTION OF THE TAX CREDIT

The purchase of automobiles will not qualify for the Consumer Tax Credit because automobile sales will be stimulated by the repeal of the automobile excise tax.

No individual can receive a tax credit exceeding $100.

In order to achieve immediate stimulation, the Consumer Tax Credit would become effective October 1, 1971. For the three months of 1971, a maximum tax credit of $25 is allowed. For 1972, a full $100 credit is allowed.

The exact credit for each level of taxable income would be shown on a tax table making the calculation of the credit a simple matter.

The tax credit formula: a tax credit of $100 is provided, less $1 for every $60 of taxable income over $750; plus a credit of $1 is given for every $10 spent on durable goods; with the total credit limited to $100.

The tax credit would be limited to a maximum of $100 for married couples ($50 for single persons) in a full year.

CREDIT ALLOWED UNDER CONSUMER TAX CREDIT

Income	Percent of income spent on eligible durable goods						
	0	2	4	6	8	10	12
Married couples [1]:							
$5,000	$96	$100	$100	$100	$100	$100	$100
$6,000	79	91	100	100	100	100	100
$7,000	51	65	79	93	100	100	100
$8,000	37	53	69	85	100	100	100
$9,000	22	40	58	76	94	100	100
$10,000	8	28	48	68	88	100	100
$15,000	0	30	60	90	100	100	100
$20,000	0	40	80	100	100	100	100
Single persons:							
$2,500	$44	$49	$50	$50	$50	$50	$50
$3,000	35	41	47	50	50	50	50
$4,000	19	27	35	43	50	50	50
$5,000	2	12	22	32	42	50	50
$6,000	0	12	24	36	48	50	50
$7,000	0	14	28	42	50	50	50
$8,000	0	16	32	48	50	50	50
$9,000	0	18	36	50	50	50	50
$10,000	0	20	40	50	50	50	50
$15,000	0	30	50	50	50	50	50
$20,000	0	40	50	50	50	50	50

[1] Since the size of the credit varies by family size, the tables assume couples have 2 children. The credit for large families in general is larger than the credit for small families.

[From the New York Times, Sept. 20, 1971]

TAX CREDIT SEEN AS A SPUR TO PROFITS, NOT JOBS

(By Michael C. Jensen)

President Nixon's proposed tax credit of 10 percent on business investments in new machinery and equipment appears more likely to increase corporate profits than to create additional jobs for unemployed workers next year.

And although the tax credit has been almost universally welcomed by business leaders, it probably will not have a major effect on capital spending plans for 1972, particularly during the first half of the year, according to a New York Times survey.

Most companies said they will replace machinery and equipment at about the same rate they had planned before last month's announcement of the proposed tax credit.

The program that was billed by President Nixon as one that will create more jobs for Americans may do precisely that in the long run.

IMPACT IS ASSESSED

But for the next six months to a year at least, its impact will be more strongly felt on corporate profit-and-loss statements, industrialists and economists asserted.

Few new jobs will be created quickly through plant expansion or in the industries supplying new machinery, the survey indicated. Most businesses, however, will reap extra profits if the tax credit is passed, because it applies to equipment already ordered and to machinery that would have been ordered even if the tax credit had not been announced.

It was generally agreed by those surveyed that the consumer holds the key to prosperity because of his accumulated savings. Also the general level of economic activity will be a more important factor in determining capital spending than the investment tax credit.

No businessmen were willing to go on record as opposing the credit, since it gives them a significant tax advantage for their machinery and equipment spending, whether or not such spending was planned before the announcement.

Most industries, however, said they would not substantially increase their level of capital spending. An exception was the railroad industry, which predicted a heavy influx of freight car orders if the tax credit is passed.

Many businesses, it was pointed out, have long lead times for their major capital projects, sometimes as long as five or six years. This reduces the short-term impact of a tax credit.

Economists generally agreed that the immediate impact would be slight. Albert H. Cox, Jr., chief economist of Lionel D. Edie & Co., the economic forecasting arm of Merrill Lynch, Pierce, Fenner & Smith Inc., said capital spending will probably rise by about 8 percent next year if the credit is allowed.

He explained, however, that the increase would probably be 6 per cent if the tax credit were not passed by Congress and if new, liberalized depreciation guidelines were eliminated.

Mr. Cox noted that "a goodly part of capital spending for 1972 is already firmly in place," and said "remaining decisions over the next six months at least, will depend to a very large extent on the tempo of incoming orders and production."

Martin R. Gainsbrugh, chief economist of the Conference Board, an organization of businessmen, agreed that the tax credit historically has had a stimulating effect, but with a six-month to nine-month time lag.

"Its impact won't be very great," he said. "It will be a minor rather than a major role, but is nevertheless a significant one."

Mr. Gainsbrugh was critical of the provision of the tax credit that restricts it to purchases of equipment made in the United States.

"Exclusions of that type can only lead to restraint of trade," he asserted. Furthermore, he said, for maximum effectiveness, a tax credit should be spread out over a protracted period. The President's proposed 10 per cent credit is for one year, with a 5 per cent credit thereafter.

Pierre A. Rinfret, president of Rinfret-Boston Associates Inc., a consulting company, predicted that the credit may be made retroactive to April 1 rather than Aug. 15 as proposed by Mr. Nixon. He also was optimistic about its impact on spending.

"My hunch is that it will make a difference next year," Mr. Rinfret said, noting that it usually takes three months after passage of such a tax credit for investment decisions to be made, and six months for the impact to be visible.

The tax credit, Mr. Rinfret pointed out, applies to machinery and equipment at the point it is placed in service, not when it is ordered or paid for.

NO SPEED-UP PLANNED

This means, he said, that the formula specifying a topheavy 10 per cent credit for one year is virtually meaningless, because most heavy machinery cannot be ordered and put into service within a year.

It seems likely, he observed, that a flat 7 per cent continuing credit will be adopted.

"The tax credit's initial impact will clearly be an improvement in the bottom line (of the profit statement)," he said, "but we should begin to see new orders moving forward by the second quarter of 1972."

Many businessmen asserted, however, that they had no intention of substantially speeding up their purchases of machinery and equipment next year.

A spokesman for American Metal Climax, Inc., a mining and manufacturing company, said the concern's capital spending next year probably will match this year's $170-million rate.

"The tax credit isn't going to make an awful lot of difference to us," he said. "On a one-year basis it's really meaningless in making decisions. We're in favor of it, though, because it will help business generally and stimulate demand for the things we produce."

An executive for one of the country's large steel producers said it was doubtful whether any capital spending programs in his company would be accelerated by the tax credit.

He pointed out that the industry has just finished a major round of capital improvement and is currently operating at only about 50 per cent of capacity.

A generally cautious attitude was found in the chemical industry. A spokesman for E. I. du Pont de Nemours & Co., Inc., said it would be difficult to pinpoint any short-term effect of the tax credit on du Pont's capital investment program.

NEEDS ARE CONSIDERED

The company makes decisions based on the needs of the business, he said, rather than on tax advantages. He noted, however, that over the long term, the credit will provide more funds for investment and could have a stimulating impact on future construction spending.

Gordon Grand, president and chief executive officer of the Olin Corporation, a chemical and metal producer, said that the investment tax credit would have little or no short-term effect, since the company's capital spending is scheduled on a long-range basis.

"However," the executive said, "to the extent that the credit would make additional cash available for capital projects, it would tend to speed up spending on those projects that were being deferred until more funds were available. The question often is not whether to go ahead with a certain project but when, and the tax credit might reduce the waiting time."

The impact of the tax credit in the chemical industry may be diminished, one observer said, by the amount of excess plant capacity, currently about 25 per cent. Surges in capital spending normally occur only when production reaches about 90 per cent of capacity, he asserted.

SOME CRITICISM VOICED

In other heavy industries, similar comments were voiced, as well as specific criticisms of the proposed credit. The controller of a major glass producer, who asked not to be identified, said he would like to see the Government be more consistent on the percentage of the credit.

Changes in either direction, he said, made corporate investment planning very difficult. President Nixon recently indicated he would accept a 7 per cent tax credit if he could not get a 10 per cent credit through Congress.

In the airline industry, the official position was spelled out by Stuart G. Tipton, president of the Air Transportation Association.

He said restoration of the investment credit "would be one of the most important steps that could be taken to ease the financial distress within the airline industry."

However, Donald Lloyd-Jones, executive vice president for finance of American Airlines, said he doubted whether a restoration of tax credit would have much effect initially, because the airlines have most of their equipment purchases in place for the next few years.

RISE IN ORDERS UNLIKELY

"Because of a certain amount of overcapacity," he said, "It is doubtful that orders will be increased by the domestic carriers for some time."

Mr. Lloyd-Jones explained that the airlines have been unable to take full advantage of accumulated investment credits in reecnt years because their earnings "have been so low." His own company, he said, has $39 million in unused credits.

One exception to the generally reserved outlook for increased capital spending was the railroad industry. Frank E. Barnett, chairman of the Union Pacific Railroad, predicted a "great influx" of orders for new railroad equipment if the investment credit is restored.

He recalled that in 1966, when a 7 per cent credit was in force, the railroads ordered 112,898 new freight cars, whereas last year their new orders fell to 58,201.

Mr. Barnett emphasized that the investment credit was critically important to the railroad car and equipment builders. "I hope to God they don't mess with it too long," he said.

INQUIRY ON ORDERS

Mr. Barnett's prediction was borne out by Samuel B. Casey Jr. president of Pullman, Inc., the world's largest freight car builder. He said that within 72 hours of the President's speech, his company had received inquiries regarding possible purchases of about 10,000 cars, representing an investment of $150-million to $200-million.

"This is the same kind of exercise these railroads went through in 1961 and again in 1966 so they could be assured of delivery of cars in the event the credit was granted," he said.

A spokesman for the Norfolk & Western Railway, said the investment tax credit deliberations would be a "significant factor" in his railroad's consideration of its 1972 capital budget. In 1971 the N. & W. is spending $103.2-million on upgrading and improving its plant and equipment.

Representatives of leading paper companies said the investment tax credit was not likely to have much impact on their capital spending plans. The key reason, they said, was the current level of sluggish demand in the industry, a situation that has created considerable amounts of spare productive capacity.

Paul A. Gorman, president and chairman of the International Paper Company, the largest in the industry, offered this comment:

POLICIES SUPPORTED

"While the International Paper Company solidly supports the Administration's economic policies, the capacity situation in the paper industry is such that investment tax credit porposals are not likely to have an immediate influence on our capital spending plans."

Peter J. McLaughlin, a vice president of the Union Camp Corporation, Wayne, N.J., said it was difficult to gauge the impact of the investment tax credit until its exact terms were known.

"A 7 per cent or 10 per cent credit by itself," he said, "should not be enough to sway a decision on equipment that's going to be used for 20 years."

A more important factor, Mr. McLaughlin explained, is the rate of return on investment. "Right now, returns in the paper business are so low that we are not planning any major expansion of capacity," he said.

"A more logical avenue" for paper companies, Mr. McLaughlin said, would be expenditures for relatively minor types of equipment that can help to reduce costs and improve the efficiency of existing larger equipment.

ACCELERATION OF PROJECTS

J. W. McSwiney, president of the Mead Corporation, Dayton, Ohio, said the company's capital spending plans would not be "much different" because of the investment tax credit but said some projects might be accelerated from 1973 into 1972.

Mr. McSwiney said the credit would be "a welcome help to cash flow and a good incentive for the future."

In the same vein, Mr. McLaughlin of Union Camp said that the investment tax credit would "help profits" and also be a significant" contributor to cash flow.

He noted that Union Camp's earnings in 1970 and early 1971 were enhanced substantially by the completion of projects that began under the earlier investment tax credit program.

Some businessmen were wary of the tax credit. For example, L. Allan Schafler, president of Elgin National Industries, Inc., which imports and assembles watches and other consumer products, said the uncertainties about the timing of the credit have created confusion.

Some industries that are not capital intensive, like the pharmaceutical industry, said they did not oppose the tax credit, but did not find it particularly helpful either.

A spokesman for the Warner-Lambert Company said: "We believe the investment tax credit will be helpful to business in general and to Warner-Lambert. But since we are not a capital intensive industry, we won't be making 'go-or-no-go' decisions on plant expansion based on the proposed regulations."

"Our capital investment program in 1971 will again be in the area of $60-million, and therefore the proposed regulation should have a favorable effect."

A Pfizer, Inc. spokesman added that there had been no decisions on capital spending that were induced by the President's proposals.

The textile industry, like others, welcomed the investment tax credit as a significant earnings development.

James D. Finley, chairman of J. P. Stevens & Co., Inc., said:

"The investment credit proposed by President Nixon could be very significant to the United States textile industry. The industry is losing jobs because of imports, and I believe the investment credit will do some good toward rectifying this situation."

PLANS HELD UNCHANGED

James Robison, chairman of Indian Head, Inc., said: "The tax credit is very welcome but it does not change any of our plans. We lay out our capital expenditures program on a three-year model plan—and any single type of credit is not enough to make a margin investment viable. We have been investing $17 or $18-million a year steadily over the last few years—and it doesn't change much when business gets bad. Of course, we do take advantage of special situations as they arise, but that has nothing to do with a tax credit.

Ely Callaway Jr., president of Burlington Industries said his company's investment plans are based on the needs of the market and are not particularly influenced by tax credits. In the case of Burlington, he said, it has been subject to a disadvantage by the fact that large investments for knitting machinery made in Europe constitute a large part of the company's capital improvement, and there is no tax credit on foreign machinery.

Capital spending in the auto industry is expected to rise in 1972 spurred by both the incentives of the President's new economic policy and the sweeteners offered to car buyers by the elimination of the excise tax on purchases, observers said.

The elimination of the excise tax should increase the number of cars sold, putting pressure on existing plants and equipment while the capital spending portion of the program will encourage equipment purchases in 1972 rather than 1973.

The lower labor costs of foreign cars manufacturers will make plant automation more attractive, with a likely increased commitment to this form of capital spending

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By Mr. BURDICK (for himself, Mr. BAYH, Mr. BROOKE, Mr. COOK, Mr. GRAVEL, Mr. HARRIS, Mr. HART, Mr. MANSFIELD, Mr. MCGOVERN, Mr. METCALF, Mr. MOSS, and Mr. WILLIAMS):

S. 2732. A bill relating to the nullification of certain criminal records. Referred to the Committee on the Judiciary.

THE OFFENDER REHABILITATION ACT

Mr. BURDICK. Mr. President, I introduce today, for myself and Mr. BAYH, Mr. BROOKE, Mr. COOK, Mr. GRAVEL, Mr. HARRIS, Mr. HART, Mr. MANSFIELD, Mr. MCGOVERN, Mr. METCALF, Mr. MOSS, and Mr. WILLIAMS, legislation to quiet old criminal records of rehabilitated offenders, to prevent these records from being a bar to lawful employment, or to pursuing a trade or profession. This proposed legislation is a small step. It deals only with the one-time offender convicted of a nonviolent offense. It is, however, a vital step we must take because of its potential for facing the problem of recidivistic crime.

As chairman of the Subcommittee on National Penitentiaries, I have had some new opportunities to try to analyze not just prisons themselves, but the pressures and experiences of the men who come and go through the criminal justice system—to see what it is that makes so many of them come back. I am convinced that it has something to do with hope—not just the individual's hope for himself, but the hopes of all people.

When a judge pronounces sentence, it would seem that the law is saying to the offender: At some certain time, such as 10 years from now, you will be returned to society with your debt paid. You should then be ready to assume an honest and upright life. But this is a fiction, because the debt to society continues to be collected.

I do not believe that the offender should forget what he has done, that is part of his rehabilitation. But there is a time when the records of his crime cease to have any value in determining his eligibility for employment, bonding, and licensing.

The criminal record that follows an individual for years and decades after his release prevents him from entering the economic community as a full partner. It destroys his hope that he may again earn the opportunity for advancement in his job or profession. The ex-offender's failures destroy society's hopes that offenders can be rehabilitated, and becomes a self-fulfilling prophecy.

The possibility that a past criminal record can be nullified would be an incentive to an offender to try harder to live lawfully. It would be the light at the end of the tunnel. It would also be a stern reminder of how much he stands to lose by returning to crime.

The idea of quieting old criminal records, of providing a final relief, is one this Nation has been growing toward in recent years In its passage of the Youth Corrections Act in 1950, the Congress took a first step by recognizing the value of setting aside convictions of youthful offenders who have shown their readjustment and rehabilitation.

The last Congress established further precedents to the confidentiality of past criminal records. In the District of Columbia Court Reform and Criminal Procedures Act, Public Law 91–358, a method was set out for preventing the disclosure of juvenile records, except upon court order. In the Organized Crime Control Act, Public Law 91–452, individuals who cooperate by giving information can not only have their past record quieted, but may be assisted by the Government to assume a whole new identity. In the Comprehensive Drug Abuse Prevention and Control Act, Public Law 91–513, it is possible to have the offense of possession of narcotics completely expunged.

The legislation being proposed today goes beyond the limited number of situations covered by these four enactments, but it establishes a substantial safeguard not a part of any of them, which is the passage of a substantial period of time between conviction and the quieting of the records. It gives society a proper chance to judge the rehabilitation of the offender.

Many States have also recognized the problem of criminal records as a barrier to rehabilitation, and have passed varying statutes to meet the problems.

In a number of States, including North Dakota, it is possible for an offender, upon successful completion of probation, to have his case reopened and the court records appear that either there had been no conviction, or the charges were dismissed—see, for example, North Dakota Century Code 12–53–18. This same type of provision exists in nine other States.

The statutes of four more States go further toward nullifying the records of conviction as recognition of rehabilitation. The best known of these is the California statute. In addition, there are 13 States which provide a means of preventing misuse of records of arrest where there was no conviction.

There does not appear, however, to be

any States that have brought these two facets together to achieve the degree of nullification required to affect employment, bonding and licensing. From the study of cases law and legal commentary regarding use of criminal records, it is obvious that an effective statute must go beyond anything we have at present.

First, if recognition of rehabilitation is to any significant impact, it must cover as many situations as possible—not just misdemeanors or juvenile crimes, but felonies in situations where the integrity of society would not be affected.

Second, the procedure for granting relief must be difficult so that the benefits will not be taken lightly by the applicant, the Government, or by society.

Third, the quieting of the record must be as complete as is possible, so as to accomplish what is to be accomplished. The means must be provided to stop the distribution of criminal records that have outlived their validity.

The answers to this last challenge can only be met by closing both routes of access to criminal records. First, the individual who has demonstrated his rehabilitation must be able to deny the existence of the record in situations involving employment, bonding, and licensing. Second, the agency which is considering the individual for employment, bonding, or licensing must have no other public or quasi-public means of obtaining the information.

The effect of a complete remedy would be great upon the rehabilitated offender, but because of the safeguards built into the legislation it would not have a negative effect upon those with whom he must deal.

The applications for orders to quiet records would not significantly affect the work of the U.S. courts, because the record which would be under consideration would not be a hearing record in many instances, but an investigative report made available by an agency such as the Federal Bureau of Investigation or the U.S. Probation Office.

Nullification of certain criminal records would have no effect on law enforcement agencies, because no legitimate use in connection with investigating any crime or apprehending any alleged offender would be affected. The record of a previous offense would be available to the court to determine the proper sentence, if an individual did subsequently return to crime.

The likelihood that an offender who has earned the benefit of nullification will return to crime is not great. We need only look at the experience which the Department of Labor has had in underwriting money bond for former offenders who needed it to gain employment. The loss experience of offenders under this program is less than commercial companies have with nonoffenders.

The effect of nullification on the ex-offender, however, would be great. He could be restored to hope—to the hope that he could seek and gain employment with promise for the future.

No one could be certain this is the only key to recidivism, but I do know that people without this hope are more likely to commit crimes, and that people who have hope are more likely to return to an honest and upright life-style. I believe that society deserves to hope that ways can be found to terminate the terrifying cycle of recidivism, and I believe that nullification of criminal records has the potential of doing a part of the job.

I ask unanimous consent that the bill, the sectional analysis, and two law journal articles concerning this matter be printed in the RECORD at this point.

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

S. 2732

A bill relating to the nullification of certain criminal records

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 "Offender Rehabilitation Act."

SEC. 2. The Congress hereby finds that the rehabilitation of criminal offenders is essential to the protection of society; that gainful employment is significant to the rehabilitation of criminal offenders; that misuse of past criminal records is a substantial barrier to employment and to the bonding and licensing to secure employment; and hereby declares that the proper use of criminal records will aid the rehabilitation of offenders and protect the interests of society.

SEC. 3. (a) Any person convicted of the violation of any law of the United States, shall, if such person is otherwise eligible under this Act, be authorized to make application to the United States district court in which such conviction occurred for an order to nullify in all records all recordations relating to such conviction and any arrest, indictment, hearing, trial or correctional supervision in connection therewith as follows:

(1) in the case of any such person who, following such conviction, was placed on probation, fined or whose sentence was otherwise suspended, such person shall be eligible to make application at any time after the expiration of the thirty-six calendar month period following the date he is released from the jurisdiction of the court in connection with such conviction; and

(2) in the case of any such person who, following such conviction, was mandatorily released or released on parole, such person shall be eligible to make application at any time after the expiration of the sixty calendar month period following the date he is released from jurisdiction in connection with such conviction.

(b) If, upon the receipt of an application pursuant to subsection (a) of this section the appropriate United States district court determines that the person making such application is an eligible applicant under this Act, and has, following the conviction with respect to which such application is made, shown evidence of his rehabilitation, such court shall, subject to the provisions of section 7(c), of the Act, enter an order nullifying in all records, all recordations relating to his arrest, indictment, hearing, trial, conviction, and correctional supervision. Notwithstanding the foregoing provisions of this section or any other law, the district court for the district wherein such application is filed, in the exercise of its discretion and in furtherance of justice, may, at the request of the applicant made at the time of the filing of such application, transfer the application for hearing and determination to the district court for the district wherein such applicant resides.

SEC. 4. (a) Any person who is convicted of the violation of any law of the United States shall, if such conviction is shown on direct or collateral review or any hearing to be invalid by reason of innocence, or if such person, with respect to such conviction, has been pardoned on the ground of innocence, and if he is otherwise eligible to make application under this Act, be authorized to make application to the United States district court in which such conviction occurred for an order to nullify in all records, all recordations relating to his arrest, indictment, hearing, trial, conviction, and subsequent correctional supervision.

(b) If, upon the receipt of an application pursuant to subsection (a) of this section, the appropriate United States district court determines that the conviction with respect to which such application was made was shown on direct or collateral review or at any hearing to be invalid on the ground of innocence, or that the applicant, in connection with such conviction, was pardoned on the ground of innocence, the court, if it determines that such individual is otherwise eligible to make application under this Act, shall enter an order nullifying in all records, all recordations relating to his arrest, indictment, hearing, trial, conviction, and correctional supervision. Notwithstanding the foregoing provisions of this section or any other law, the district court for the district wherein such application is filed, in the exercise of its discretion and in furtherance of justice, may, at the request of the applicant made at the time of the filing of such application, transfer the application for hearing and determination to the district court for the district wherein such applicant resides.

SEC. 5. (a) Any person arrested, indicted, or tried in connection with the violation of any law of the United States shall, if such person was found not guilty of the offense for which he was indicted, was released from such arrest or his indictment was dismissed shall, if such person is otherwise eligible to make application under this Act, be authorized to make application to the appropriate United States district court to nullify in all records, all recordations relating to his arrest, indictment, or trial, as the case may be.

(b) If, upon the receipt of an application pursuant to subsection (a) of this section, the appropriate United States district court determines that the applicant was found not guilty of the offense with respect to which he was indicted or that he was released from such arrest or his indictment was dismissed, and that such person is an eligible applicant under this Act, the court, subject to the provisions of section 7(c) of this Act, shall enter an order nullifying in all official records, all recordations relating to such arrest, indictment, or trial, as the case may be.

SEC. 6. No person shall be authorized to make application pursuant to this Act if—

(1) he has been convicted of any felony or misdemeanor (other than a petty offense) in any Federal or State court other than the offense with respect to which such application is made, unless such conviction was shown on direct or collateral review or any hearing to be invalid, or such person, with respect to such conviction, was pardoned on the grounds of innocence; and

(2) at the time of his application, such person was under arrest or indictment or was on trial or had outstanding a warrant for his arrest, in connection with the violation of a felony or serious misdemeanor under any law of the United States or any State.

Sec. 7. (a) The effect of any order issued by a court pursuant to this Act nullifying any record shall, subject to the provisions of subsection (c) of this section and section 9, be—

(1) to prohibit the use, distribution, or dissemination of any such record so nullified in connection with any inquiry or use involving employment, bonding, or licensing in connection with any business, trade, or profession of the person with respect to whom such order was issued;

(2) to restore to such person any civil rights or privileges lost or forfeited as a result of any conviction the records with respect to which were nullified by such order; including the right to vote, and to serve on juries; and

(3) to prohibit the use of any such record for purposes of impeaching the testimony of

any person with respect to whom such order was issued in any civil or other action.

(b) Subject to the provisions of subsection (c) of this section and section 9, in any case involving an inquiry made to any person involving any arrest, indictment, hearing, trial, conviction, or correctional supervision, made, obtained, or carried out in connection with such person and the records with respect to which were nullified pursuant to an existing order issued in accordance with this Act, such person, if such inquiry is made for any purpose involving employment, bonding, or licensing in connection with any business, trade, or profession shall be authorized to answer such inquiry in a way so as to deny that any such arrest, indictment, hearing, trial, conviction or correctional supervision (as the case may be) ever occurred. No such person shall be held thereafter under any provision of Federal or State law to be guilty of perjury or otherwise giving a false statement by reason of his failure to recite or acknowledge such arrest, indictment, trial, hearing, conviction or correctional supervision.

(c) Notwithstanding any other provision of this Act, any court issuing an order pursuant to this Act may, if it determines such action to be necessary in order to protect the public, qualify or otherwise limit the effect of such order to the extent to which it determines necessary to assure such protection.

(d) Any application made pursuant to this Act for an order to nullify certain records shall include a list of all persons, offices, agencies, and other entities which the applicant has reason to believe have such records or copies thereof under their jurisdiction or control, and any such person, office, agency, or entity so listed which receive a copy of any such order so issued.

SEC. 8. Any officer or employee of the United States or any State who releases or otherwise disseminates or makes available for any purpose involving employment, bonding, or licensing in connection with any business, trade, or profession to any individual, corporation, firm, partnership, or entity, or to any department, agency, or other instrumentality of the Federal or any State government, or any political subdivision thereof, any information or other data concerning any arrest, indictment, trial, hearing, conviction or correctional supervision the records with respect to which were nullified by an existing order issued pursuant to this Act shall be guilty of a misdemeanor and shall be subject to a fine of not more than $1,000 or imprisoned not more than one year, or both.

SEC. 9. If, at any time following the issuance of a nullification order pursuant to this Act the person with respect to whom such order was issued is convicted of any felony or misdemeanor (other than a petty offense) under any Federal or State law, the Identification Division of the Federal Bureau of Investigation shall notify the Clerk of the United States district court in which such order was issued of that fact. Upon receipt of such notification, such court, if such conviction is not thereafter reversed or otherwise set aside and the time for appeal in connection therewith has expired, shall enter an order rescinding such nullification order and shall notify all appropriate departments, agencies, and other entities to that effect.

Sec. 10. Prior to the release of any person from the jurisdiction of the court or from correctional supervision who may thereafter be eligible to make application for a nullification order pursuant to this Act, an appropriate officer of the court, in the case of an acquital or dismissal, in the case of a conviction, shall explain to such person the procedure for applying for a nullification order pursuant to this Act, and shall provide necessary forms in connection therewith.

SEC. 11. Any person arrested, indicted, tried, or convicted in connection with the violation of any State law shall, if the records with respect to such arrest, indictment, trial, conviction or correctional supervision were expunged, sealed, or otherwise nullified under an order issued pursuant to State law, be eligible to make application to the appropriate United States district court for an order extending the effect of such State order to each of the other several States, and to the United States. Upon receipt of such application the United States district court shall have jurisdiction to enter an order, the effect of which shall be to extend such State order to each of the other several States and to the United States. No such Federal order shall be issued unless the applicant, at the time of his application, is within the purview of section 6 of this Act.

SEC. 12. Nothing in this Act shall be construed as amending or otherwise altering or affecting the provisions of section 404 of the Controlled Substances Act or section 504 of the Labor-Management Reporting and Disclosure Act of 1959.

SEC. 13. As used in this Act, the term—

(1) "State" means any of the several States of the United States and any political subdivision thereof, the District of Columbia, the Virgin Islands, Guam, and the Commonwealth of Puerto Rico; and

(2) "indictment" includes any information.

SEC. 14. Notwithstanding any other provision of this Act, no Federal courts shall have jurisdiction to consider any application for nullification of records involving any offense arising out of or punishable under section 34, 1111, 1112, 1114, 1201, 1751, 2031, 2113(d), 2113(e), 2381 or 2383 of title 18, United States Code, of section 902(i) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472 (i)).

SECTIONAL ANALYSIS OF THE OFFENDER REHABILITATION ACT

Sec. 1. The short title is "The Offender Rehabilitation Act".

Sec. 2. The Congress hereby finds that the rehabilitation of criminal offenders is essential to the protection of society; that gainful employment is significant to the rehabilitation of criminal offenders; that misuse of past criminal records is a substantial barrier to employment and to the bonding and licensing necessary to secure employment; and hereby declares that the proper use of criminal records will aid the rehabilitation of offenders and protect the interests of society.

Sec. 3. (a) This section contains the basic operating language, authorizing a rehabilitated offender to make application to the U.S. District Court where he was convicted for an order that would quiet the record of his conviction for purposes of employment, bonding and licensing in connection with any business, trade or profession. In order for sufficient time to have passed for an individual to demonstrate that he has been rehabilitated, no application may be made until three years after the end of a sentence of probation and five years after expiration of sentence if imprisonment is involved. For example, if an individual was given a sentence of three years probation, an application could not be submitted until at least six years after the date of conviction. For an individual given a five year sentence with two years served in prison and three years on parole, it would be at least ten years from the beginning of the sentence before he would be eligible to apply. An individual who does not live in the District may ask to transfer his application to his home district.

Sec. 3 (b). The court is authorized to grant an order when the individual has shown evidence of his rehabilitation. The court would be given procedural latitude in each case to fit the circumstances presented. The United States attorney would be informed of each application, and the principal evidence might consist of a background investigation by the Federal Bureau of Investigation requested by the U.S. Attorney. The court would also have available the resources of the U.S. Probation Officers for investigation and evaluation.

Secs. 4 & 5. The language of these two sections, similar to Section 3, extends the benefit of quieting a criminal record to the individual who has been released from arrest, had charges against him dismissed, or demonstrated his innocence of the crime for which he was charged, either by acquittal or pardon based on innocence. A procedural flexibility is given to the court to meet the circumstances of individual cases.

Sec. 6. The benefit of being able to quiet the record of a criminal conviction would be available to only the one-time offender. This language provides that a person convicted of two or more crimes, or against whom any charges are pending, cannot apply for a nullification order.

Sec. 7. (a) The scope and meaning of an order quieting a criminal record restores to the individual civil rights and privileges unrelated to law enforcement that he may have lost as a result of his conviction, such as voting, jury service, and testifying in a civil case without impeachment of testimony. It specifically prohibits the use and distribution in any manner of criminal records that have been quieted in situations related to employment, bonding or licensing in connection with any business, trade or profession.

Sec. 7. (c) An individual may deny the existence of records which have been properly nullified by a court order. A court may recognize the public interest and national security, and an order quieting a record may be qualified or limited in any way.

Sec. 7. (d) The application for an order would provide the individual with an opportunity to list agencies which he believes have copies of criminal records, and each of these agencies would then receive a copy of the court order as notice that the record had been quieted.

Sec. 8. The dissemination or use of criminal records by an employee or officer of government after a court order had been granted would be a misdemeanor if the use was in connection with employment, bonding or licensing, if the use was not permitted by an exemption provided under Sec. 7(c). Use for any legitimate law enforcement purpose would not be covered.

Sec. 9. A court order quieting a criminal record of a first offender would be wiped out by a second conviction. It is a self-operating procedure, in which conviction of a second offense is all that is required to have the previous court order completely erased. Such things as traffic offenses and petty misdemeanors would be exempted from consideration.

Sec. 10. All individuals who may in the future be eligible to have a criminal record quieted would be informed of the procedure and be given copies of the application form.

Sec. 11. This section codifies the application of the Full Faith and Credit provisions of the Constitution to state orders of annulment or expungement of criminal records,[1] and also would, if the criteria are met, provide that the benefit of any state order could be extended to cover any records of state convictions being maintained by Federal agencies.

Sec. 12. This language is required to protect the provisions of the Drug Abuse Control Act of 1970 which provides for the expungement of the records of conviction of certain drug offenses.

Sec. 13. The definition of "state" includes convictions under state law as well as county and municipal ordinances, and the definition of "indictment" includes charges made in the form of an information.

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[1] Smith v. Smith, 1961, 288 F.2d 151, 109 U.S. App. D.C. 367; People v. Terry, 1964, 390 P.2d 381, 71 C.2d 137, 37 Cal Rptr. 605, cert. denied 85 S. Ct. 132, 379 U.S. 866, 13 L. Ed. 2d 68.

Sec. 14. Conviction of certain heinous crimes, including homicide, rape, assault with a dangerous weapon, treason, kidnapping and hijacking on an airliner would make an individual unable to obtain an order quieting a criminal record.

SOME QUESTIONS AND ANSWERS ABOUT THE OFFENDER REHABILITATION ACT

What's the purpose?

To stop the use of old criminal records as barriers to hiring, bonding and licensing one-time offenders who have demonstrated their complete rehabilitation.

How does it work?

If an individual can prove to the court that convicted him that he has been completely rehabilitated, the court issues an order limiting the use of his record.

Who protects the public?

The offender must wait three to five years after he has finished his sentence to prove that he has been rehabilitated. Any order issued under this act can require disclosure of the record when the circumstances require it. There would be no effect on police or national security.

Who can apply?

A first offender of a non-violent offense may apply, and explanations and application forms would be given to all who may be eligible.

What good would it do?

The first offender would have a strong, new incentive to go straight. Once he passed the hurdle, many new opportunities would be opened to him to live a lawful and meaningful life. He would have an added reason to stay out of trouble because a second offense would automatically wipe out the order.

What happens when charges are dropped or people found innocent?

The use of arrest records where there has been no conviction could be limited so they would not be a barrier to hiring, bonding or licensing.

But most convictions are in state and local courts?

A Federal order could recognize a State action limiting the use of a criminal record. This would broaden application of state law, and encourage states to pass their own laws.

CONDEMNED BY THE RECORD

(By Pasco L. Schiavo)

The law will not permit double jeopardy, yet it ironically fosters "multiple social jeopardy" by maintaining the permanent criminal record. What incentive is there for the individual who has been convicted to "go straight" if he knows he will never again share the opportunities of his fellow citizens? What is worse, the person who is erroneously arrested and subsequently released or acquitted must ever after account for his arrest. It is time more states followed the lead of those that have enacted expungement statutes.

The list of federal and state appellate court decisions over the past fifteen years expanding the rights of defendants in criminal cases is a long and well-known one. While the changes in the law wrought by these decisions have been revolutionary, they have been well accepted generally as being in line with our modern concepts of justice in a democratic society. Yet there remains an area of criminal law that has not progressed since the days of the Star Chamber.

This is the area of the "criminal record" as it applies to those who have been arrested for but not convicted of a crime or have been convicted of a crime but totally rehabilitated. This group includes both adults and juveniles, all cruelly branded with indelible "criminal records". Those persons who have been improperly convicted of a crime or innocently involved in the murkier details of a criminal offense also fall into this general category. The habitual criminal or criminal recidivist is excluded.

These innocent or rehabilitated persons remain among the condemned of our society. Wherever they go and whatever they do, they are held, both formally and informally, to repetitious and humiliating accountings for their "criminal records". Although the law does not permit double jeopardy for a single crime, it ironically fosters a multiple social jeopardy by allowing the permanent criminal record. Persons with an undeserved or irrelevant record are the forgotten of our society in being bypassed by every liberal and progressive movement in the realm of criminal law.

I have been unsuccessful in finding any valid reason for the present system of recording criminal proceeding. What few proponents I have met are more retribution minded than anything else, and the retribution argument lost its validity around the turn of the last century.

Under Pennsylvania law, which is typical of most states, criminal arrests and charges must be docketed in a permanent public record in the office of the clerk of courts in the county where the arrests or charges are made. Records of all arrests, charges and convictions must be permanently retained, and, as they are public records, anyone may see them.

The qualified exception to this public availability of criminal records is in the juvenile courts. A statute specifically provides for keeping juvenile court records separate from all other proceedings and from indiscriminate public inspection. Yet even this additional protection for juvenile offenders is emasculated by the corollary provision that parents, representatives of the person, institution, association or society concerned and "other persons having a legitimate interest" may inspect the records.[1] This allows prospective employers, governmental agencies and a host of others access to these records.[2]

The growing federal and state repositories of individual records, combined with advanced methods of storage, recall, microfilming and reproduction, guarantee immortality for past offenses.[3] The harsh and injurious stigma resulting from permanent records of past criminal proceedings has prevented many qualified and law-abiding citizens from serving in the Armed Forces,[4] from pursuing occupations commensurate with their skills, from seeking public office and governmental service, from contributing as constructive members of their society and even from enjoying many rights of citizenry available to others in our society. How can a convicted individual make a good faith effort toward rehabilitation if he is forced to face his peers with a lifetime stigma?

A CRIMINAL RECORD IS A HANDICAP

According to one study of employers' attitudes toward prospective employees with criminal records, over half of the employers interviewed answered that a criminal record is definitely a handicap.[5] Eighty-four per cent of those interviewed stated that they thought that this discrimination fostered further criminal activity. In another interview of some 250 men with criminal records, 94 per cent agreed with the conclusions of the majority of the employers. A survey of forty-four business and professional employers revealed that not one of them would place a person with a criminal record in a position of trust, that is, as an accountant, cashier or executive.[6]

Practically every military, governmental or school questionnaire and employment application asks the following question: "Were you *ever* convicted or arrested for a criminal offense other than for a minor traffic violation? If so, explain in detail." One party I know was convicted of burglary in 1925 at the age of 19. It was his first and last offense, prompted primarily by the smooth persuasion of his 30-year-old coconspirator, who split the $15 booty with him, although it was never established that the 19-year-old had indeed participated in the actual burglary. What resulted was a quick trial without a jury, wherein the 19-year-old was not represented by counsel, was never advised that he had any rights and was in effect coerced into pleading guilty. Yet his record stands to this day, and he must answer the above question in the affirmative or be subjected to humiliation and subsequent discharge for lying should his employer learn the truth. On the other hand, by answering the question truthfully, the applicant must again regurgitate the unpleasant details of a moment's deviation from society's standards of conduct, long ago and far away. The record is once more revived and perpetuated, with the details ready for presentation to another audience in another forum. The fact that his conviction might have been thrown out by an appellate court today in light of recent decisions will hardly matter to a prospective employer. As a matter of fact, this particular man was refused two jobs after having filled out the applications and without any explanation for the refusals.

And, of course, there are always the classical cases of the would-be suitor and the lady fair in trouble, resulting in distasteful paternity prosecutions in which both names are forever linked to each other as a matter of record. Most of these cases are settled amicably and are hardly of a true criminal nature, but because of the sexual frame of reference, the violated lady fair and the child will probably suffer more than anyone because of the glowing charges and accompanying notes of testimony which are so carefully preserved in the local clerk of court's office for all to see—future spouses, the child and the general public.

Another related problem is that of convictions for violations of statutes and laws that have later been declared unconstitutional or altered in the degree of their application by the courts or subsequent legislation. Recently, the Supreme Court struck down state antimiscegenation statutes, under which a host of convictions and records had been amassed in many of the Southern states.[7] The Court of Appeals for the Fourth Circuit recently struck down the offense of public drunkenness.[8] Consider all the court records that involve the crime of drunkenness or violations of unconstitutional segregation statutes.

In Pennsylvania the relatively minor offense of "shoplifting" has recently been recognized as a minor crime by intelligent legislation which contrasts with that of states which equate shoplifting with burglary and larceny.[9] Again consider, for example, the number of people in Pennsylvania who previously were convicted of burglary and larceny, which connote crimes of great moral turpitude and even violence, when the charge should have been "shoplifting." Yet the record still stands, always ready to be summoned forth.

An even greater injustice occurs when a person is arrested for a crime and the charges against him are later dropped, a verdict of "not guilty" is returned or his conviction is upset by an appellate court. He still bears for all time the stigma of having had criminal proceedings instituted against him, no matter how ludicrous or ill-based they were.

Another person with whom I am personally acquainted applied for a state liquor license and was faced with that familiar question: "Were you ever arrested?"[10] He thought back fifteen years to a time when he had been maliciously arrested (the charges later were dropped) by an angry party from whom he was lawfully repossessing an item sold through a previous business. The truthful response resulted in considerably more red tape than would ordinarily be encountered in processing such an application. It also dramatized the hard fact that anyone can blacken the name of another by maliciously having him arrested. A lawsuit for malicious

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Footnotes at end of article.

prosecution is of little consolation when the damages are irreparable.

The person branded wtih a criminal record has a well-founded reluctance about taking an active part in community or public affairs for fear that his record will come to light and become a public issue. It would be the rare politicial campaign that would not publicize the word-for-word record of arrest or conviction of the opposing candidate. Little conviction would be given to the possibility that the offense was maliciously charged or occurred during teen-age or college years.

Taking any proper but controversial stand in the community also creates the possibility of such unjust revelations by the other side; and when these revelations are made from the printed record, permanent damage is done to the individual, his family and the cause which he champions.

The findings of Nussbaum are that 50,000,000 people in the United States have records of offenses, yet the greater number of these do not become recidivists.[11] It is clear that the problem of the criminal record is a very real one, directly affecting friends, relatives, neighbors and perhaps even ourselves. Our courts and social reform groups are becoming increasingly aware of the problem, for both juveniles and adults are speaking out in increasing numbers.[12]

REMEDIAL LEGISLATION IS NEEDED

The legislatures can do much in this neglected area by enacting expungement statutes and statutes which substantially curtail inquiries about a person's remote past. Several states, including Alaska, Arizona, California, Indiana, Kansas, Michigan, Minnesota, Missouri, Utah and New Jersey, have already enacted progressive legislation aimed at the expungement of criminal records and annulment of the related conviction. This article is not attempting to evalate the relative merits of each of these statutes or to draft a model code,[13] but is intended to bring out the more salient aspects of this remedial legislation.

Most of the statutes designate five years after an adult offender has been released as the time for expungement of his record and annulment of the conviction if no other crimes have been committed during the interim. It is only common sense that one of the surer ways of measuring the man is by allowing him a reasonable time in which to prove himself as a useful and upright citizen. There seems to be no basis for a period shorter than five years except in the case of a juvenile offender who may receive some deserved benefit if the record is expunged and conviction annulled at the age of majority, provided there has been no recidivism in the meantime. In contrast, a common law felon or a recidivist may be required to present a longer period of time as proof of his good intentions and rehabilitation.

Relief for these individuals might also come in the form of "sealing-off" their records, as has been done in California;[14] however, complete destruction of the records (including the petition for expungement relief itself, with a certified copy thereof for the offender to prevent rearrest where the statute of limitations has not yet run) is the better alternative. The latter and more desirable proceeding would be initiated by a petition to the court wherein the records of the petitioner lie, supported by a simple and substantiated affidavit. Only when the court finds a discrepancy in the facts or when a statute permits earlier relief at the court's discretion would there be a hearing on the facts. The local probation office would serve in an important advisory capacity at these hearings. Once relief was granted, any and all civil disabilities and adverse legal effects attendant upon the original connection would be annulled, much as is the case with a pardon. Of course, record expungement relief should come automatically with a pardon, as the present legal effect of a pardon is to annual a conviction[15] anyway.

In addition to provision for expungement of the record, legislatures should enact prohibitions against inquiry as to whether a person had been convicted of a crime unless there is the qualifying clause—"which has not been annulled or has occurred within the past five years." Questions as to "arrest" only should be completely prohibited.

All records of arrests which are subsequently withdrawn, dismissed by the grand jury or trial court or which result in a verdict of "not guilty" should be destroyed immediately. Just how far expungement should go is a difficult question to answer. It certainly should go as far as the records of the clerk of courts and all other governmental agencies holding this information as a matter of public record. There are many valid arguments for extending expungement to all governmental and law enforcement agencies in order to accomplissh its purpose of complete personal redemption effectively.

With expungement statutes in force, law enforcement officers would experience more co-operation from the person who is afraid of pleading guilty for fear of acquiring a record and the witness or the victim who does not want a permanent connection with a criminal proceeding. Along with the rest of society, law enforcement officers could take comfort from the fact that many offenders and convicts would have an incentive to remain on the straight and narrow. Would not a once-convicted misdemeanant or felon be extra careful about his behavior as the time drew ever nearer for the completion of his probationary expungement period? What a far cry from the familiar present refrain of: "I already have a record. What difference does it make?"

Legal reform has grossly neglected the criminal record. No more time can be wasted before steps are taken to remedy this failing, at both the federal and state levels. Once legislative hearings are held to examine the need for reform, our lawmakers will be immediately propelled by their findings to institute the comprehensive criminal records reform legislation needed to give the rehabilitated, the first offender and the unjustly accused the second chance they deserve.

FOOTNOTES

[1] PURDON'S PA. STAT. ANN. tit. 11, § 245 (1965.)

[2] See dissent of Musmanno, J., in In re Holmes, 379 Pa. 599, 612–613, 109 A. 2d 523 (1954): "A most disturbing fallacy abides in the notion that a Juvenile Court record does its owner no harm. . . . In point of fact it will be a witness against him in the court of business and commerce, it will be a bar sinister to him in the court of society where the penalties inflicted for deviation from conventional codes can be as ruinous as those imposed in any criminal court, it will be a sword of Damocles hanging over his head in public life. . . . And when I see how the intended guardian angel of the Juvenile Court sometimes nods at the time that the most important question of all—innocence or guilt—is being considered, I wonder whether some of these . . . may not have been unjustly tainted in their childhood."

[3] Rule 55 of the Federal Rules of Criminal Procedure provides for the keeping of records by the clerk of the district courts and United States commissioners as the Judicial Conference may prescribe. An amendment of 1966 made it specifically mandatory for the clerk to keep a book called the criminal docket in which, among other things is entered each order of judgment of the court and the date of entry thereof.

[4] The standard statement of personal history required for enlistment in the Armed Forces asks if the applicant was ever "detained, held, arrested, indicted or summoned into Court as a defendant in a criminal proceeding." If he answers affirmatively, the applicant will be accepted only after special inquiry by the director of personnel of the respective service.

[5] Wallerstein, *Testing Opinions of Causes of Crime*, 28 Focus 103 (1949).

[6] Melichercik, *Employment Problems of Former Offenders*, 2 N.P.P.A.J. 43 (1956).

[7] *Loving* v. *Virginia*, 388 U.S. 1 (1967).

[8] *Driver* v. *Hinnant*, 356 F. 2d 761 (4th Cir. 1966). The court released the petitioner on a writ of habeas corpus after his conviction under a North Carolina statute making public drunkenness a crime. The court stated that addiction to alcohol is universally accepted as a disease or "disorder of behavior." It went on to say that "the State cannot stamp an unpretending chronic alcoholic as a criminal if his drunken public display is involuntary as the result of disease. However, nothing we have said precludes appropriate detention of him for treatment and rehabilitation *so long as he is not marked a criminal*" (emphasis added) 356 F. 2d at 765. *Contra*, *Powell* v. *Texas*, 392 U.S. 514 (1968).

[9] PURDON'S PA. STAT. ANN. tit. 18, § 4816.1 (1965).

[10] Harsher yet is the usual state statute (and relevant court decisions) dealing with such administrative matters. A Pennsylvania statute concerning liquor licenses, PURDON'S PA. STAT. ANN. tit. 47, § 4–404, states that the Liquor Control Board must be satisfied "that the applicant is a person of good repute" before granting a license. *In re Appeal of Kuhns*, 47 WESTMORELAND COUNTY L. J. 41 (1964), held that it was not an abuse of discretion for the Liquor Control Board to consider a person's past *criminal involvement* in determining his fitness for a license even though the last involvement of the applicant was more than three years earlier. The court stated that while past specific acts are not admissible in criminal prosecutions, they are admissible in such a civil action as this and are sufficient to sustain a finding by the board of unfitness to hold a liquor license. 47 WESTMORELAND COUNTY L. J. at 45.

[11] NUSSBAUM, FIRST OFFENDERS, A SECOND CHANCE 8–11 (1956); also see Gough, *The Expungement of Adjudication Records of Juvenile and Adult Offenders: A Problem of Status*, 1966 WASH. U. L. Q. 147.

[12] "Of course the record of a conviction for a serious crime is often a lifelong handicap. There are a dozen ways in which even a person who has reformed, never offended again, and constantly endeavored to lead an upright life may be prejudiced thereby. The strain on his reputation may at any time threaten his social standing or affect his job opportunities." *United States* v. *Morgan*, 346 U.S. 502 (1954); also see Gough, *supra* note 11.

"We would never go so far, I am sure, as to say that because a man had been in prison he remained a criminal all his life. Some men, as we know, with no criminal propensities at all have made mistakes, been overtaken by temptation and paid the penalty the State demands. We would not add to their burdens by saying or even intimating that they shall be shunned or classed as criminals." *New York* v. *Piere*, 269 N.Y. 315, 323, 199 N.E. 495 (1936).

[13] See National Council on Crime and Delinquency, *Annulment of a Conviction of Crime: A Model Act*, 8 CRIME AND DELINQUENCY 100 (1962).

[14] CAL. PENAL CODE § 1203.4; CAL. WELFARE AND INSTITUTIONS CODE §§ 781, 1179, 1772. California has experienced so many problems with its record-sealing statute that this remedy might best be thought of as only a second choice. See 40 So. CAL. L. REV. 127 (1967).

[15] Its effect is not only exemption from further punishment when unconditional, but it relieves from all legal disabilities resulting from conviction. *Pennsylvania* ex rel. *Banks* v. *Cain*, 348 Pa. 581, 28 A. 2d 897 (1942).

THE EXPUNGEMENT OF ADJUDICATION RECORDS OF JUVENILE AND ADULT OFFENDERS: A PROBLEM OF STATUS*

(By Aidan R. Gough**)

Over the past half-century, American correctional law has focused increasingly on the rehabilitation of the individual offender and the development of means and practices appropriate to that end.[1] Realistic appraisal compels the conclusion that the system of penal law must fulfill a complex of functions pointed toward a single ultimate goal: the ordering of society in such a manner that each member has the fullest opportunity to realize his human dignity through community life.[2] The law must at once serve the reconstruction of the offender, the incapacitation of the intractable criminal, the deterrence of others from criminal conduct, and the exaction of retribution and expiation for the offense.[3] (Though often decried in theory and rather less often disavowed in practice, the punitive aspects of correctional policy remain an obvious reality.)[4] If the offender reoffends, none of the purposes is served.

It is clear that any program for reform must create the institutions necessary for its realization, and that the sanctions it imposes must be functionally apposite to the end it seeks.[5] There has been surprisingly little recognition of the fact that our system of penal law is largely flawed in one of its most basic aspects: it fails to provide accessible or effective means of fully restoring the social status of the reformed offender. We sentence, we coerce, we incarcerate, we counsel, we grant probation and parole, and we treat—not infrequently with success—but we never forgive.[6] The late Paul Tappan has observed that when the juvenile or adult offender has "paid his debt to society," he "neither receives a receipt nor is free of his account."[7] His status is that of "ex-offender"—an anomalous position lying somewhere between the poles of social acceptance and social condemnation, though obviously closer to the latter. There is considerable evidence to indicate that the failure of the criminal law to clarify the status of the reformed offender impedes the objective of reintegrating him with the society from which he has become estranged.[8] The more heavily he bears the mark of his former offense, the more likely he is to reoffend.

Despite relatively widespread judicial recognition of the perdurability and disabling effects of a criminal record,[9] scant attention has been given by lawmakers and behavioral scientists to means whereby the law might in a proper case relieve the first offender or juvenile miscreant from this handicap. In recent years, a handful of jurisdictions have enacted legislation allowing the expungement of an adjudication record of a juvenile or a conviction record of an adult first offender. This paper will attempt to survey the need for such legislation, to examine existing and proposed statutes on both adult and juvenile court levels, and to make some evaluation of their effectiveness. It is the writer's view that providing institutional means of restoring status after reformation is an appropriate way to harmonize "the sanctioning activities of the democratic body politic with the ultimate value—human dignity."[10]

At the outset, it is necessary to limn with some particularity what expungement is and what it is not. By an expungement statute is meant a legislative provision for the eradication of a record of conviction or adjudication upon fulfillment of prescribed conditions, usually the successful discharge of the offender from probation and the passage of a period of time without further offense. It is not simply a lifting of disabilities attendant upon conviction and a restoration of civil rights, though this is a significant part of its effect.[11] It is rather a redefinition of status, a process of erasing the legal event of conviction or adjudication, and thereby restoring to the regenerate offender his *status quo ante*.

The systematic study of expungement acts is hindered by the extreme lack of uniform terminology, even within a single jurisdiction. The functional process of deleting the adjudication of guilt upon proof of reformation is variously designated expungement;[12] record sealing; [13] record destruction; [14] obliteration; [15] setting aside of conviction; [16] annulment of conviction; [17] amnesty; [18] nullification of conviction, purging, and pardon extraordinary.[19] Because many of these terms have wider use in other legal contexts, it is suggested that the term expungement be adopted to avoid confusion.

In particular, the usual denotations of amnesty and pardon must be distinguished from expungement. The former are exceptional and specific acts of grace, usually granted by executive power, rather than processes of regular and widespread application available through legislative provision.[20] Despite confusion engendered by murky decisional language, it seems clear—and has been widely held—that a pardon remits punishment and removes some disabilities, but does not erase the legal event determinative of the offender's status *qua* offender, *i.e.*, the conviction itself.[21] It is the status resulting from the adjudication of guilt, more than any punishment imposed, which is characteristic of conviction; if the disabilities of conviction are to be removed effectively and the reformed offender restored to society, the remedy chosen must reach the genesis of the status.[22]

I. AN EXAMINATION OF NEED

The consequences of conviction are wide in form, some authorized expressly or implicitly by law, others attached by subtle attitudes of community rejection. Commonly, the law provides for the deprivation or suspension of political and civil rights upon conviction of a certain class of crimes, usually felonies. These explicit disabilities include the loss of the right to hold any public office or trust, to serve as a juryman, and to practice various occupations and professions.[23] In at least forty-six states, conviction of crime may serve as a ground for divorce.[24] Many of these disabilities persist beyond the termination of sentence.

Every state and the federal system has some means of restoring civil and political rights.[25] Usually this takes the form of a pardon granted at the discretion of the governor or the board of pardons appointed by him.[26] In some states, the courts are empowered to restore civil rights.[27] A number of states provide for the automatic restoration of civil rights either upon completion of a term of probation or parole or upon termination of a prison sentence.[28] Both pardon and automatic restoration revive the more formal civil rights, but they are unable to remove the stigmatic disabilities attaching in such crucial social areas as employment.[29]

Some nine states have statutes providing that upon satisfactory completion of probation and "evidence of reformation," the offender may petition the court to have his conviction and the plea or verdict of guilty "set aside"; he is thenceforth released from all "penalties and disabilities" attendant upon the conviction.[30] The Federal Youth Offender Act contains essentially similar provisions applicable to youth offenders; however, under the federal statute, the issuance of an order setting aside the conviction is automatic upon the unconditional discharge of the offender before the expiration of his sentence.[31] The effects of such statutes are not entirely clear, and they have been subjected to interpretations quite at variance with the post-conviction relief they purport to provide.[32] Though the scope of alleviation provided by them is said to be broader than that provided by pardon,[33] they are clearly not statutes of expungement and do not in fact restore the offender's former status among his fellow men despite some judicial language to that effect.[34]

It is not the explicitly articulated disabilities which are most troublesome to the reformed offender. It is rather the less-direct economic and social reprisals engendered by his brand as an adjudicated criminal. The vagaries of public sentiment often discriminate against persons with a criminal past, with very little regard for the severity of the offense, and they do not frequently distinguish between persons arrested and acquitted or otherwise released and persons convicted.[35] This is particularly true in the vital matter of employment, which perhaps as much as anything else influences a man's concept of himself and his worth, and accordingly influences the values which guide his conduct.

A recent study found that only eleven per cent of employers who were seeking to hire were willing to consider a man convicted of assault.[36] Only one-third would consider a man who had been charged with the same crime and acquitted. Despite the small sample used (25 employers, of whom 9 had need of employees), the crippling effects of the stigma ensuing from criminal adjudication are immediately apparent.

Not only will the offender have trouble finding unskilled employment, but his difficulty will increase directly with the skill level of the job sought. In a study of the employment experiences of 258 men with criminal records, the participants were asked whether a criminal record truly handicaps a person in seeking employment, and whether criminal conduct is stimulated by discriminatory rejection of those with past records of offense. Ninety-four per cent of the men replied affirmatively to each question. When the same questions were put to 223 businessmen, 57% responded affirmatively to the first query and 84% to the second.[37] Another oft-cited study surveyed 44 business and professional employers: 16% expressed a policy of total exclusion of persons with any criminal past, while 84% would hire a former offender for unskilled labor.[38] However, only 64% would consider such a person for a skilled labor position; only 40% for clerical work; and only 8% for sales jobs. None would consider a person with a record of criminality for a position as an accountant, cashier, or executive.[39] The principal determinants in the policy of complete exclusion may have been the assumptions, first, that any former offender was by definition untrustworthy, and, second, that the engagement of such a person would undermine the morale of the present employees.[40]

The ex-offender's chances of employment by public or governmental agencies—even in the most ordinary positions—are no brighter. One study has concluded that nearly one-half of the States, and the federal government, do not automaticaly exclude a person with an adjudication of criminal guilt from consideration for public employment.[41] This is by no means indicative of the extent of former-offender employment, because denial of hire usually results from the exercise of administrative discretion by the examining or certifying agency.[42] Only one state expressly provides that a rehabilitated offender shall not be barred from public employment by his conviction.[43] Exclusion from employment may result either from rejection because of a former offense or from dismissal because of the commission of a present offense. Surely these situations are different, and different policies should apply.

It would be naive in the extreme to suggest that the governmental employers of our nation drop their bars and become a haven for unregenerate brigands, and no such proposal is put forth here. The public good demands the utmost probity of its servants. It also demands, however, the reassimilation into full social status of all who have offended

Footnotes at end of article.

against it. The removal of the stigma of conviction by annulling it upon proof of reform would open large areas of public employment now closed to the rehabilitated offender.

It is necessary to differentiate, moreover, among the kinds of positions sought. This need applies to licensing mechanisms as well as to direct employment, and in general it is not met. Surely the considerations that require exclusion of former offenders from law enforcement and public safety positions do not thrust with the same force in the case of a truckdriver, or an engineering aide, or a forest firefighter. There are valid and necessary reasons for permanently foreclosing those with records of violative conduct from certain critical and highly sensitive positions in the public service, but surely some account must be taken by the law of the gravity of the offense, and some reasonable criteria—other than the shopworn dichotomy of felony and misdemeanor—must be developed.[44] Not infrequently the disability of a record for even a single offense bars military enlistment, though the selection standards vary with the national need for service manpower.[45]

The effects of criminal stigma are felt perhaps even more strongly in the area of licenses and government-regulated occupations than they are in the sector of public employment. Green lists some fifty-nine occupations, from accountancy to yacht selling, in which a license is required and from which a reformed offender may be barred; his list is only illustrative, not exhaustive.[46] The relevance of an offense of petty theft to the practice of the profession or trade may be immediately apparent, as in the practice of law, or may be recondite in the extreme—if there at all—as in the case of barbering. Even though the offense may be relevant, this is not to say that it should be determinative of entry into the trade or profession.

A few years ago a young man of twenty-one celebrated his college's basketball victory with more enthusiasm than good sense, and with two cohorts—all in a happy state of bibulosity—broke into the rear service porch of a vacant apartment, from which he abstracted a large metal garbage can. When the police arrived shortly thereafter, he was busily engaged in rolling it up and down the rear stairs of the apartment, to the vast annoyance of the building's occupants. His comments to the police were not of the politest sort. He was arrested on charges of burglary, malicious mischief, disturbance of the peace, public intoxication, and contributing to the delinquency of minors (his companions were below the age of twenty-one). The burglary charge was dropped; he pleaded guilty to the other counts, and was granted probation conditioned upon replacement of the battered garbage can and suitable apologies to its owners. His probation was satisfactorily completed; he graduated from college went on to a large law school and graduated with honors near the head of his class. Save for this casual and unfortunate incident his record is otherwise without blemish. Would it really make sense to require that for the rest of his life he be foreclosed from the practice of his profession?[47] The labels of "malicious mischief" "disturbance of the peace" "drunk in public" and "contributing to the delinquency of a minor" (this last particularly opprobrious and connotative of moral turpitude) are surely not properly descriptive of his offense or his moral character. Yet he must bear them the rest of his life listing them on credit and job applications and otherwise having them dredged up in a host of ways.

Should such persons—and no one can estimate successfully how many there may be—be forced to bear forever the stain of their immature and impulsive conduct? To take a few examples: someone in the shoes of this young man, if he were a barber, would likely lose his license in Michigan or California.[48] Apparently, he could not work as a physical therapist or practice optometry or chiropractic in Minnesota.[49] He could be denied a license to breed or raise horses or to process or sell horsemeat in Illinois,[50] and might lose his cosmetologist's license in Wisconsin.[51] Without the aid of an expungment statute, he would be compelled to bear the mark of his past mistake. Statutes permitting the setting aside of convictions are no help here;[52] it is not uncommon for the law to provide that despite the vacation of conviction under such an act, the conviction may nevertheless be considered for licensing and disciplinary purposes.[53]

In ways more indirect than employer rejection or legal restriction, the stigma of a former offense is likely to militate against successful employment of the redeemed offender. He may be denied union membership, although apparently no union admits to a hard-and-fast policy of exclusion. Moreover, many positions require bonding as a precondition of hire, and former offenders are generally not bondable, whatever the relevance of their offense to the risk covered by the bond. One young man who fights another on the street over the latter's interference with his lady fair, and who is convicted of assault and battery or disturbing the peace as a result of his passions, should not *necessarily* be marked thereafter as an employment risk, unworthy of trust. The problem is particularly acute in companies using low-cost "blanket bonds" which commonly contain provisions voiding protection if the employer hires any person with an offense record, at least without the prior consent of the surety.[54]

Similarly, a person with a record of criminal conduct may experience substantial difficulty in obtaining automobile liability coverage (or in getting inclusion under his employer's liability policy), and may be foreclosed from any work requiring the use of a car either in the course of the job or in getting to and from his place of employment. Alternatively, he may not be precluded from coverage but may be treated as an "assigned risk," whatever his offense.[55] Although this has the advantage of giving the former offender access to insurance, it has the disadvantage of subjecting him to perhaps prohibitive expenses at a time when he can least likely afford them. Further, a person with an arrest or conviction record may in some jurisdictions be denied a vehicle operator's license (or even, apparently, a fishing license).[56]

Typically, a former offender who is called as a witness is subject to impeachment of his credibility on the basis of his prior conviction.[57] This may be so despite an order "setting aside" or vacating a conviction and releasing him from "all penalties and disabilities."[58] Once a person has been cast as an offender, he seems always to be suspect as a liar.[59] Let us suppose that the young purloiner of garbage cans, whose fate is recounted above, observes a traffic accident some five years after his conviction and is asked whether he has pertinent testimony. It is not beyond the bounds of reason to suppose that he would be strongly tempted to deny that he had seen anything, that he would do whatever he could to avoid the witness stand and the possibility of public exposure and humiliation. Last, but as usual not least, the former offender becomes a target for future investigation and suspicion. This is simply a fruit of his error, and he should bear it—up to a point. Unfortunately, that point may be passed, and the former offender may be subjected to unwarranted harassment by a law enforcement agency whose standards of courtesy and professional practice have not caught up with its zeal.[60] It is not at all unreasonable for a young man who burglarized a service station one month before to be quizzed regarding a burglary perpetrated by similar *modus operandi* at another station—providing his rights are respected and he is handled with the courtesy incumbent upon a police officer. It is highly unreasonable for him to be "rousted" on a service station break-in five years later, when the events of the interim indicate that he is comporting himself as a law-abiding citizen.

The point distills to this: should we permanently maintain, as a matter of social policy, the stigmatic ascriptions of a single adjudication? How long is enough? In the recent case of *DeVeau v. Braisted*,[61] the Supreme Court of the United States sidestepped this question in affirming the exclusion of petitioner from the position of secretary-treasurer of a longshoreman's local under § 8 of the New York Waterfront Commission Act of 1953.[62] Petitioner had pleaded guilty to attempted grand larceny thirty-five years before his removal from office and had received a suspended sentence. Though terming the result "drastic," the Court noted the long history of abuses on the New York waterfront and upheld the application of the Act. While one cannot quarrel with the Court's assessment of the "high risk" of the occupation, one must regret the Court's failure to confront the problem of how long disqualification resulting from an adjudication of criminal guilt should endure.[63]

It is not for the confirmed recidivist that primary concern about restoration of status is due, but for the first offender—the "accidental" criminal, if you will—whose violative conduct never reoccurs. Though an accurate count is impossible, the number of such persons is staggering. Nussbaum has estimated that in the United States today there are nearly 50,000,000 persons with offense records; he concludes that between 15,000,000 and 20,000,000 are first offenders who do not recidivate.[64] His calculations are based upon extrapolations from the number of arrests per 100,000 population as determined by the Federal Bureau of Investigation's *Uniform Crime Reports* in 1953 and 1954 (assuming a recidivism rate of 63%), projected over one generation of 30 years. He places the number of first-time offenders arrested each year at roughly 1,600,000.[65]

It is beyond the present capacity of the social sciences to verify these estimates; adequate statistical information is not available. Nussbaum's totals may be faulted for assuming too high a recidivism rate,[66] yet one study being conducted by the Federal Bureau of Investigation indicates that the rate may be as high as 76% in the case of persons who commit major crimes.[67] Further, it is apparent that the Federal Bureau of Investigation's base figures are not accurate indices of the incidence of crime and arrest; many police agencies do not report at all, or do so sparsely. The totals commonly exclude vagrancy, drunkenness, peace disturbance, and other low-order offenses, and they generally do not include arrests of juvenile offenders. The imprecision of our count is obvious, but however imprecise it may be, the conclusion is surely apt that there are millions of persons in the United States who bear the opprobrium of a criminal record despite their reformation and avoidance of further crime.

To say that the prevention of crime is served by the resocialization of the offender is to utter the obvious, and yet the proposition is largely gain-said by present penal practice. From the nearly impenetrable morass of conflicting theories regarding the etiology of crime, we may at least—without pretending causational expertise—extract the common sense principle that if a man is permanently marked a criminal outcast, he will be isolated from social groups whose behavior patterns and values are anticriminal. Sutherland and Cressey have stated—

"When he is effectively ostracized, the criminal has only two alternatives: he may associate with other criminals, among whom he can find recognition, prestige, and means of

Footnotes at end of article.

further criminality; or he may become disorganized, psychopathic, or unstable. Our actual practice is to permit almost all criminals to return to society, in a physical sense, but to hold them off, make them keep their distance, segregate them in the midst of the ordinary community." [68]

If the offender is to be rehabilitated, two things must be done: he must be made a part of groups emphasizing values conducive to reform and law-abiding conduct, and he must concurrently be alienated from groups whose values are conducive to criminality.[69] Neither of these goals is furthered by the failure of the law to provide means of restoring status.

In sum, there has been insufficient recognition of the responsibility of the penal law in alleviating the corrosive effects of the stigma its application necessarily creates. Dean Joseph Lohman of the University of California School of Criminology, a former sheriff of Cook County, Illinois, has written:

"There is too little concern with the stigmatizing and alienating effect of arrests of such violators [minor offenders, especially first offenders]. We equate them with bank robbers and murderers. Once a youngster has a police record, this fact, in the eyes of the law—and potential employers—is more real than the person himself. People stop looking at a young man. They look at his record, his 'sheet' as it is called. Over and over boys told me, 'It isn't me; it's the sheet. They won't listen to me.' We have pushed these boys on the other side of the law. They may well stay there." [70]

In a very real sense, the problem is one of the "self-fulfilling prophecy": the offender initially moved toward reform becomes what we condemn him to be. The failure of the law to treat the former offender as a person with the potential to become a law-abiding and useful member of society, by omitting means of removing the infamy of his social standing, deprives him of an incentive to reform. To the extent that this shortcoming contributes to the repetition of criminal conduct, it renders the system of penal law a "monument to futility" and tends to erode public confidence in the legal order.[71]

II. THE ANNULMENT OF ADULT CONVICTIONS

To date, few jurisdictions have adopted expungement laws permitting the annulment of conviction upon proof of reform, and, of those that have, fewer still provide truly effective relief.[72] Because so little information on such statutes is available, a summary survey of existing laws may be helpful; the outline below excludes statutes dealing with juvenile court adjudication, which are discussed in part III.

California: Cal. Pen. Code § 1203.45 provides that a person under the age of twenty-one committing a misdemeanor may petition the court for an order sealing the record of conviction and other official records in the case, including records of arrests resulting in the criminal proceeding, and including records relating to other offenses charged in the accusatory pleading, whether defendant was acquitted or charges were dismissed.

If the order is granted, the "conviction, arrest or other proceeding shall be deemed not to have occurred, and the petitioner may answer accordingly any question relating to their occurrence."

The section is expressly inapplicable to traffic violations, registrable sex offenses,[73] and narcotics violations. It seems further to be limited to persons who (1) were not convicted on the charge they seek to have expunged, or (2) if convicted, were eligible to have the conviction set aside under section 1203.4 or section 1203.4a of the Penal Code (respectively, satisfactory completion of probation or satisfactory completion of misdemeanor sentence where probation was denied). It is not wholly clear whether the relief is available to one who has had a prior conviction, though the thrust of the less-than-pellucid language and the history of the statute would suggest that it is not.[74] It is also not clear just how the operation of section 1203.45 overlaps that of the "setting-aside" provisions, sections 1203.4 and 1203.4a. The latter provide for the abolition of all "penalties and disabilities" resulting from a conviction; section 1203.45 does not so specify, but the provision that the arrest or conviction shall be deemed never to have occurred must surely include this, if the language is to have any consistency of meaning.

Notable in this statute is the lack of any provision directing the court's order of sealing to the attention of arresting or repository law enforcement agencies who may have records of petitioner on file. The expungement statute relating to juvenile courts [75] so provides, and experience has shown it to be necessary, in order to give the law full effect. If one agency retains unsealed an arrest or crime report, fingerprint card, "mug shot," or other record naming petitioner, a check is likely to reveal it, and the expungement will be rendered nugatory.[76] Further, section 1203.45 does not provide for examination of records so sealed upon subsequent petition of the person who is their subject; the juvenile court expungement statute has such a provision.[77] At first examination, this would seem highly anomalous, probably derogative of the intent of the enactment. It has become apparent, however, that there may be situations in which the person who has had his record sealed has made disclosure—such as in security clearance applications—and finds it impossible to prove that his record was in fact expunged.[78] The order of the court sealing the records is by common practice sealed with the other material in the case.

A further point may be noted with respect to the California enactment which is equally applicable to the other acts discussed, save for the National Council on Crime and Delinquency Model Act.[79] Though such an action would quite evidently be in conflict with the spirit of the act, an employer or licensing agency is apparently able to compel a former offender to disclose whether he has ever sought the relief provided by the statute.[80]

A major consideration in evaluating the effectiveness of any expungement statute is its realistic use: does it in fact afford an accessible relief, actually invoked, or does it simply sit as dressing upon the statute books? It is impossible to determine the proportion of eligible offenders who utilize section 1203.45 but there appears to be a steadily rising use of the section, 1,066 actions being received by the Department of Justice during the last fiscal year.[81] Of these, 862 were reported to have been processed to completion. During the last six months of 1965, 732 such closures were completed, as compared to 243 in the period from July 1962 through June 1963. On the basis of these figures, the conclusion that the relief is relatively accessible is not inappropriate.[82]

Michigan: Mich. Stat. Ann. § 28.1274(101) (Supp. 1965) provides that any person who pleads guilty to or is convicted of not more than one offense occurring before he is twenty-one (other than traffic violations and crimes punishable by life imprisonment), may, when five years have elapsed from the time of conviction, move the court to set aside judgment. As previously indicated,[83] this alone would not be considered as an expungement statute without the provisions of Mich. Stat. Ann. § 28.1274(102) (Supp. 1965), which specify that upon entry of such an order vacating judgment, the applicant shall "for purposes of the law" be deemed not to have been previously convicted. This language is broad but has not yet been subjected to interpretation. Insofar as this section fails to indicate the disposition of the records and on its face omits to cover the problem of proper answer to inquiry, it fails as an effective expungement statute.

Under these provisions, notice must be served upon the prosecuting attorney, who must be given the opportunity to contest the setting aside of the judgment. Since the statutes were enacted in 1965,[84] no statistical information relative to their invocation is available.

Minnesota: Under Minn. Stat. Ann. § 638.02 (2) (Supp. 1965), any person convicted of a crime may upon discharge from his sentence petition the Board of Pardons for a "pardon extraordinary." This the Board may grant if it finds that he is a first offender (". . . not convicted of [any crime] other than the act upon which [his present conviction was] founded") and determines that he is of good character and repute. The pardon extraordinary restores all civil rights and sets aside and nullifies the conviction, "purging" the offender. The statute specifically provides that petitioner shall never thereafter be required to disclose the conviction at any time or place other than in subsequent judicial proceedings. Since the judicial proceedings in which the conviction may be raised are not limited to those in which petitioner is a defendant, it would seem that the record might be revived for impeachment purposes in a later civil or criminal proceeding where petitioner is a witness.

The statute does not treat the problem of police and arrest records, fingerprint cards, and the like, and it is probable that a routine check of enforcement agencies would turn up the fact of arrest, thus frustrating the enactment's intended end.[85]

Prior to 1963, the law applied only to those under twenty-one years of age.[86] There is apparently no limitation as to kind or type of offense for which expungement may be had, although the statute has been interpreted to be inapplicable to traffic violations.[87]

The Minnesota law is distinctive in providing for expungement by administrative action rather than judicial order. Since an effective expungement process requires the sealing of court and agency records, court action would appear preferable.

New Jersey: N.J. Stat. Ann. § 2A:164–28 (1953) permits the court to order expungement when petitioner (1) has received a suspension of sentence or a fine not exceeding $1,000 and (2) has suffered no subsequent conviction. Ten years must elapse from the date of conviction before application for expungement can be made, and the remedy is unavailable to persons convicted of treason or misprision thereof, anarchy, and capital offense, kidnapping, perjury, any crime involving a deadly weapon including the carrying of such a weapon concealed, rape, seduction, aiding or concealing persons convicted of high misdemeanors, aiding the escape of prisoners, embracery, arson, robbery, or burglary. The petitioner must pay all costs of the expungement proceeding, and notice must be served upon the prosecutor and police department(s) concerned. No provision is made for the expunging or sealing of police and enforcement agency records.

The exact utility of this statute is open to much doubt. No figures as to its invocation could be found, but the long period of time before relief is possible (ten years) and the fairly extensive catalogue of ineligible offenses restrict both the efficacy of the relief and the likelihood of its being sought. More to the point, the statute has been construed as "lacking the force and effect of a full pardon" (whatever that may be), apparently on the basis that to grant the law any greater effect would be to impinge upon the pardoning power of the governor.[88] Since New Jersey has taken the position that a pardon does not permit the recipient to respond in the negative to questions about his conviction,[89] it would seem *a fortiori* that a successful petitioner under section 2A:164–28 would also be constrained to disclosure. In terms of restoring the essential status of the former offender, the relief afforded by this enactment is limited at best and illusory at worst.

Footnotes at end of article.

There is one further provision of New Jersey law upon which comment must be made: after five years (presumably from the date of entry), the records of "disorderly persons" on file in the office of the county clerk *may* be destroyed.[90] This appears to be a housekeeping" provision rather than an enactment designed to affect the status of such "disorderly persons"—which is doubtful, to say the least. A "disorderly person" has been defined as one guilty of a "quasi-criminal act," something below a misdemeanor, who is spared "the brand of being adjudged a criminal with all of its political, business and social implications. . . . "[91] It is hard to see how he is so spared when he is subject to immediate arrest without process,[92] may be summarily tried without indictment or jury,[93] and may be imprisoned.[94] Since "being a disorderly person" is something less than committing a crime, such person is apparently ineligible even for the meagre relief of section 2A:164-28.[95]

Texas: Though not an expungement act insofar as it fails to provide for the destruction or sealing of records, Tex. Code Crim. Proc. Ann. art. 42.13, § 7 (1966) deserves mention if only because it does not classify easily. Subsection (a) provides that upon completion of probation following conviction of a misdemeanor, the court shall enter an order setting aside the finding of guilt and dismissing all accusatory pleadings. By subsection (b), the offender's finding of guilt may not be considered *for any purpose* (italics in the statute) except to determine entitlement to probation in a trial for a subsequent offense. The relief is available only to misdemeanants.

It will be noted that the statute appears to be (like the Michigan enactment discussed above) simply a "setting-aside" provision, which does not reach the status of an offender.[96] However, provisions similar to subsection (b) are not found in article 42.12, section 7, the cognate statute permitting the setting aside of felony convictions. It is thus inferable that the legislature intended the broader relief of article 42.13, section 7 to extend to the status itself. The section may well go farther in giving the reformed offender protection against forced divulgence of his record to employers and licensing agencies than would most expungement acts. The great lack of this hybrid statute—in terms of its efficacy—lies in its failure to provide for the closure of court and agency records.

III. EXPUNGEMENT AND THE JUVENILE COURT

A. The need

Every state, most territories, and the United States have provided special adjudicative and dispositive procedures in the case of juvenile offenders. It is truistic to say that the juvenile court is not a criminal court, and that adjudications, since not convictions, are not productive of criminal disabilities. Nearly every jurisdiction so provides.[97] All but a handful of states expressly prohibit public access to records of the juvenile court,[98] and many extend the restrictions to the files of law enforcement and social agencies.[99] Commonly, the fact of adjudication in juvenile court and any evidence given in connection therewith are inadmissible against the minor in any other court,[100] and a large number of states provide that such adjudication is no bar to future military service or public employment.[101]

In the face of this panoply of statutory insulation to shield the youthful offender from the criminalization that would normally attach to him, the question must be put: are expungement procedures needed for juvenile records, and if so, why? One may conjecture that those jurisdictions which have provided for the annulment of adult conviction records and have omitted such provision for juvenile adjudications—such as Alaska, Minnesota, and New Jersey—have done so because it was believed such protection was unnecessary and superfluous.[102]

The plain fact is that expungement provisions *are* necessary to effectuate the intent of the juvenile court acts, because society does not make the fine semantic distinctions attempted by the law. As a recent survey put it, "the results of . . . [statutory classification of juvenile court records as confidential] have been so unsatisfactory that it may fairly be characterized as a failure."[103] In the public eye, an offender is an offender, be he juvenile or adult. The clichés of noncriminality and lack of stigma attendant upon the juvenile court process[104] have so often been repeated that we have become piously obtuse to the fact that the enlightened instrumentality of the juvenile court is frequently not as felicitous in practice as it is in theory.[105]

Recognition of the stultifying effect of juvenile court adjudication was forcefully given in the much-cited case of *In re Contreras:*

> While the juvenile court law provides that adjudication . . . [as] a ward of the court shall not be deemed to be a conviction of crime, nevertheless, for all practical purposes, this is a legal fiction, presenting a challenge to credulity and doing violence to reason. Courts cannot and will not shut their eyes to everyday contemporary happenings.
>
> It is common knowledge that such an adjudication . . . is a blight upon the character of and is a serious impediment to the future of such minor. Let him attempt to enter the armed services of his country or obtain a position of honor and trust and he is immediately confronted with his juvenile record.[106]

The considerations set forth in the preceding discussion of the adult offender's plight of status apply with equal force to a juvenile. In fact, they may thrust with more force in his case, because he may more surely be foreclosed from the education and training needed to fit him for a useful and productive life.[107] As well, he may more likely be discouraged from applying for military service.[108]

Additionally, there are three factors in juvenile cases which especially compel an expungement statute reaching not only police and arrest records but *all* juvenile records, including those of dependency and neglect.

First, the arrest records of the referring enforcement agencies are the principal source of knowledge of a minor's past. Because the court records are commonly made confidential by statute or court practice,[109] employers, licensing agencies, and other persons seeking information usually resort to police files, where they all too often gain access.[110] The effect on an adult of arrest without conviction has already been remarked.[111] It is apparent that the devastation of arrest may well be much greater in the case of a juvenile, because the confidentiality of court records may preclude verification of non-involvement. The inquirer is more likely to stop with the arrest record and draw his own conclusions regarding guilt.[112] Even if the dismissal by the juvenile court is reflected (as it should be) upon the police record, the observer is likely to conclude that the minor did *something*, at least, and the court "let him off light."

Further, many—if not most—juvenile cases are disposed of at the police level, without referral to juvenile court.[113] Of those that are referred, many are "settled at intake," or are placed on informal supervision in lieu of immediate adjudication. Because of widely varying practices and policies, no meaningful national figures can be given, but California has reported that only 42.5% of boys and 42.2% of girls referred to the juvenile courts for delinquent acts are handled by court hearing.[114] In virtually all cases, police arrest or contact records exist.

The second factor making the need for an expungement statute particularly acute in juvenile cases is closely tied to the first: the labels or offense designation on the police department's records (or even the juvenile court's, for that matter) may not fairly reflect the minor's conduct. While this is true for adult offenders, it is even more the case in juvenile matters. Not uncommonly, the more serious of two possible crime classifications will be selected, either in honest doubt as to which is applicable or in an effort to make the clearance rate for the more serious offense appear higher.[115] There is less chance that the officer will be called in a juvenile case to account either for his judgment or the evidence to support it.

Extreme cases, while they may make bad law, can be apt examples, and two may serve to illustrate the point. In one case handled in 1958 by the author as a probation officer, an eleven year old boy was placed in juvenile hall for burglary: he had stolen a package of bologna from a grocery store to sustain himself while running away from home, because of conflict with his present "Uncle." The California definition of burglary technically includes entry into an open place of business with intent to steal,[116] and when the young man told the policeman he had gone into the store intending to shoplift the meat, the officer (under some pressure from the ired shopkeeper) concluded he was indeed a burglar. The minor was presented to the court as a dependent child, but there nevertheless remains an apprehension record for burglary in the police files.

In an even more ludicrous case, the author was informed of a highly respected and capable police juvenile sergeant who had contacted the juvenile court for assistance in shedding a record of apprehension for "child molesting," which had occurred when he was fourteen years old. While walking home from school with his thirteen year old inamorata, he had succumbed to his vernal urges and kissed her—in public view upon the street. His heinous conduct was espied by the city's sole juvenile-aid-officer *cum* pursuer-of-truants, and he was hustled to the police station, where appropriate forms were filled out before he was sternly admonished and his parents called. The section under which he was "charged" deals with conduct arousing or tending to arouse the passions of a child under the age of fourteen years!"[117] The arrest record remained in the police department's files. He obviously had little trouble in obtaining public safety employment by divulgence and explanation, but the significant point is that the record was there, buried in some dust-covered bin, and that it turned up and *needed* explanation.

Manifestly, the moral of these tales is not that outlandish results occur in juvenile cases and that we should therefore protect their subjects. It is rather that records of very real offenses do exist in a variety of places from which they can be retrieved, and that without the protection of an expungement statute reaching them, the bromidic recitals of the juvenile court's non-punitive philosophy will not save the juvenile from the records' stigma.

The third reason underlying the especial need for expungement in juvenile cases is shortly stated. The distinction between delinquency and dependency is blurred enough in theory and frequently not drawn at all in fact. The public often identifies the juvenile court with delinquency and assumes a child under its care to be an offender.[118] Further, even a status of dependency or neglect carries its own special measure of opprobrium which the child should not have to bear.

B. The existing law

In recognition of the need, a few states have enacted expungement provisions of varying efficacy. As in the case of the acts applicable to criminal convictions, some extended comparison may prove helpful.

Alaska: Alaska Stat. § 47.10.060(e) (1962) permits a minor who has been tried as an adult after waiver of juvenile court jurisdic-

Footnotes at end of article.

tion to petition the court for the sealing of his record. The petition may not be filed until the sentence has been successfully completed and five years have elapsed. (It is not clear whether this period is to be measured from the date of conviction or from the date of completion of the sentence.) The petition may be made by the Department of Health and Welfare on his behalf, and the order restores all civil rights. The statute provides that no person may ever use the records so sealed for any purpose, but is silent on the appropriate response to questions regarding the past offense.

No comparable provision exists for actions under the juvenile court law, and the section does not reach police records.

Arizona: Ariz. Rev. Stat. Ann. § 8–238 (1956) provides for mandatory destruction of the court records upon the expiration of the period of probation or after two years from the date of discharge from an institution, unless before that time the minor has been convicted of another offense. By implication, this relief is not available to dependent or neglected children, and the law is silent as to the effect of the sealing. The language ("records of the proceeding") would not seem to reach police records.

California: Under Cal. Welfare & Inst'ns Code § 781, any person who has been the subject of a petition in juvenile court or of a citation to appear before a probation officer, or who has been taken to a probation officer, may petition for the sealing of his records. The section does not apparently cover the minor whose case has been concluded by the police without referral. The relief extends to children referred for dependency and neglect as well as to those referred for delinquent conduct. Either the person involved or the probation officer may file the petition, which cannot be done until five years have elapsed from the termination of jurisdiction (in cases of court disposition) or from the date of referral (in informal dispositions).[119] The relief is mandatory if the court finds that the petitioner has not since been convicted of any felony or misdemeanor involving moral turpitude, and has attained rehabilitation "to the satisfaction of the court."

The sealing is expressly extended to records and files in the possession of other agencies, and the application for the order requires the applicant to list agencies he thinks may possess records. The order is directed to each such agency, and requires it to seal its records, advise the court of its compliance with the order, and then seal the order of sealing itself.[120] The law specifies that after sealing, the events shall be deemed never to have occurred, and the person "may properly reply accordingly" to any inquiry. The statute does not preclude inquiry as to the fact of expungement, nor does it specify whether official agencies may disregard its provisions and press for information, though its plain wording would seem to compel the conclusion that they could not. The statute has been interpreted to require an official agency whose files have been sealed to respond to any inquiry: "We have no record on the named individual." [121]

The statute uniquely provides that the person whose records are sealed may at a later time petition the court to grant the right of inspection to persons named in the application, apparently to effectuate security clearances and other investigations for high-risk employment.[122]

Far less utilization has been made of this relief than that afforded by Cal. Pen. Code § 1203.45 to misdemeanants under twenty-one. The records of the Bureau of Criminal Statistics indicate that for the period July 1962-December 1965, 791 requests for file clearance were received by the Identification Bureau; 545 were processed to completion.[123] The possibility that this is due to a large number of juvenile referrals who become recidivists and are ineligible does not seem to be borne out in fact; probably the best guess is that somewhere between 60% and 85% of delinquents do not become adult violators.[124] A more plausible explanation is threefold: minors are not as aware as more mature offenders of the possibility of expungement; they less frequently have the advice of counsel; and there is no required lapse of time before relief is possible under section 1203.45. It is likely that by the time five years have elapsed since the jurisdiction of the court was terminated frequently if not typically at age eighteen) the person involved may feel the relief is too delayed to be worth the effort.[125]

Indiana: Ind. Ann. Stat. § 9–3215(a) (Supp. 1966) empowers the court to order the destruction or obliteration of the record of any child adjudged a delinquent but never committed to a public or private institution, provided he has not been arrested for a delinquent act or "cited for any offense," is reformed, and has been of good behavior for at least two years after judgment. The order of obliteration may be made upon the court's own motion or upon the motion of the probation officer, either with or without formal hearing. The court, at its discretion, may order law enforcement agencies to produce their records for destruction, and may continue the case for one year before ruling on the motion for obliteration. The section is not applicable to children handled for dependency and neglect and is silent as to the effect of destruction.

Kansas: Kan. Gen. Stat. Ann. § 38–815(h) (1964) provides that when a record is made of any public offense committed by a boy under sixteen years of age or a girl under eighteen, the juvenile court in the county where the record is made may order either a peace officer or a judicial officer having such records to destroy them. A unique feature of this law is that it provides for use of the contempt power to enforce compliance. It does not reach dependency or neglect records, but does reach records of police agencies even where the child was not referred to the court.[126] The statute requires any person making a record to notify the juvenile court both of the fact of the record and its substance. The law sets down no criteria for the exercise of the court's discretion, and this is one of the most troublesome facets of expungement acts. It must be presumed that a "standard of reformation" guides the judge in his decision.[127]

Minnesota: Minn. Stat. Ann. § 242.31 (Supp. 1965) permits the "nullifying" of adjudication records if a minor is committed to the care of the Youth Conservation Commission and discharged before the expiration of his maximum term, or if he is placed on probation. In the former case, the nullification is at the discretion of the court. The order of nullification has the effect of "setting aside" the conviction and "purging the person thereof." The conviction shall not thereafter be used against him except when "otherwise admissible" in a subsequent criminal proceeding. The precise scope of the section is unclear, and the relief available under it apparently overlaps that afforded by Minn. Stat. Ann. § 638.02(2) (Supp. 1965), discussed above.

While this enactment applies to juveniles, by its terms it does so only upon conviction of crime. Under Minn. Stat. Ann. §§ 142.12, 260.211 (Supp. 1965), juvenile court proceedings are not criminal in nature and do not result in conviction. Thus, the anomalous conclusion is compelled that a minor can have his record nullified only if he commits an act sufficiently grave to warrant waiver of juvenile court jurisdiction and trial as an adult. *A fortiori,* the law does not reach neglect adjudications.

The section makes no provision respecting police or other agency records, and it is not clear whether the conviction is actually to be removed from the judgment record.

Missouri: Though it is sometimes referred to as an expungement statute, Mo. Rev. Stat. § 211.321(3) (1959) does not have the full effect of wiping the slate clean and should not properly be so termed. It provides that the court may destroy, in January of each year, the social histories and information *other than* the official court file pertaining to any person who has reached the age of twenty-one. Though other subdivisions of this section impose confidentiality on both court and law enforcement records, it is apparent that the statute leaves untouched the essential adjudication of status.

Utah: Utah Code Ann. § 55–10–117 (Supp. 1965) permits anyone whose case has been adjudicated in a juvenile court (seemingly including dependents) to petition the court for sealing of records after one year from the termination of court jurisdiction or release from the state industrial school. The section provides that the court shall order the sealing if petitioner has not since been convicted of (and does not have pending) any felony or misdemeanor involving moral turpitude, and if the court is satisfied as to his rehabilitation. The language of the statute appears quite similar to that of the California law, specifying that upon entry of the order, the proceedings are deemed never to have occurred and the petitioner may so respond to inquiry. The sealing order may be extended to law enforcement records, and subsequent inspection of records is permitted only upon request of petitioner. Since the statute was enacted in 1965,[128] it is too soon to assess its effects. There is indication, however, that the courts regard the relief afforded by the section as exceptional, rather than viewing it as regularly to be given absent some affirmative reason to the contrary.[129] The latter position is apparently taken by the California courts.[130]

In some states, physical destruction of court records may be effected at the court's discretion, but there is no indication that such destruction affects the status or nullifies the adjudication.[131]

IV. TWO PROPOSED LAWS AND SOME THOUGHTS FOR THE FUTURE

Two recently proposed acts represent especially significant attempts to readjust the status of the reformed first offender: the New York "Amnesty Law for First Offenders" proposed in 1965 [132] and the National Council on Crime and Delinquency's Model Act for the Annulment of a Conviction of crime.[133] The two proposals adopt different means of achieving roughly the same end. Taken in comparison, they point up three of the most pressing considerations of policy that must be met in constructing an expungement law: whether the relief should be automatic or a matter of discretion; whether the record should be required to be revealed in some circumstances; and by what means the purpose of the statute is best achieved.

The New York bill very nearly became law. After passage by both the Assembly and Senate of New York, the act was vetoed by Governor Rockefeller on the ground that it was "unsound" because "too broadly conceived." [134] The enactment provided for the automatic amnesty of all first offenders—adult, youthful, or juvenile—who had not been convicted of a felony or misdemeanor involving moral turpitude during a "probationary interval" immediately following completion of sentence. Before amnesty could be granted, the offender was to file an affidavit of eligibility in the court of original conviction.[135] The probationary period was established as five years in the case of felony, three years in the case of misdemeanor, and one year in the case of an adjudication as a youthful offender, wayward minor, or juvenile delinquent.[136]

The act specifically restored to the am-

Footnotes at end of article.

nestied first offender in his accreditation as a witness, his right of franchise, his right to hold public office, and his right to have issued or reinstated any license granted by federal, state, or municipal authority (provided, of course, that he were otherwise qualified).[137] The amnestied offender was granted the "absolute right to negate" the fact of his arrest or conviction whenever inquiry was made by either private persons or public authority.[138] All records including fingerprints photographs, and the like would be sealed against disclosure by the grant of amnesty, but express provision was made for retention, use, and disclosure by law enforcement personnel actually engaged in investigation of crime.[139] Expungement was extended to the records of persons arrested and released without charge or acquitted after the lapse of a probationary interval of one year.[140] Provision was made for acceleration of amnesty for first offenders released on probation or parole, at the discretion of the sentencing court,[141] and the amnestied status of any first offender granted relief under the statute was to be forfeited on subsequent offense.[142]

The N.C.C.D. Model Act differs from the New York bill in several ways. The relief of annulment of conviction is not restricted to first offenders, as it is under the New York legislation.[143] The Model Act provides that the order may be entered immediately upon discharge from sentence; the proceedings may be initiated either by the individual or the court.[144] The granting of the relief is discretionary rather than automatic, though it is submitted that this is a difference somewhat more illusory than real: the New York bill in effect provided automatic issuance after the court's discretion had been exercised. It is nevertheless true that the New York approach makes the grant more a matter of right. The Model Act by implication permits the court to withhold some or all civil rights, though it provides that the person shall be treated in all respects as if he had never suffered conviction.

The most striking feature of the Model Act is its provision to protect the offender whose record has been expunged from the bind of disclosure of his past. In any application for employment, license, or "other civil right or privilege," or in any appearance as a witness, a person may be questioned about his previous criminal conduct *only* in language such as the following: "Have you ever been arrested for or convicted of a crime which has not been annulled by a court?" [145] This approach to the very difficult balance of disclosure against denial has not been adopted in any existing enactment, and seems eminently sound. As will be later discussed, it lends itself to the solution of the problem of high-risk employment.[146] To date, no jurisdiction has adopted the Model Act.

In vetoing the New York bill, the Governor remarked its failure to distinguish among the various grades of crime, and its apparent grant of relief regardless of the individual's efforts at rehabilitation.[147] In part, these criticisms are pertinent; in part, they miss the mark of the bill. A significant aspect of the bill was its express reservation to the court of the power to deny amnesty in the case of a "dangerous offender," defined as one deemed by the court "to be suffering from a serious personality disorder indicating a marked propensity towards continuing criminal conduct or activity." [148] For the realistic protection of the community, such a provision is indispensable, and this standard of classification seems far preferable to differentiation on the basis of felony versus misdemeanor, or even on the basis of crimes against person versus crimes against property. The young man who, on impulse, attempts to hold up a candy store with a toy pistol and is charged with armed robbery may be far less a menace to the community's safety than the would-be cat burglar who sets out to "hot prowl" an apartment, is found loitering on the rear stairs under suspicious circumstances, and is charged with disorderly conduct (very likely on the agreement that he will "cop a plea"). Under the usual grade-of-crime standard, the former would (it is assumed) be ineligible for amnesty or expungement, and the latter would be qualified.

Manifestly, some safeguard must be built into an expungement statute against the erasure of criminal records in improper cases, but the safeguard must be grounded on rational criteria. The vice of the "dangerous offender" standard adopted by the New York bill is in its vagueness, but therein may be precisely its strength as well. The legislature cannot fix with exactness every case that it wishes to exclude from the operation of the law. If the law is to work realistically and effectively, the enactment must enunciate the standard and leave its application to the courts.

In the author's view, the yardstick of the "dangerous offender" as a measure of exclusion would be improved by eliminating the "serious personality disorder" term and expanding the "clear and present danger" test embodied in the standard of marked propensity towards continuing criminal conduct." The test of serious personality disorder requires a finding that the trial court is ill-equipped to make, at least without more effective psychiatric assistance than is presently available. The expansion of the standard of clear and present danger to the community would require that the court be empowered, in the case of specified serious crimes (murder, forcible rape, vicious assaults and the like), to find the person a "dangerous offender" ineligible for expungement simply on the gravity of the offense, without specific finding on the likelihood of further criminality.

Such a standard would permit a more realistic discrimination between offenses than can be gained by the use of a felony-misdemeanor formula. Practically speaking, the likelihood of a person committing a crime of such serious magnitude seeking expungement seems small.

The assertion that the New York bill granted expungement without regard to rehabilitative effort is chimerical and overlooks the presumption obviously indulged in by the legislature; *i.e.*, that if the person has completed the probationary interval without conviction, he has in fact made efforts toward rehabilitation. If the requirement were added that the judge could not grant expungement without a finding of "sincere effort toward rehabilitation," by what other criteria would this be measured and by what other evidence could it be proved? Surely the best evidence of rehabilitative effort is the avoidance of future criminality.

Two examples are frequently chosen to illustrate the unrealistic "do-gooder" spirit and visionary blindness to danger often claimed for those who advocate expungement statutes: the embezzler could deny his past in seeking a position at a bank, and a school teacher could conceal a sex offense. These illustrations of the breadth of the proposed New York law were used by Governor Rockefeller and the point is by no means invalid. There is no easy answer to it. What it comes to is this: are we willing to run the risk of the embezzler's resumption of his larcenous habits in return for the opportunity to restore a very large number of persons to a useful social state? The risk of the repetition of the school teacher's offense upon one of his charges? Surely it is immediately apparent that these risks are of vastly different magnitude and cannot be singly answered. In order to have any sensible assessment of the risk, the offense cannot be viewed *in vacua*, but only in terms of the individual who committed the offense and the circumstances in which he committed it. It is precisely here that the "dangerous offender" discretion of the court is essential.

Beyond this, however, is another consideration: we cannot lose sight of overriding values society wishes—and needs—to protect. We value so highly the sacrosanctity of the child's person that we may very well wish to preclude a former sex offender from again dealing with children, on the off chance that he may reoffend. The possibility of serious harm is too great, though the probability of reoffense might be small. By the same token, the harm caused by a repetition of embezzlement is more easily insured against and more easily borne, and this risk we may wish to assume.

As a matter of policy in view of the risk, we may deem it necessary to bar a prior offender from police employment because he may be unable to withstand the stresses of his position; the risks to the public from his defalcation are too great. (But again, the risk cannot be intelligently weighed in abstraction from the offense and the offender. Some of the most compassionate and effective policemen of the author's acquaintance have had rather besmirched pasts. Lacking any sure calculus of risk, we are remitted to the sound and understanding discretion of the hiring agency, and it would seem necessary to have full disclosure.) To require a former offender to divulge his past offense in seeking police employment is not to say that he cannot reform, or even that he will likely reoffend. It is rather to say that by his past difficulty, he has indicated possible instability and lack of judgment, and the appointing authority must be made aware of the risk before it places him in a position requiring coolness of head and firmness of self-control to accompany the loaded sidearm. This is a very different thing from forever holding him a social outcast because of his past.

Even greater risks exist in the area of the national security and defense, and here too full disclosure seems essential. Consider the position of an airman charged with responsibility for a missile or other vastly lethal piece of modern armament. To prevent an unauthorized detonation or launch, it is imperative that the personnel chosen for control operate at a continued high level of reliability. Those who are *possibly unreliable* must be excluded.[149] Since a prior unlawful act may be indicative of an impulsive character, and an individual who possibly could not cope with the tremendous pressures of such an assignment, its commission must be divulged.

The antagonistic *desiderata* of abolition of record on the one hand and required revelation of it in particular circumstances on the other are not as irreconciliable as they seem. If an expungement statute only authorizes a response denying any record, it fails to meet the problem and throws the whole matter upon the person whose record is expunged. *Per contra*, if the statute adopts the "limitation on inquiry" mode of the Model Act, it is possible not only to permit the regenerate offender to take advantage of his new status, but also to protect the overriding interests of public security. This might feasibly be done with provisos, excepting from the limited inquiry enjoined by the statute any cases where the person granted expungement makes application (for example) for a position involving the supervision of children, for a position in law enforcement, or for a position sensitive in terms of national security. The use of the limited inquiry would do much to facilitate employment and would eliminate the circumvention of the expungement order save in the few excepted cases.

The contrast of the New York bill and the Model Act is instructive in raising another difficult point: should expungement be

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wholly automatic, mandatory upon fulfillment of the prescribed conditions as the New York bill sought to make it; or wholly discretionary, as the National Council on Crime and Delinquency recommends?[150] Bluntly put, if the grant of expungement is wholly automatic, some will get it who should not; if it is wholly discretionary, some will not get it who should have it. Closely tied to this problem is another *desideratum:* effective accessibility. Consideration of the latter issue may help to illumine the former.

It makes no sense whatever to provide statutory means for redefinition of status and then surround their utilization with such procedural obstacles that they are not invoked. Really, the problem is twofold: the reformed offender must be made aware of the remedy (else its incentive value is lost), and he must be able to invoke it with a minimum of difficulty. Quite similar to the expungement problem is the matter of restoring competency following discharge from hospitalization for mental illness, and experience with such procedures is of significance to this inquiry.

A recent study in the District of Columbia restoration: automatic restoration on certificate of discharge from the hospital superintendent, and petition for restoration upon conditional release.[151] Of 329 persons studied, 327 were "officially restored" to competency by certificate (mandatory on discharge as cured). Only one had gained restoration by petition following conditional release. One other person had filed an application, but after six months it had not been processed. The study concluded that although the precise reasons for the extremely small number of applications for restoration on conditional release were unknown, "lack of knowledge of the necessity for taking such action is probably a factor."[152]

On the other hand, the California statistics on the invocation of the youthful offender expungement statute[153] suggest that requiring the offender to petition for the relief does not necessarily deter him from procuring it. His awareness of the existence of expungement and the means of achieving it, and his expectation that it may be gained without undue trouble, humilitation, and time, would seem far more significant factors.

Typically, the reformed offender may hold a dim view of the law and its processes, and be chary of invoking their aid. On the other hand, he *has* committed an offense, and it is surely not unreasonable to expect him to take some steps to initiate the process of expungement. It will be recalled that even the "automatic" New York act required the offender to commence the amnesty by filing an affidavit. The procedures necessary should be kept to a high degree of simplicity and a low degree of cost. It would not be inappropriate to permit the court to hold the hearing informally, in chambers, after appropriate notice to the agencies involved.

A satisfactory resolution of these points can be reached if the court is required to inform the first offender at the time of imposition of sentence of the possibility of expungement. Notice should be included in any copy of the sentence order given him. At the termination of his sentence, a letter informing him of the availability of the expungement remedy and of the probationary interval should be sent by the clerk of the court to his last known address. It would seem desirable to have the probation department assist in the preparation of the simple petition and any necessary supporting documents, and the offender should be informed of this in the clerk's letter and instructed to contact the probation department for assistance.[154]

The statute authorizing the expungement should be mandatory rather than directory; that is, the court should be required to order expungement *if* the person has not suffered further conviction during the probationary interval *unless* the court finds strong affirmative cause to deny it (a finding that the person is a "dangerous offender"). In that sense, the process should be "automatic," and the filing of a simple request with a supporting document should be prima facie entitlement to expungement.

For yet another reason it seems wise to the require that the offender initiate the proceedings, and that is the reason of incentive. As this paper has attempted to show, our penal law, in its present state, is one-sided, providing only negative motivation for reform—the avoidance of future incarceration.[155] If the offender is provided with a positive stimulus and is given an initiating role in the process by which the readjustment of status is achieved, it is likely that he will regard it as more meaningful.[156] As a means of social control, reward for achievement of the conduct which punishment was designed to attain is more effective than punishment alone.[157] If the transgressor is forgiven by the law as he was condemned by it, he may hold the legal process in better esteem and be less impelled to violate its dictates.[158]

Since the expungement procedure here proposed requires a certain discretion and since the sealing process should extend to agency records, it is preferable that it be a matter of judicial order rather than administrative direction. The court is likely more accessible than an administrative body and its power is better known.[159] The National Council on Crime and Delinquency has concluded that authorization of expungement by judicial order should produce wider and more uniform invocation of the power, while allowing for sound discretion to take individual circumstances into account.[160] The regular purgation of police department files is desirable from several standpoints,[161] but for the foregoing reasons it seems unwise to expect that expungement can be accomplished by such agency action alone.

V. A SUMMING UP

Creating a "model" statute is more often a matter of conjury than of construction, and it will not be attempted here. However, as a starting point for future discussion, it may be useful to summarize the requisities of an effective expungement statute and some of the means by which those requisites are most likely to be achieved, and to add a few interstitial remarks.

If it is to serve its purpose, the action of expungement should be complete, accessible, realistic, and at least acceptable to the public taste. To that end, the following observations are offered.

(1) The expungement of the adjudication of guilt of a juvenile delinquent or an adult first offender should be made mandatory, upon petition of the offender, if the court finds that he has not reoffended, unless strong affirmative reason exists for denial. The court should have the power to deny expungement upon a finding that the person is a "dangerous offender," either because there is a likelihood of further criminal conduct or because the offense was sufficiently grave. A judgment denying expungement should be made appealable.

(2) A probationary interval following the completion of sentence as a precondition to expungement is a wise precaution. There is no magic in a metric of time, but what we are seeking is the man who can remain stable in his commnuity life without the need even of minimal correctional restraint or supervision. He must be able to succeed "on his own," and expungement immediately upon discharge seems ill-conceived.

Unfortunately, there is evidently no period of time beyond which social scientists can say there is any given likelihood that the offender will not reoffend, and so we must strike a balance of common sense. An apt selection would seem to be two years (after termination of supervision) in the case of a juvenile delinquent or in the case of a misdemeanor, and five years in the case of a felony, with the court empowered to accelerate the expungement in its discretion. Whatever time selected should not be so long as to render the relief useless. (In the case of a dependency or neglect adjudication in the juvenile court, expungement should be made available immediately upon attainment of majority.)

(3) The expungement statute (or statutes) should include juvenile and adult offenders, and extend as well to dependent children of the court. On the juvenile court level, expungement should not be limited to first offenders, since a minor may commit a number of misdeeds before "straightening out" through maturation.

(4) At both adult and juvenile levels, the statute should reach not only the officially adjudicated case but cases of arrest-release and cases of acquittal as well. It should extend the order of sealing to all law enforcement and other agency records, including those in cases disposed of *intra muros.* Because the petitioner may wish to permit limited inspection of the records at a later time—for example, in making application for a security-critical job—the statute should provide for sealing rather than destruction of the records. Records so sealed should be required to be removed from the main or master file and kept separately.

The widespread dissemination of records is an aid to effective law enforcement, but it poses a problem for effective expungement. The order of sealing should be directed to each enforcement agency having a record of the petitioner, and should be sent as well to all central indices and repositories. As one commentator has put it: "It seems that when the Moving Finger writes these days, a dozen Xerox copies likely are made."[162] In this respect, consideration must be given to records and identification data forwarded by the police department to the Federal Bureau of Investigation. These submitted materials are considered by the Federal Bureau of Investigation to be the property of the transmitting agency, which must authorize any changes or deletions.[163] When a card reporting an arrest is returned to the contributor at the latter's request, the arrest entry is deleted from the individual's identification record at the Federal Bureau of Investigation. Therefore, the order of expungement should direct the local enforcement agency to request the return of any transmitted records.

Provision should be made for certification of compliance by the agencies named in the order, and, upon receipt of the certifications, the judgment reciting the order of sealing should itself be sealed, to remove any chance of unauthorized public access.

(5) The statute should expressly set forth the effects of the order in restoring the civil rights of the redeemed offender, and it should expressly annul the conviction and the offense. In addition to specifying that the person will thereafter be regarded as never having offended, it should provide that in all cases of employment, application for license or other civil privilege, examination as a witness, and the like, the person may be questioned only with respect to arrests or convictions not annulled or expunged. Exceptions should be set out in cases of high-risk employment where very great interests are at stake, such as law enforcement positions and those directly involving the national security.

The adoption of the "limited inquiry" provision will do more than enable the accommodation of the conflicting needs of the individual and the overriding public good; it will remove much of the public objection to this type of statute. In commending Gov-

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ernor Rockefeller's veto of the New York bill, the District Attorney of Manhattan is reported to have said that the bill was unrealistic because "it permitted a person to lie about his former conflict with the law." [164] It is perhaps hard to articulate but there is—to the writer's mind, at least—something objectionable about legalized prevarication even though one can rationalize the point by the worthiness of the end. It impairs the law's integrity by creating a fiction where none is needed. To only allow the offender to deny his offense leaves the burden on him; to restrict the questioning about his offense places the focus where it belongs, on the attitudes of society.[165]

(6) Because of the differences in kind and the overwhelming need for records in the control of thoughtless and irresponsible drivers, the privilege of expungement should not be extended to traffic offenses. Moreover, these violations are regarded by society in an entirely different light than the usual order of crimes and leave no such residue of stigma; hence, there is no compelling need for their inclusion in the scope of an expungement provision.

(7) The statute should provide that upon subsequent conviction, the expunged record of an adult violator may be considered by the court for the purposes of sentencing or appropriate disposition.

In conclusion, most offenders do not remain criminals all their lives, and we should not treat them as if they do. It is manifestly not the purpose of the penal law to ascribe permanent criminality to a first offender, though that is largely its effect.[166] This article is not intended as a panegyric for a softheaded penology. It is rather an attempt to point up a serious flaw in our present legal system: the failure to provide means for redefining the status of the rehabilitated transgressor. It is submitted that an expungement process will not serve to hamper effective law enforcement, but will stand as an adjuvant to the goal of the correctional law. It should provide a potent incentive to reformation, and should render our response to criminality less febrile and more effectual. At the very least, it is deserving of serious trial.

We would do well to bear in mind that it is a legal principle that correctional law is forgiving. Forgiveness is part and parcel of rehabilitation, whether of criminals or anyone else who has erred, or who has, in fact, what all of us have—the defects of being human.[167]

FOOTNOTES

* The author is indebted to Professor Lloyd L. Weinreb of the Harvard Law School for his helpful commentary on this article.

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[1] For a critical appraisal see Allen, Criminal Justice, Legal Values and the Rehabilitative Ideal, 50 J. Crim. L., C. & P.S. 226 (1959–60).

[2] Snee, Leviathan at the Bar of Justice, in Government Under Law 96 (Sutherland ed. 1956). See also Laswell & Donnelly, The Continuing Debate Over Responsibility: An Introduction to Isolating the Condemnation Sanction, 68 Yale L.J. 869, 876 (1959).

[3] Tappan, Contemporary Correction 4–13 (1951).

[4] The imposition of punishment by the state is frequently justified as the political counterpart of individual vengeance. Sir James Stephen is quoted as remarking that "criminal procedure is to resentment what marriage is to affection: namely, the legal provision for an inevitable impulse of human beings." Sutherland & Cressey, Principles of Criminology 287 (5th ed. 1955); see Bloch & Geis, Man, Crime, and Society 568–71 (1962).

For an articulation of unconscious motivations operative in our treatment of lawbreakers see Goldstein & Kaltz, Abolish the "Insanity Defense"—Why Not?, 72 Yale L. J. 854, 856 n.11 (1963).

[5] Fuller, The Morality of Law 166 (1964).

[6] Rubin, Weihofen, Edwards & Rosenzweig, The Law of Criminal Correction 694 (1963) [hereinafter cited as Rubin *et al.*]

[7] Tappan, *Loss and Restoration of the Civil Rights of Offenders*, in National Probation and Parole Association 1952 Yearbook 86, 87.

Professors Schwartz and Skolnick have shown that conviction works a degradation of status which "continues to operate after the time when, according to the generalized theory of justice underlying punishment in our society, the individual's 'debt' has been paid." Schwartz & Skolnick, *Two Studies of Legal Stigma*, 10 Social Problems 133, 136 (1962). Aaron Nussbaum, Assistant District Attorney of Kings County (New York), has written that "a theory of law which withholds the finality of forgiveness after punishment is ended is as indefensible in logic as it is on moral grounds." Nussbaum, First Offenders, A Second Chance 24 (1956).

[8] Goldstein, *Police Discretion Not to Invoke the Criminal Process: Low-Visibility Decisions in the Administration of Justice*, 69 Yale L.J. 543 (1960).

[9] *E.g.*, United States *ex rel.* Caminito v. Murphy, 222 F.2d 698 (2d Cir. 1955); *cf.* Parker v. Ellis, 362 U.S. 574, 593–594 (1960) (Warren, C.J., dissenting); United States v. Morgan, 346 U.S. 502 (1954) (Minton, J., dissenting).

Of course the record of a conviction for a serious crime is often a lifelong handicap. There are a dozen ways in which even a person who has reformed, never offended again, and constantly endeavored to lead an upright life may be prejudiced thereby. The stain on his reputation may at any time threaten his social standing or affect his job opportunities . . . *id.* at 519.

On the effect of juvenile court adjudication see *In re* Contreras, 109 Cal. App. 2d 787, 789–90, 241 P.2d 631, 633 (1952); Jones v. Commonwealth, 185 Va. 335, 341–42, 38 S.E.2d 444, 447 (1946).

[10] Laswell & Donnelly, *supra* note 2, at 876.

[11] Civil rights lost on conviction are usually regained, if at all, by pardon or by statutes providing automatic restoration upon completion of sentence. Extensive analysis of these restorative mechanisms will be found in Rubin et al. 613, 632; Rubin, Crime & Juvenile Delinquency 152 (2d ed. 1961); Tappan, *supra* note 7, at 96–104.

For a thorough discussion of the particular disabilities attendant upon conviction see Green, Post-Conviction Disabilities Imposed or Authorized by Law, 1960 (unpublished honor paper on file in Harvard Law Library).

[12] Cal. Welfare & Inst'ns Code § 781; Utah Code Ann. § 55–10–117 (Supp. 1965).

[13] Cal. Pen. Code § 1203.45; Cal. Welfare & Inst'ns Code § 781. Technically, expungement imports physical destruction of the records rather than sealing. Andrews v. Police Court, 123, P.2d 128 (Cal. App. 1942), *aff'd*, 21 Cal. 2d 479, 133 P.2d 398 (1943); 40 Cal. Ops. Att'y. Gen. 50 (1962). As used in this paper, the term expungement includes both destruction and sealing unless otherwise specified.

[14] Ind. Ann. Stat. § 9–3215a (1956).

[15] *Ibid.*

[16] Mich. Stat. Ann. §§ 28.1274(101), (102) (Supp. 1965). Statutes permitting the setting aside of convictions are not true expungement acts, and have much more limited effect than the latter. See text accompanying notes 30–34 *infra*. The Michigan enactment would appear to be of the former type, save for the provision of § 28.1274 (102) that upon entry of an order setting aside a conviction, the person "for purposes of the law" shall be deemed not to have suffered any previous conviction. Because of its uncertain scope and the possibility that the broad language may reach the status of the conviction, it is included here as an expungement act, albeit a deficient one.

[17] National Council on Crime & Delinquency, *Annulment of a Conviction of Crime: A Model Act*, 8 Crime & Delinquency 97 (1962) [hereinafter cited as N.C.C.D. Model Act].

[18] State of N.Y. Ass'y Bill, Int. No. 233 (3d Rdg. 547, Print. 5363, Rec. 703) (1965).

[19] Minn. Stat. Ann. §§ 242.31, 638.02 (Supp. 1965).

[20] Korn & McCorkle, Criminology & Penology 600–04 (1959); Sutherland & Cressey, *op. cit., supra* note 4, at 544–49.

[21] Carlesi v. New York, 233 U.S. 51 (1914) (state may charge as prior crime offense pardoned by President); People v. Biggs, 9 Cal. 2d 508, 71 P.2d 214 (1937) (offense in sister state deemed prior conviction despite pardon); *In re* Lavine, 2 Cal. 2d 324, 329, 41 P.2d 161, 163 (1935) (pardon "implies guilt, and does not wash out the moral stain" or restore the offender's character); People *ex rel.* Jobissy v. Murphy, 224 App. Div. 834, 279 N.Y. Supp. 762 (1935); State v. Edelstein, 146 Wash. 221, 62 Pac. 622 (1927). See also Burdick v. United States, 236 U.S. 79 (1915). For language to the contrary see *Ex parte* Garland, 71 U.S. (4 Wall.) 333, 380–81 (1867).

On the general history and scope of executive clemency see Weihofen, *Effect of a Pardon*, 88 U. Pa. L. Rev. 177 (1939); Williston, *Does a Pardon Blot Out Guilt?*, 28 Harv. L. Rev. 647 (1915). For a discussion of pardon in its modern context see Lavinsky, *Executive Clemency: Study of a Decisional Problem Arising in the Terminal Stages of the Criminal Process*, 42 Chi.-Kent L. Rev. 13 (1965).

[22] Rubin *et al.* 690. One who has received a pardon must nevertheless disclose his conviction upon inquiry. 1953 N.J. Ops. Att'y Gen. 206.

[23] Rubin *et al.* 611–32; Tappan, *supra* note 7.

[24] A tabulation of states which regard conviction as a ground for divorce is contained in Green, *op. cit. supra* note 11, at 64–66. See also Rubin *et al.* 614–15.

[25] Rubin *et al.* 632–37; Green, *op. cit. supra* note 11, at 75–77.

[26] There is wide variation in practices from state to state. For example, Rhode Island reserves the restoration of civil rights apart from a grant of pardon to the legislature, R.I. Gen. Laws Ann. § 13–6–2 (1956), and Mississippi permits it alternatively to the governor or legislature, Miss. Const. art. 5, § 124; art. 13, § 253 (restoration of suffrage by legislature only); *cf.* Miss. Code Ann. § 4004–27 (1956) (governor may restore civil rights on completion of probation).

[27] *E.g.*, N.C. Gen. Stat. §§ 13–1 to –10 (1953); Tenn. Code Ann. §§ 16–504, 40–3701 (1955).

[28] See the tabulation and discussion in Rubin *et al.* 633–34. The archetypal automatic restoration statute appears to be 9 Geo. 4, c. 32, § 3 (1828), which provides that completion of sentence in case of a felony conviction shall have the same effect as a pardon " . . . to prevent all doubts respecting the Civil Rights of Persons convicted. . . ."

[29] See authorities cited note 23 *supra*.

[30] Cal. Pen. Code §§ 1203.4, 1203.4a; Del. Code Ann. tit. 11, § 4332(i) (1953); Idaho Code Ann. § 19–2604 (Supp. 1965); Nev. Rev. Stat. § 176.340 (1959); N.D. Cent. Code § 12–53–18 (1960); Tex. Code Crim. Proc. Ann. arts. 42.12 § 7, .13 § 7 (1965); Utah Code Ann. § 77–35–17 (1953); Wash. Rev. Code Ann. § 9.95.240 (1961; Wyo. Stat. Ann. § 7–315 (1957) (statute uses term "parole," but seemingly refers to probation or "court parole" only). For an invidious use of the Utah statute see State v. Schreiber, 121 Utah 653, 245 P.2d 222 (1952), where the conviction had been vacated on the condition that defendant "permanently leave the state on account of his ill health." Model Penal Code § 306.6(2) (Prop. Official Draft, 1962) permits discretionary vacation of conviction if the offender is discharged from probation or

parole before expiration of the maximum term, or if he has led a law-abiding life for five years after expiration of sentence.

CAL. WELFARE & INST'NS CODE §§ 1179, 1772 provide that a person honorably discharged from the control of the Youth Authority shall be released from all penalties and disabilities resulting from the offense. Section 1179 operates automatically, while § 1772 requires the discharged offender to petition the court for relief, which may be denied. The apparent overlap of the two sections is not clarified by the statutory language, but it is the interpretation of the Youth Authority that § 1179 applies only to juvenile court commitments and § 1772 only to commitments from criminal courts. Baum, *Wiping Out a Criminal or Juenvile Record*, 40 CAL. S.B.J. 816, 821 (1965). MODEL PENAL CODE § 6.05(3) allows vacation of the conviction of a young adult offender as an alternative to providing that his conviction shall not constitute a disability.

[31] 18 U.S.C. § 5021 (1964).

[32] For example, note the interpretation of CAL. PEN. CODE § 1203.4 in Garcia-Gonzales v. Immigration & Nationalization Service, 344 F.2d 804 (9th Cir.), *cert. denied*, 382 U.S. 840 (1965). Despite the language of the statute that the setting aside of the guilty plea and the dismissal of the information "shall . . . [release the petitioner] from all penalties and disabilities . . .," the court ruled that the conviction was not expunged for purposes of 8 U.S.C. § 1251 (1964), authorizing deportation of an alien convicted of a narcotics offense. 18 U.S.C. § 5021 (1964) was similary treated in Hernandez-Valensuela v. Rosenberg, 304 F.2d 639 (9th Cir. 1962). See Adams v. United States, 299 F.2d 327 (9th Cir. 1962) (discusses CAL. WELFARE & INST'NS CODE § 1772).

[33] 18 U.S.C. § 5021 (1964) acts to "expunge the conviction" while pardon only removes disabilities and restores civil rights. Tatum v. United States, 310 F.2d 854, 856 n.2 (D.C. Cir. 1962). *But see* 1957 N.J. OPS. ATT'Y GEN. 143 (expungement of record has less effect than a pardon).

[34] If the conditions of probation are fulfilled, the pleas or verdict of guilty may be changed . . . [and] the proceedings expunged from the record. . . . He has then . . . received a statutory rehabilitation and a reinstatement to his former status in society insofar as the state by legislation is able to do so. . . . Stephens v. Toomey, 51 Cal. 2d 864, 870–71, 338 P.2d 182, 185 (1959) (dictum).

Contra, In the Matter of Phillips, 17 Cal. 2d 55, 61, 109 P.2d 344, 348 (1941).

[I]t cannot be assumed that the legislature intended that such action by the trial court under [Penal Code] section 1203.4 should be considered as obliterating the fact that the defendant had been finally adjudged guilty of a crime.

The *Phillips* case involved a lawyer disbarred upon conviction of a misdemeanor involving moral turpitude; the court held that relief under CAL. PEN. CODE § 1203.4 did not work reinstatement. It is not entirely clear whether the decision turned upon the non-obliteration of the judgment or upon the fact that the court viewed disbarment as outside the "penalties disabilities" clause of the statute. MODEL PENAL CODE § 306.6 (Prop. Official Draft, 1962) provides that the order vacating the conviction does not, *inter alia*, preclude proof of conviction whenever relevant to the exercise of official discretion, nor does it justify a defendant in denying conviction unless he also calls attention to the order.

[35] *Cf.* RUBIN *et al.* at 630–31. As a partial solution to the problem, some states require the destruction of fingerprints and arrest data upon acquittal or discharge without trial, *e.g.*, IOWA CODE ANN. § 749.2 (1950), or their return to the person involved, *e.g.*, ILL. ANN. STAT. ch. 38, § 206–5 (Smith-Hurd 1964). Often the fingerprints are not returned unless requested. *E.g.*, CONN. GEN. STAT. REV. § 29–15 (1958). Absent a statute, return or destruction has been denied even when the arrest has been found patently improper. In Sterling v. City of Oakland, 208 Cal. App. 2d 1, 24 Cal. Rptr. 696 (1962), a woman was arrested under a city ordinance prohibiting the defrauding of a taxicab operator when the driver refused to change a twenty dollar bill. Despite her judgment against the cab company for false arrest and malicious prosecution, return of the fingerprints and "mug shots" from police files was denied. See generally Note, 42 ILL. L. REV. 256 (1947); Note, 27 TEMP. L.Q. 441 (1954); Annot. 83 A.L.R. 127 (1933).

[36] Schwartz & Skolnick, *supra* note 7, at 134–38. In conducting this portion of the study, the authors prepared four hypothetical application files, which were submitted to prospective employers by an employment agent. Three of the files reflected an arrest for assault: the first file showed a conviction and satisfactory completion of sentence, the second an acquittal, and the third an acquittal with a personal letter from the judge verifying the finding of not guilty and stressing the legal presumption of innocence. The fourth file made no mention of any criminal record. All applications were for lowest-level positions as unskilled laborers.

[37] Wallerstein, Testing Opinion of Causes of Crime, 28 FOCUS 103 (1949), cited in Tappan, *supra* note 7, at 89.

[38] Melicherick, Employment Problems of Former Offenders, 2 N.P.P.A.J. 43 (1956). See also RUBIN, *op. cit. supra* note 11, at 151–54

[39] In the course of several informal interviews with personnel administrators of companies located on both the east and west coasts, the writer gained the impression that personnel officers regard the picture given by this study as unrealistic. Most said that they had no definite policy of exclusion, but wanted full disclosure of the details of the offense in order to weigh each case "on the merits" and to match the individual to the job. Several expressed distrust of an expungement procedure, and indicated that they would not look favorably on someone who had invoked it. As one man put it: "We probably wouldn't fire the guy outright [*i.e.*, in the event of subsequent discovery of the offense], but I think we'd be rather hurt that he didn't feel he could come and tell us about it."

Administrators of two of the concerns (a major university and a nationwide temporary-help service) indicated that they did not ask the applicant about prior offenses, but relied exclusively upon the recommendations of former employers. (This would effectively foreclose those who had been incarcerated and could not "account for their past.") On the other hand, firms in the electronics field typically made searching inquiry of all applicants, even those applying for the most menial positions. Presumably, this practice reflects the companies' concern over security risks, but in some cases the probing exceeds relevant inquiry. In one firm, an applicant for the position of microwave tube assembler (two dollars/hour) was required to list all arrests or convictions and give full details, indicate in detail any other "misconduct" with which he or she had been charged (presumably relating to employment but not clearly), account for all past absences from work, explain all garnishments or other credit impairment, and sign an "agreement" that he or she could be immediately discharged without resource if any information given was found to be "false or misleading." (Application form in possession of the author.)

[40] Melichercik, *supra* note 38, at 48–49.

[41] RUBIN *et al.* at 628–30; see Wise, *Public Employment of Persons with a Criminal Record*, 6 N.P.P.A.J. 197, 198 (1960). Rubin's figures are based largely upon Widdifield, The State Convict, 1952 (unpublished doctoral thesis on file at Yale Law School Library). Variant results were reported by Green in a study conducted in 1960: forty-two states were reported as having no rule completely prohibiting employment of ex-offenders. However, only twenty-eight states indicated that they did in fact hire such persons, usually in positions of unskilled labor. Green, *op. cit. supra* note 13, at 74. This survey also included a limited inquiry into municipal hiring practices. *Id.* at 73.

[42] RUBIN *et al.* at 625, 628.

[43] MD. ANN. CODE art. 64A, § 19 (1957). The appointing authority may consider the conviction in granting employment.

[44] For discussion on the need for an expungement statute to make some differentiation on the basis of the gravity of the offense and the criticality of the purposes for which the information is sought see text accompanying notes 132–44 *infra*.

[45] Broadly speaking, persons convicted of felonies are excluded. Major commanders may grant waivers to persons convicted of lesser offenses if they have been free of all forms of civil control for at least six months. Adjudicated juvenile and youthful offenders may be granted waivers by main station commanders, who may delegate their authority to recruiting main station commanders. The latter may grant waivers for certain single minor offenses such as drunkenness and truancy. 32 C.F.R. § 571.2(e)(5) (1962). See generally MacCormick, *Defense Department Policy Toward Former Offenders*, NATIONAL PROBATION AND PAROLE ASSOCIATION 1951 YEARBOOK 1.

[46] Green, *op. cit. supra* note 11, at 26. For a more enlightened example of statutory exclusion from occupation see § 504 of the Labor-Management Reporting and Disclosure Act, 29 U.S.C. § 504 (1964), which bars persons convicted of specified crimes from holding various positions in labor unions. It should be noted that even in so "high-risk" an occupation, the ban is not perpetual but extends only five years from conviction. The statute recognizes the possibility of reformation.

[47] This roughly describes a case known to the author. The young man in question was admitted to the bar examination after giving a full explanation and now enjoys a successful practice.

[48] CAL. BUS. & PROF. CODE § 6576 (disqualification on conviction of crime of moral turpitude); MICH. STAT. ANN. § 18.106 (1957) (disqualification upon conviction of *any* crime).

[49] MINN. STAT. ANN. §§ 147.02 (optometrist), 148.10 (chiropractor), 148.75 (physical therapist) (Supp. 1965).

[50] ILL. REV. STAT. ch. 56½, § 242.2 (Supp. 1965) (disqualification on conviction of felony or "any crime opposed to decency or morality").

[51] WIS. STAT. § 159.14 (1961) (disqualification on conviction of any crime).

[52] See text accompanying notes 30–34 *supra*.

[53] See, *e.g.*, exceptions to the stated effect of CAL. PEN. CODE § 1203.4 in CAL. BUS. & PROF. CODE §§ 1679 (dentists), 2383, 2384 (physicians), 2963 (psychologists), 6102 (attorneys), 6576 (barbers), 10177(b) (real estate brokers), 10302(b) (business opportunity brokers), 10562(b) (mineral, oil, and gas licensees); CAL. EDUC. CODE § 12910 (teachers); CAL. VEHICLE CODE § 13555 (revocation of driver's license). See also Epstein v. California Horse Racing Board, 222 Cal. App. 2d 831, 35 Cal. Rptr. 642 (1963).

[54] Frequently, it is said that hiring of an offender will void all coverage. See Frym, *The Treatment of Recidivists*, 47 J. CRIM. L., C. & P.S. 1 (1956). The following is a typical liberal "blanket bond" provision:

The coverage of this bond shall not apply to any employee from and after the time that the Insured or any partner or officer thereof, not in collusion with such employee, shall

have knowledge or information that such employee has committed any fraudulent or dishonest act in the service of the Insured or otherwise, whether such act be committed before or after the date of employment by the Insured. Lykke, *Attitude of Bonding Companies Toward Probationers and Parolees*, 21 Fed. Prob. 36 (1957).

This study suggests that the surety companies may be willing to examine individual cases and permit the employer to assume the risk himself, and the wording of the bond would import that the cancellation of protection would apply only to the individual and not to the concern as a whole. This is preferable to blanket invalidation, but it nevertheless requires uncommon understanding and effort on the part of the employer and there is no guarantee that the consent of the surety will be given. The bonding firms interviewed in the course of Lykke's study felt that their alleged unwillingness to give coverage was more often than not used as an excuse to mask the employer's hostility toward hiring persons with an offense record.

[55] Footnote omitted.

[56] See the commentary to the N.C.C.D. MODEL ACT, *supra* note 17, at 98.

[57] MCCORMICK, EVIDENCE 89–94 (1954). There are very great variations among the states as to the crimes that will serve as a ground of impeachment.

[58] *E.g.*, People v. O'Brand, 92 Cal. App. 2d 752, 207 P.2d 1083 (1949); People v. James, 40 Cal. App. 2d 740, 105 P.2d 947 (1940). The new *California Evidence Code* (to take effect on January 1, 1967) codifies in § 788(d) the dictum of People v. Mackay, 58 Cal. App. 123, 208 Pac. 135 (1922), that a conviction set aside under CAL. PEN. CODE § 1203.4 cannot be used to impeach unless the person is the defendant in a subsequent criminal proceeding. The present state of the law is by no means clear, and the *Mackay* case has been seriously eroded by later holdings; these cases are discussed in Comment, 2 STAN. L. REV. 222 (1949).

Even under the new *California Evidence Code* the offender who has erred in a state lacking a vacation or expungement statute would be open to attack in a California court.

[59] Griswold, *The Long View*, 51 A.B.A.J. 1017 (1965).

[60] *Id.* at 1021.

[61] 363 U.S. 144 (1960).

[62] N.Y. UNCONSOL. LAWS § 9933 (McKinney 1961).

[63] For a suggestion that the problem is one of due process see Green, *op. cit. supra* note 11, at 31–35. It must be remarked that petitioner had not obtained a certificate of good conduct, N.Y. EXECUTIVE LAW § 242, following his discharge from sentence; if he had, he would have escaped the bar of § 8. There is no indication that he was aware of the availability of this relief.

[64] NUSSBAUM, FIRST OFFENDERS, A SECOND CHANCE 8–11 (1956). The arrest rate per 100,000 population in 1953 is given as 4,231.6. 1954 FBI UNIFORM CRIME REP. 52–53 (table 17). The most recent rate (for the year 1963) is shown as 3,460.4. 1964 FBI UNIFORM CRIME REP. 106–07 (table 18). Frym estimates that there are 10,500,000 persons with offense records exclusive of traffic matters. Frym, *supra* note 54, at 3. While Nussbaum's estimate seems excessive, Frym's seems too low, in the light of the F.B.I. figures.

[65] NUSSBAUM, *op. cit. supra* note 64, at 9. The F.B.I. indicates that 41% of the arrests reported nationally are of persons under the age of 25. 1964 FBI UNIFORM CRIME REP. 108–09 (table 19) (1,919,641 arrests out of 4,685,080 below age of 25).

[66] Note 65 *supra*.

[67] 1964 FBI UNIFORM CRIME REP. 26–29. Of a special study group of 92,869 offenders, 76% had a prior arrest record. On the other hand, any statistical measurement of rehabilitation is extremely difficult, because it involves the determination of a negative factor, that is, the absence of arrest or conviction over a given period of time. *Cf.* Glaser, *Differential Association and Criminological Prediction*, 8 SOCIAL PROBLEMS 6 (1960).

[68] SUTHERLAND & CRESSEY, PRINCIPLES OF CRIMINOLOGY 318 (5th ed. 1955).

[69] Cressey, *Changing Criminals:* The Application of the Theory of Differential Association, 61 AMERICAN J. SOCIOLOGY 116 (1955).

[70] Lohman, Upgrading Law Enforcement, 9 POLICE 19 (1965). For psychiatric comment to the same effect see Erickson, *The Problem of Ego Identity*, 4 J. AMERICAN PSYCHOANALYTIC A. 56 (1956).

[71] Correctional policy must be viewed not only in terms of its direct effect upon criminal activity but also in terms of its effect upon other value systems of society. Cf. BLOCH & GEIS, MAN, CRIME & SOCIETY 494 (1962).

[72] The first offender's need for expungement has been recognized in at least two other legal systems. Japanese law provides that after five years in the case of a minor crime and after ten years in the case of a serious crime, the "sentence (conviction) loses its effect" if there has been no further offense. PENAL CODE OF JAPAN, art. 34–2, 2 E.H.S. LAW BULL. 10 (Ministry of Justice transl. 1961).

Interestingly, among the most comprehensive provisions for the cancellation of offense records are those of the Soviet Union. The law specifies various probationary periods, based on the severity of the original sentence, during which there must be no new offense. Upon cancellation of the record of conviction, the offender reverts to his former status; the relief is not necessarily limited to first offenders. RSFSR CRIM. CODE art. 57, in BERMAN, SOVIET CRIMINAL LAW & PROCEDURE: THE RSFSR CODES 173–75 (1966). The cancellation is initiated by petition of the offender or of a social organization, and the cause is heard by the district people's court at the offender's place of residence. Notice must be given to the procurator, and the presence of the offender at the hearing is apparently jurisdictional. If the petition is denied, a new petition may not be filed for one year. RSFSR CODE OF CRIM. PROCEDURE, art. 370, in BERMAN, *op. cit. supra*, at 402.

[73] Persons convicted of specified sex offenses are required by CAL. PEN. CODE § 290 to register with local police departments.

[74] See Baum, *supra* note 30, at 823.

[75] CAL. WELFARE & INST'NS CODE § 781.

[76] The author was informed of a recent case in which a young man had been granted relief under § 1203.45 following his conviction for gasoline theft. The arresting police agency had learned of the sealing order and had closed its files, as had the State Bureau of Criminal Identification and Investigation. However, in the particular county where the young man was arrested, the booking of all prisoners is handled at the county jail and separate records are kept by the sheriff's department. The booking record reflecting the theft came to light in a record check prior to a military appointment. Because the military authorities not unnaturally raised the question of wilful concealment of the record, the young man was in a worse position—at least until full explanation could be given—than he would have been had no sealing order been entered.

[77] CAL. WELFARE & INST'NS CODE § 781.

[78] On the desirability of full disclosure of record in applications for certain critical positions, see text accompanying note 135 *infra*.

[79] N.C.C.D. MODEL ACT, 8 CRIME & DELINQUENCY 97, 100 (1962). Of the existing or proposed enactments found in the course of this study, only the Model Act prohibits employers or licensing bureaus from inquiring into the fact of expungement. CAL. PEN. Code § 1203.45 has been interpreted, however, to require any official agency with records which have been sealed to answer any inquiry: "We have no record on the named individual." 41 CAL. OPS. ATT'Y GEN. 102, 104 (1963); *cf.* 40 CAL. OPS ATT'Y GEN. 50 (1962).

[80] Baum, *supra* note 30, at 824. Several California probation officers indicated to the author that they had encountered instances of such questioning, and as expungement becomes more widely invoked one would expect the practice to spread. The inquiry may take various forms, from "Have you ever had an offense record expunged?" to "Have you ever appeared as a moving party in any court? Explain fully." *Cf.* Note, 79 HARV. L. REV. 775, 880 (1966).

[81] Letter from Ronald H. Beattey, Chief, Bureau of Criminal Statistics, California Department of Justice, to the author, January 17, 1966. The Bureau reports 2,917 actions filed under section 1203.45 in the period from July 1962 through December 1965. Of these, 2,379 were processed to completion and the identification files closed; in the remaining cases, the Bureau was unable initially to identify the defendant, and the order had therefore to be returned with a request for more information.

[82] Whether it is accessible enough, and how it might be made more accessible, is considered in part IV below.

[83] Note 16 *supra*.

[84] Mich. Laws 1965, act 213, at 1134.

[85] See note 76 *supra*.

[86] In 1963, the law was extended to all first offenders regardless of age. Minn. Sess. Laws 1963, ch. 819, at 1441–42.

[87] 1949 MINN. OPS. ATT'Y GEN. 328–B.

[88] 1951–53 N.J. OPS. ATT'Y GEN. 143.

[89] *Id.* at 206.

[90] N.J. STAT. ANN. § 47:3–9(1) (Supp. 1965).

[91] *In re* Garofone, 80 N.J. Super. 259, 271, 193 A.2d 398, 405 (1963), *aff'd*, 42 N.J. 244, 200 A.2d 101 (1964) (possession of barbiturates).

[92] N.J. STAT. ANN. § 2A:169–3 (1951).

[93] *In re* Garofone, 80 N.J. Super. 259, 193 A.2d 398, (1963), *aff'd*, 42 N.J. 244, 200 A.2d 101 (1964).

[94] N.J. STAT. ANN. § 2A:169–5 (1951).

[95] Parenthetically, the scope of the disorderly person classification is disturbingly broad. In one startling case, a disgruntled husband procured a revolver, jimmied the screen of his long-estranged wife's bedroom with a putty knife, and shot her lover when the latter attacked him with an axe. His argument of self-defense was denied on the ground that by carrying implements of entry (the putty knife) and the revolver, he was a "disorderly person" who was subject to immediate arrest, which the deceased was simply trying to effect—with the axe. State v. Agnesi, 92 N.J.L. 53, 104 Atl. 299 (1918), *aff'd*, 92 N.J.L. 638, 106 Atl. 893, 108 Atl. 115 (1919). Just what are the bounds of "quasi-criminality"?

[96] See text accompanying notes 30–34 *supra*.

[97] ALA. CODE tit. 13, § 378 (1958); ALASKA STAT. § 47.10.080(g) (1962); ARIZ. REV. STAT. ANN. § 8–228A (1956); CAL. WELFARE & INST'NS CODE § 503; COLO. REV. STAT. § 22–8–1(3), 13 (1963); CONN. GEN. STAT. REV. § 17–72 (1958); DEL. CODE ANN. tit. 10, § 982(b) (1953); D.C. CODE ANN. §16–2308(d) (Supp. IV, 1965); FLA. STAT. § 39.10(3) (1961); GA. CODE ANN. § 24–2418 (1959); HAWAII REV. LAWS § 333–1 (1955); IDAHO CODE ANN. § 16–1814(5) (Supp. 1965); ILL. REV. STAT. ch. 37, § 702–9 (1965); IND. ANN. STAT. § 9–3215 (Supp. 1966); KAN. GEN. STAT. ANN. § 38–801 (1964); KY. REV. STAT. § 208.200(5) (1962); LA. REV. STAT. § 13–1580 (1952); ME. REV. STAT. ANN. tit. 15, § 2502(1) (1964); MD. ANN. CODE art. 26, § 54 (1957); MASS. GEN. LAWS ANN. ch. 119, § 53 (1958); MICH. STAT. ANN. § 27.3178 (598.1) (1962); MINN. STAT. ANN. §§ 242.12, 260.211(1) (Supp. 1965); MISS. CODE ANN. § 7185–09 (Supp. 1964); MO. REV. STAT. § 211.

271(1) (1959); MONT. REV. CODES ANN. § 10–611 (Supp. 1965); NEV. REV. STAT. § 62.190(3) (1963); N.H. REV. STAT. ANN. § 169.26 (1955); N.J. STAT. ANN. § 2A:4–39 (1951); N.M. STAT. ANN. § 13–8–65 (Supp. 1965); N.Y. FAMILY CT. ACT § 781; N.C. GEN. STAT. § 110–24 (1959); N.D. CENT. CODE § 27–16–21 (1960); OHIO REV. CODE ANN. § 2151.35 (Page Supp. 1965); OKLA. STAT. tit. 20, § 891 (1961); ORE. REV. STAT. § 419.543 (1963); PA. STAT. ANN. tit. 11, §§ 261, 269–417 (1965); P.R. LAWS ANN. tit. 34, § 2011 (Supp. 1965); R.I. GEN. LAWS ANN. § 14–1–40 (1956); S.C. CODE ANN. § 15–1202 (1962); S.D. CODE § 43.0327 (1939); TENN. CODE ANN. § 37–267 (Supp. 1965) (by implication); TEX. REV. CIV. STAT. ANN. art. 2338–1, § 13 (Supp. 1965); UTAH CODE ANN. § 55–10–105(2) (Supp. 1965); VT. STAT. ANN. tit. 33, §§ 601, 627 (1958) (by implication); VA. CODE ANN. § 16.1–179 (1950); V.I. CODE ANN. tit. 5, § 2506 (1957); WASH. REV. CODE ANN. § 13.04.240 (Supp. 1965); W. VA. CODE ANN. § 4904(83) (1961); WIS. STAT. § 48.38(1) (1961); WYO. STAT. ANN. § 14–109(d) (1957). The federal provision is found in 18 U.S.C. § 5032 (1964).

[98] Only Iowa, Maryland, Nebraska, and Vermont appear to lack statutes explicitly governing juvenile court records. In these states, the matter may be covered by court rule. Cf. Md. Ann. Code art. 26, § 64 (1957). Miss. Code Ann. § 7185–20 (1942) prohibits divulgence of the names of minors for statistical reporting purposes, but does not expressly protect police or court records from public inspection. Mont. Rev. Codes Ann. § 10–633 (Supp. 1965) limits disclosure of identity and opening of hearing to cases where the minor is charged with a felony. See Geis, Publication of the Names of Juvenile Felons, 23 Mont. L. Rev. 141 (1961). In several states, only the probation officer's reports are withheld from public access. E.g., N.M. Stat. Ann. § 13–8–66 (1953); cf. Mo. Rev. Stat. § 211.321(3) (1959) (discussed pages 177–78 *infra*). In Ohio, the exclusion of persons other than parents, child, or counsel of record is implicit rather than express. See Ohio Rev. Code Ann. § 2151.18 (Page Supp. 1965).

[99] Ill. Rev. Stat. ch. 37, 702–8(3) (1965); Minn. Stat. Ann. § 260.161 (Supp. 1965); and N.Y. Family Ct. Act § 784 are typical statutes requiring police department segregation of juvenile files and prohibiting public disclosure. The Minnesota statute has been interpreted as forbidding the furnishing of police records to governmental agencies, at least without court order. 1965 Minn. Ops. Att'y Gen. 268–L A number of states have statutes regulating the taking and transmission of fingerprints and identification photographs in juvenile cases. See Myren & Swanson, Police Work With Children 77–80 (1962).

[100] On the use of juvenile court adjudication records in later adult proceedings are Annot., 96 A.L.R.2d 792 (1964); Note, 32 So. Cal. L. Rev. 207 (1959).

[101] E.g., Mass. Gen. Laws Ann. ch. 119, § 60 (1965) (no disqualification for public service either under the Commonwealth or in any political subdivision thereof); Utah Code Ann. § 55–10–105(2) (Supp. 1965) (no disqualification for any civil or military service appointment). Several Massachusetts probation officers informed the author that the law is ineffective as a real aid to employment because it fails to cover private hiring. An attempt to deal with private employment would probably be ineffective unless it restricted the scope of permissible questioning of an applicant. Some jurisdictions expressly preserve the right to examine juvenile records when application is made for a law enforcement position. E.g. Ill. Rev. Stat. ch. 37, § 702–9(3) (Supp. 1965).

[102] *Cf.* ALASKA STAT. § 47.10.060(e) (1962) which provides for expungement of the record of any minor tried as an adult on a waiver of juvenile court jurisdiction. No comparable provision is available for juvenile court adjudications. See also Minn. Stat. Ann. § 242.31 (Supp. 1965).

[103] Note, 79 Harv. L. Rev. 775, 800 (1966).

[104] E.g., In re Holmes, 379 Pa. 599, 604, 109 A.2d 523, 525 (1954): "No suggestion or taint of criminality attaches to any finding of delinquency by a juvenile court."

[105] Matza, Delinquency and Drift 73 (1964). The problem is not limited to the United States. In Great Britain, expungement procedures were proposed in 1960; these were rejected by the Committee on Children and Young Persons on the ground that there was not "a record" in the case of a juvenile delinquent, but in fact many records. While the Committee was sympathetic to the need, it apparently felt an expungement law would be ineffective. Committee on Children & Young Persons, Report, Cmd. No. 1191, at 74–75 (1960–61).

In Finland, on the other hand, the law permits the "abolition" of all accusatory pleadings and adjudication records where a punishable offense occurred before the offender's eighteenth birthday. Dolling, "Finnish Juvenile Penal Law" (Das Finnische Jugendstrafrecht, rechtd. Jugend [1961], 9/21, at 325–28), abstracted in 2 Excerpta Criminologica 501–02, No. 1221 (1962).

[106] 109 Cal. App. 2d 787, 789–90; 241 P.2d 631, 633 (1952); *accord*, Jones v. Commonwealth, 185 Va. 335, 341–42, 38 S.E.2d 444, 447 (1946). In a mordant dissent in *In re* Holmes, 379 Pa. 599, 612, 109 A.2d 523, 529 (195), Musmanno, J. terms the notion that a juvenile record does its owner no lasting harm a "most disturbing fallacy" and a "placid bromide." He colorfully describes a juvenile record as a lengthening chain that its riveted possessor will drag after him through childhood, youthhood, adulthood and middle age . . . . It will be an ominous shadow following his tottering steps, it will stand by his bed at night, and it will hover over him when he dozes fitfully in the dusk of his remaining day.

[107] NUSSBAUM, FIRST OFFENDERS, A SECOND CHANCE 4 (1956), quotes the application form of a leading university as asking, "Have you ever been placed on probation or parole, or had any other penalty, scholastic or disciplinary, imposed?" The application for graduate fellowship assistance under Title IV of the National Defense Education Act requires full reporting and certification of all crimes other than those committed before the applicant's sixteenth birthday and minor traffic violations. U.S. Dep't of Health, Educ. & Welfare, form OE 4149. The NDEA application, however, provides that all information will be "treated confidentially" and will be weighed "only as to the suitability of the applicant as a . . . Fellow."

[108] For a discussion of military regulations see note 45 *supra*.

[109] Note 98 *supra* and accompanying text.

[110] *Cf.* Note, 79 HARV. L. REV. 775, 785–86 (1966).

[111] Note 35 *supra* and accompanying text.

[112] Authority cited note 110 *supra*.

[113] The F.B.I. estimates that 51.5% of all juvenile cases are settled without referral to the court, either within the police department itself (47.2%), referral to a welfare agency (1.6%), or referral to another police agency (2.7%). 1964 FBI UNIFORM CRIME REP. 102 (table 13). On the informal handling of delinquents see Tappan, *Unofficial Delinquency*, 29 NEB. L. REV. 547 (1950).

[114] CAL. DEP'T OF JUSTICE, DELINQUENCY AND PROBATION IN CALIFORNIA 92–94 (1963).

[115] A comman example is the choice between "grand theft auto" (commonly a felony) and the lesser offense of "joyriding" (commonly a misdemeanor). The author was informed by officials of the Office of Economic Opportunity on the West Coast that this was a particularly troublesome dichotomy, since some police agencies and juvenile courts classified all automobile thefts by minors as felonious, while others classified them as joyriding unless there were aggravating circumstances. The net effect of these disparate policies is to exclude some youths from Job Corps placements while permitting the admission of others who committed precisely the same act but did so in a more lenient jurisdiction.

[116] CAL PEN. CODE § 459.

[117] CAL. PEN. CODE § 288. The municipality in question, it may be noted in passing, seems to have displayed singular concern over the osculatory activity of its citizens. Reportedly, it had upon its books until recently an ancient ordinance prohibiting any two persons from kissing unless each first wiped the lips of the other with carbolized rosewater.

[118] REPORT OF CAL. SPECIAL STUDY COMM. ON JUVENILE JUSTICE, pt. 1, at 19 (1960).

[119] In a number of counties it is the practice for the probation department to offer to file the petition for expungement. This reflects recognition of the need to make the persons involved aware of the possibility of such action and to minimize expense and red tape.

[120] The intricacies of these provisions have not insured their uniform success, and a number of ploys have been developed to circumvent them. In one police department surveyed by the writer, the "sealing" is accomplished by stamping "sealed" upon the face of the master index card (the so-called "alpha card") and then replacing it in the file. Los Angeles County reportedly interprets the statute as narrowly as possible and seals only the records of the particular offense or situation which resulted in wardship or adjudication as a dependent child, leaving untouched any prior or subsequent entries. Where the case has been transferred between counties, Los Angeles county—and apparently others following its lead—allegedly will not honor an expungement order from another juvenile court, but will require the institution of new proceedings in its own jurisdiction. (It has not been possible to verify these practices because the writer's inquiries to the county in question have gone unanswered.)

Upon occasion a minor is first brought to municipal court and then is certified to juvenile court when his age is established. The author was told of two instances where the municipal court refused at first to honor the sealing order of the juvenile (superior) court.

The probation department personnel interviewed indicated, however, that such evasive tactics are relatively rare, and from the author's observations, the general level of ~~c~~ operation has been quite high.

[121] 40 CAL. OPS. ATT'Y GEN. 50 (1962).

[122] *Cf.* text accompanying note 78 *supra*. Only Utah has a similar provision. See UTAH CODE ANN. § 55–10–117 (Supp. 1965) (discussed in text accompanying notes 128–31 *infra*).

[123] See note 81 *supra*.

[124] MATZA, *op. cit supra* note 105, at 22.

[125] "[T]he period of time that must elapse before the procedures are available is often that in which the existence of the record is most important—the time of higher education, military service or initial employment." Note, 79 HARV. L. REV. 775, 800 (1966).

[126] The Attorney General has ruled that a sheriff or county attorney cannot disclose information from juvenile records even before expungement. See 6 KAN. L. REV. 396 (1958).

[127] The difficulties in application of such a standard and the Gordian question of who should be excluded from expungement are taken up in greater detail in part IV.

[128] UTAH CODE ANN. § 55-10-117 (Supp. 1965).

[129] Note, 79 HARV. L. REV. 775, 800.

[130] *Ibid.*

[131] *Compare* WASH. REV. CODE ANN. § 13.04. 230 (Supp. 1965), *with* VA. CODE ANN. § 16.1-193 (1950). The latter permits destruction of juvenile and adult records at the clerk's discretion, after the passage of varying periods of time depending on the seriousness of the offense.

[132] State of N.Y. Ass'y Bill, Int. No. 233 (3d Rdg. 547, Print. 5363, Rec. 703) (1965).

[133] 8 CRIME & DELINQUENCY 100 (1962). The Model Act was drafted in response to recommendations of the National Conference on Parole. NAT'L PROBATION & PAROLE ASS'N, PAROLE IN PRINCIPLE AND PRACTICE 136 (1957).

[134] New York Times, July 23, 1965, p. 1, col. 7; p. 32, col. 6. A revised version of the bill has been introduced in the 1966 legislative session. State of N.Y. Sen. Bill, Int. No. 1146 (Print. 1159) (1966). It removes the "automatic amnesty" provision of its predecessor, and provides for the initiation of proceedings by a verified petition. Under this modified bill, the petitioner would be entitled to amnesty if he "reasonably establishes" to the court's satisfaction that amnesty "would best serve and secure his rehabilitation and would best serve the public interest." *Id.* at § 91. Cf. note 147 *infra* and accompanying text. This bill was reported passed by the Senate on March 8, 1966. New York Times, March 9, 1966, p. 30, col. 2. To avoid confusion, all references in the text are to the 1965 bill.

[135] State of N.Y. Ass'y Bill, *supra* note 132, at §§ 90-91.

[136] *Id.* at § 90(6).

[137] *Id.* at §§ 92(3)-(6).

[138] *Id.* at § 92(2).

[139] *Id.* at § 93.

[140] *Id.* at § 99.

[141] *Id.* at §§ 97, 98.

[142] *Id.* at § 95. Enforcement of the bill was vested in the State Commission for Human Rights, and specific penalties were provided for violation of its provisions. *Id.* at § 94.

[143] 8 CRIME & DELINQUENCY 100 (1962).

[144] *Ibid.* Presumably, the offender would be required to file a petition in either case.

[145] *Ibid.*

[146] See p. 183 *infra*.

[147] New York Times, July 23, 1965, *supra* note 134.

[148] State of N.Y. Ass'y Bill, *supra* note 132, at § 90(2).

[149] On the compelling need for personal stability in a "dispenser of lethal power" see U.S. Dep't of the Air Force, *Guidance for Implementing the Human Reliability Program*, AFM 160-55 (1962), in KATZ, GOLDSTEIN & DERSHOWITZ, MATERIALS OF PSYCHOANALYSIS & LAW 577-92 (5th temp. mimeo. ed. 1955) (cited with permission of the authors).

[150] 8 CRIME & DELINQUENCY 99 (1962).

[151] Zenoff, *Civil Incompetency in the District of Columbia*, 32 GEO. WASH. L. REV. 243 (1963).

[152] *Id.* at 249.

[153] CAL. PEN. CODE § 1203.45. See note 81 *supra* and accompanying text.

[154] While this suggestion might seem unrealistic in view of the fact that probation departments are often overworked and understaffed, it must be pointed out that the required documents are very largely *pro forma* and the task is essentially a clerical one. Pre-printed petition and affidavit forms may be helpful. The restoration of the reformed offender to his place in society is the goal of any probation program, and the specialized skills of probation personnel would seem particularly useful in assisting the eligible former offender to avail himself of the relief. The availability of expungement can be a powerful asset in a casework plan.

[155] Professor Gresham Sykes has aptly pointed out that the system of punishment implies a scheme of reward, and that it is precisely upon this point that our system of penal law founders—at least from the point of view of the individual it seeks to control. Though he spoke in particular of the prison and its administration, his remarks are germane to the correctional law as a whole. SYKES, THE SOCIETY OF CAPTIVES, 50-52 (1958).

[156] *Cf.* Goldstein, *Police Discretion Not to Invoke the Criminal Process: Low-Visibility Decisions in the Administration of Justice*, 69 YALE L.J. 543, 590-92 (1960).

[157] *Cf.* MANNHEIM, MAN AND SOCIETY IN AN AGE OF RECONSTRUCITON 281-83 (1940). This observation assumes, the point that we punish with a purpose of rehabilitation, and not solely to satisfy our urge for vengeance.

[158] Professor Matza observes that delinquency is facilitated when the "moral bind of the law is neutralized." MATZA, DELINQUENCY AND DRIFT 98 (1964). A sense of injustice (*i.e.*, that even if one reforms, one will not be forgiven and cannot rid oneself of the stigma of the crime) supports the processes by which the neutralization occurs.

[159] 8 CRIME & DELINQUENCY 99 (1962).

[160] *Ibid.* The same conclusion was reached by the commentators to the Model Penal Code. MODEL PENAL CODE § 6.05, comment at 30-31 (Tent. Draft No. 7, 1957).

[161] MYREN & SWANSON, POLICE WORK WITH CHILDREN 79 (1962).

[162] Baum, Wiping Out a Criminal or Juvenile Record, 40 Cal. S.B.J. 816, 824 (1965).

[163] Information on the policy of the F.B.I. regarding submitted records was obtained from identification division administrators in Washington, D.C., through the help of special agents of the San Jose, California, field office. The author gratefully acknowledges their assistance.

[164] New York Times, July 23, 1965, p. 1, col. 7; p. 32, col. 6. The objection that expungement and vacation of conviction laws permit the "rewriting of history" is frequently raised. See, *e.g.*, MODEL PENAL CODE § 6.05, comment at 30 (Tent. Draft No. 7, 1957).

[165] The adoption of a "limited inquiry" rule does not solve all the former offender's employment problems or insure that the employer will not discern the offense. It merely blocks the route of direct inquiry, and its virtue in so doing is that it makes much more clear the spirit of the statute by cutting off the main source of forced disclosure. Total compliance with that spirit can never be assured, and employers will be able to learn by indirection what they cannot learn directly. Customarily, inquiry is made about past employment; personnel officials desire to know when, where and why no longer. Thus, an employment gap because of a jail sentence may be all too apparent. While questioning of this kind can allow the employer to evade the statute's intended end, it is neither realistic nor desirable to attempt to foreclose all questioning about past work. The "limited inquiry" mode can substantially reduce the potential for forced disclosure of offense, but it cannot wholly eliminate it.

[166] People v. Pieri, 269 N.Y. 315, 327, 199 N.E. 495, 499 (1936).

[167] RUBEN *et al.* at 694.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 32

At the request of Mr. KENNEDY, the Senator from New Jersey (Mr. WILLIAMS) was added as a cosponsor of S. 32, the Conversion Research, Education, and Assistance Act of 1971.

S. 1486

Mr. SCOTT. Mr. President, I ask unanimous consent that, at the next printing, my name be added as a cosponsor of S. 1486, to establish an Antitrust Review and Revision Commission, introduced by the distinguished Senator from New York (Mr. JAVITS), for himself, Mr. HRUSKA, Mr. COOPER, Mr. DOLE, Mr. MCGEE, Mr. PELL, and Mr. TOWER.

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

S. 2247

At the request of Mr. ERVIN, the Senator from New Jersey (Mr. WILLIAMS), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Nevada (Mr. BIBLE), the Senator from Michigan (Mr. HART), the Senator from Oklahoma (Mr. HARRIS), the Senator from New York (Mr. JAVITS), the Senator from Maine (Mr. MUSKIE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Indiana (Mr. HARTKE) were added as cosponsors of S. 2247, a bill to further insure due process in the administrative discharge procedure followed by the Armed Forces.

S. 2513

At the request of Mr. HARTKE, the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 2513, the Older Americans' Rights Act of 1971.

S. 2571

At the request of Mr. MCGOVERN, the Senator from North Dakota (Mr. BURDICK), the Senator from Wyoming (Mr. MCGEE), the Senator from Minnesota (Mr. MONDALE), the Senator from Utah (Mr. MOSS), and the Senator from West Virginia (Mr. RANDOLPH) were added as cosponsors of S. 2571, the Rural Development and Population Dispersion Act.

SENATE JOINT RESOLUTION 169

At the request of Mr. BYRD of West Virginia, for Mr. HOLLINGS, the name of the Senator from Georgia (Mr. TALMADGE) was added as a cosponsor of Senate Joint Resolution 169, to pay tribute to law-enforcement officers of this country on Law Day, May 1, 1972.

SENATE CONCURRENT RESOLUTION 44—ORIGINAL CONCURRENT RESOLUTION REPORTED TO AUTHORIZE THE PRINTING OF A CERTAIN STUDY AS A SENATE DOCUMENT

(Placed on the calendar.)

Mr. JORDAN of North Carolina, from the Committee on Rules and Administration, reported the following original concurrent resolution, and submitted a report (No. 92-403) thereon:

S. CON. RES. 44

Resolved by the Senate (the House of Representatives concurring), That the study entitled "International Cooperation in Outer Space: A Symposium", prepared for the use of the Senate Committee on Aeronautical and Space Sciences under the direction of the staff of such committee, be printed with illustrations as a Senate document, and that there be printed three thousand additional copies of such document for the use of that committee.

SENATE RESOLUTION 180—SUBMISSION OF A RESOLUTION RELATING TO THE VIOLENCE IN NORTHERN IRELAND

(Referred to the Committee on Foreign Relations.)

Mr. RIBICOFF. Mr. President, today, with the cosponsorship of the distinguished senior Senator from Massachusetts (Mr. KENNEDY), I am introducing a Senate resolution calling for an end to the violence and bloodshed in Northern Ireland, and setting forth the principles upon which a genuine solution must be based.

This resolution is being introduced because the current tragedy in Ulster involves a denial of the basic principles of human decency and social justice. Concern for those oppressed and persecuted because of their religion or skin color has been an historic tradition of our country, and I would hope we never become so jaded that we ignore such problems. Discrimination against Catholics in Northern Ireland is just as abhorrent as the discrimination practiced against black people in our own country, Bengalis in East Pakistan, or Jews in the Soviet Union. It is morally wrong and can only bring shame on its perpetrators, and spawn desperate reactions by those oppressed.

Since the partition of Ireland some 50 years ago by Great Britain, the Catholic minority in Northern Ireland has been denied equal opportunity in securing jobs, housing, social services and voting representation. We see the results of this in the flames rising from Belfast and Londonderry, in the funeral processions for dead children, in the torn up roads leading to the North, and in the jails crowded with men detained without due process of law.

Most recently we have seen the effects of the continued hostilities in reports of the torture of detainees in Northern Ireland published in the London Sunday Times. Prime Minister Heath has ordered an immediate inquiry into the brutal interrogation tactics described firsthand by those tortured. But the solution is not more gentle interrogation methods nor increased British military operations.

British neglect and misrule in Northern Ireland have left a legacy of fear and hate that the deployment of thousands of more British troops will never erase. Belated and half-hearted attempts at reforms are too late. The distrust and bitterness felt by the Catholic minority toward a tyrannical majority runs too deep. Britain, in whose hands the ultimate fate of Northern Ireland lies, must finally face up to the festering conflict it has so long sought to ignore.

The only long-term solution consistent with the principles of self-determination and liberty is the unification of Ireland.

Northern Ireland, comprised of the six counties separated from the Republic of Eire, is an artificial entity. Its perpetuation is an invitation to continuing violence and human tragedy. It cannot be part of Britain, nor can it even be independent as long as one-third of its population is given second-class status. It is time that people everywhere speak out on this issue and urge the British Government to realize that speedy progress toward unification of Ireland is the only course that will bring peace.

We can no longer ignore what is happening today in Northern Ireland. It is not a question of petty religious bickering. It is war. The terrible human costs that are being paid will mount unless resolute actions are taken immediately by Britain to get to the roots of the conflict, not only its symptoms.

Mr. President, the resolution being introduced today is more than a recitation of past wrongs and grievances. It urges our own Government at the highest level to press for specific actions which can give the people of Northern Ireland a new future.

The steps called for in this resolution are:

First, termination of the current internment policy and the simultaneous release of all persons detained thereunder.

Second, full respect for the civil rights of all the people of Northern Ireland, and the termination of all political, social, economic, and religious discrimination.

Third, implementation of the reforms promised by the Government of the United Kingdom since 1968, including reforms in the fields of law enforcement, housing, employment, and voting rights.

Fourth, dissolution of the Parliament of Northern Ireland.

Fifth, withdrawal of all British forces in Northern Ireland, and the institution of law enforcement and criminal justice under local control acceptable to all the parties.

Sixth, convening of all interested parties for the purpose of accomplishing the unification of Ireland.

I recognize these steps cannot be undertaken without certain risks. But unless a start is made now, the alternatives are only greater upheaval and convulsion.

Great Britain, once a mighty empire, is now facing the crucial decision of its membership in the European Common Market. Britain must first set its own backyard in order, or have its energies sapped, and resources drained as surely as any colonial occupying power in history.

How long can violence be permitted to triumph over reconciliation, and hatred prevail over decency? How long can elementary justice be subordinated to political expediency, and passion be allowed to overcome reason?

If Britain is guilty of waiting too long—then our own country, has also delayed too long in involving itself in the struggle for basic human rights taking place in Northern Ireland.

The resolution we are introducing today—and which is also being introduced in the other body, by Congressman CAREY of New York—offers a way for the Congress and this Nation to involve itself in ending the tragedy in Northern Ireland. This resolution does more than decry and lament the past, it points to the directions which must be taken, and without which the agony of Ulster will be prolonged.

The dimensions of this tragic situation and the lateness of the hour have been vividly sketched by Tony Lewis in the New York Times last week in his article, "Tet in Belfast," and in two earlier articles in the same newspaper by William V. Shannon. I commend these timely analyses to all those who are seeking knowledge about a problem whose solution we should all be willing to share. I ask unanimous consent that the resolution be printed in the RECORD, followed by these articles.

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

S. RES. 180

Whereas, the continuing violence and bloodshed in Northern Ireland is a cause of the deepest concern to Americans of all faiths and political persuasions;

Whereas, the causes of the present conflict may be traced to the systematic and deliberate discrimination in housing, employment, political representation and educational opportunities practiced by the governmental authorities of Northern Ireland against the minority there;

Whereas, the governments of the United Kingdom and of Northern Ireland have failed to end the bloodshed and have failed to establish measures to meet the legitimate grievances of this minority;

Whereas, continued repression and lack of fundamental reforms in Northern Ireland threaten to prolong and escalate the conflict and the denial of civil liberties: Now, therefore be it

Resolved, That the Senate of the United States expresses its deepest concern over the present situation in Northern Ireland, and in accord with fundamental concepts of nondiscrimination, fairness, democracy, self-determination and justice, requests the Government of the United States at the highest level to urge the immediate implementation of the following actions:

1. Termination of the current internment policy and the simultaneous release of all persons detained thereunder.

2. Full respect for the civil rights of all the people of Northern Ireland, and the termination of all political, social, economic and religious discrimination.

3. Implementation of the reforms promised by the Government of the United Kingdom since 1968, including reforms in the fields of law enforcement, housing, employment, and voting rights.

4. Dissolution of the Parliament of Northern Ireland.

5. Withdrawal of all British forces from Northern Ireland and the institution of law enforcement and criminal justice under local control acceptable to all parties.

6. Convening of all interested parties for the purposes of accomplishing the unification of Ireland.

TET IN BELFAST

(By Anthony Lewis)

LONDON.—A British expert on Vietnam, a confirmed hawk, was talking about Northern Ireland. The trouble there, he said, was the weakness of the British Army's intelligence: If they had a list of 2,000 terrorists and got them behind bars, all would be well.

But what about the politics of the situation, he was asked—the almost total disaffection of the Roman Catholic minority? His answer was that politics did not matter; if you could get the security situation under control, the political problem would sort itself out.

The conversation would have been wonderful in its irony if it did not promise so much sorrow. After all that has happened in Vietnam, some people still think that solutions can be imposed on a bitterly divided community by security measures alone.

The absurdity of that notion is even clearer in Ireland than in Vietnam. For 800 years, since Pope Hadrian IV proclaimed Henry II ruler of Ireland, England has tried to subdue her sister island by force. The British genius for politics seems to disappear when it comes to Ireland.

The latest misconceived effort to impose peace by security means began last Aug. 9—the internment of suspected terrorists. About 240 men have been interned so far, all of them Catholics. The political result has been predictable: the further alienation of Ulster's 500,000 Catholics, 35 or 40 per cent of the population.

Internment has been a disaster even when viewed only as a security matter. Since the early hours of Aug. 9, 57 men, women and children have been killed in Northern Ireland by terrorists or by the British Army in counteraction. The number of bombings has sharply increased, and armed robberies by terrorist gangs hardly rate headlines any longer.

The rest of the world probably does not fully understand what is happening to a part of the United Kingdom, that most peaceful of countries. It would still be an exaggeration to speak of civil war in Northern Ireland, but the strain on economic life and on individual psychology is approaching the unbearable.

In recent weeks the best-known downtown hotel in Belfast has closed because the troubles had ruined its business. The Daily Mirror decided to shut down permanently its Ulster printing plant, the most modern in the U.K., after it was bombed. Whole areas of Belfast are closed off by roadblocks every night. Thousands of its citizens have left mixed Catholic-Protestant areas and gone into their own ghettos in a migration of fear.

Belatedly, Prime Minister Heath and his Government have recognized the political dimensions of the problem. They have talked about providing Catholics with an assured place in Northern Ireland's political structure, dominated by the Protestant Unionist party since partition fifty years ago. Mr. Heath has brought the Ulster provincial Prime Minister, Brian Faulkner, together with the Prime Minister of the Irish Republic, John Lynch.

The object of these afterthoughts is to make the Ulster Catholics feel that they have some stake in the system. A few years or even a few months ago such initiatives might have made a difference. It is almost impossible to believe that they can now.

The opposites in Northern Ireland are becoming more irreconcilable all the time. It was revealing when Mr. Faulkner, talking about bringing Catholics into the government, said they could not include such opposition leaders as Gerry Fitt and John Hume because they wanted a united republican Ireland and did not accept the North as part of the U. K. But Mr. Fitt and Mr. Hume are moderates in the Catholic community, barely able to keep their constituents' support as it is: Without them no approach to the minority would be worth anything.

Mr. Faulkner worries more about being stabbed in the back than about mollifying the Catholics. The Protestant right would like to undo the reforms already undertaken and considers Mr. Faulkner a compromiser.

The truth is that the system of separate provincial government in Northern Ireland is mortally wounded. Only a miracle can save it now, and there are no miracles in sight.

What then? The few remaining moderates in Belfast say there will have to be direct-rule-government of Northern Ireland from London. The Catholics would feel safer than under a Protestant Ulster government, it is argued. But would the terrorists of the Irish Republican Army stop their bombing and sniping? No. They would see direct rule as one more victory on the way to a united Ireland.

The I.R.A. men are as cruel and indiscriminate as terrorists always are. Little children die along with British soldiers who thought they were there to protect people regardless of religion. But terrorists can win in a colonial territory if the authorities—and their people back home—grow weary of the fight.

That is the real question now: Will the British people tire of this battle as they did in Cyprus and Palestine, even though this one is next door? The Protestants of Ulster consider themselves as British as Yorkshiremen and sometimes complain that Britain would never let this happen in Yorkshire. But it is doubtful that the mass of Britons really think of Northern Ireland as part of themselves.

[From the New York Times, Sept. 10, 1971]

WILL ULSTER WAIT?

(By William V. Shannon)

WASHINGTON.—Contrary to the propaganda of the Irish Republican Army and the opinion of many Irish Americans, the British presence in Northern Ireland is now an anachronism rather than an exercise in imperialism. Ulster is actually a huge drain on the British treasury.

Preoccupied with the great question of persuading Parliament and the country to join Europe, Prime Minister Edward Heath undoubtedly regards the Irish problem as a most tiresome and irritating distraction. If all of Ireland, North and South, suddenly sank beneath the waves, Mr. Heath would probably be delighted.

The conflict in Ireland has worsened into a crisis as he has tried to ignore it. The failure of his talks with Mr. John Lynch, the Prime Minister of the Irish Republic, earlier this week shows that Mr. Heath is not yet ready to face the harsh truth about Ireland.

His reluctance is understandable. The Protestant ruling class in Ulster does not have the powerful influence inside the British Conservative party which it had fifty years ago when Britain last confronted the Irish question, but its English and Scottish sympathizers could still give any Conservative Prime Minister a lot of trouble. Mr. Heath does not want to divide his own party and jeopardize support he would otherwise get on the Common Market vote.

Yet the harsh truth remains that only a fundamental solution can resolve the present difficulties in Northern Ireland. Mild changes such as proportional representation, which Mr. Heath proposed to Mr. Lynch in their talks, are now irrelevant.

Such modest reforms presuppose that both communities in Northern Ireland are agreed upon the legitimacy of the state, but that is no longer true. The Catholic community has become alienated from the Protestant-controlled Parliament and Cabinet in Stormont. Any moderate Catholic politician who tried to work within the existing framework would be condemned as the Irish equivalent of an Uncle Tom. The internment without trial on Aug. 9 of more than 300 Irish Republican Army members but of none of the heavily armed Protestant militants served only to convince the Catholics that the British Government and British Army, instead of being neutral, have lined up on the Protestant side.

The London Sunday Times warned editorially last weekend that Mr. Heath has to "reckon with the possibility, to put it no higher, that confidence among Catholics is now irrecoverably lost. Internment may well have clinched the disillusionment bred of their long failure to secure either equality before the law or any share of executive power. If that has happened, then the state of Northern Ireland has no future except as a military tyranny."

No modern British Government could—or would want to—rule Northern Ireland by bayonets indefinitely. British public opinion would not permit it. To escape from this military deadend street, The Sunday Times urges the British Government to begin now to explore with the Irish Republic the constitutional alternatives: "the various forms of federalism, gradual reunification, redrawn partition, a diminished Stormont and so on."

One possible arrangement that has been discussed in the British press is to make Ulster into an Anglo-Irish condominium. The flags of both Britain and the Irish Republic would fly there. The Irish Army would share peacekeeping duties with the British Army. The people would have dual citizenship, Irish as well as British.

Such a compromise would not satisfy either the I.R.A. or the Protestant militants. But it would move Ireland a long way down the road to eventual reunification. At the same time, the preservation of some British influence would reassure those Protestants who fear the Irish Republic as a clerically dominated Catholic state.

But Prime Minister Heath knows that a new constitutional settlement that would be acceptable to the Catholic community and to the Government in Dublin would have to be imposed by Britain. The men who control the old regime in Stormont are not going to volunteer to commit political suicide.

It is highly unlikely that Mr. Heath is ready to take the risks of large decisions before the Common Market issue is settled. When Parliament meets to discuss the Irish question, the Government can be expected to temporize and the members of Parliament will let off steam. But will the enrushing pace of events in Ulster wait for Mr. Heath to make up his mind and arrange his parliamentary timetable?

LIGHT IN ULSTER

(By William V. Shannon)

WASHINGTON.—Ireland was the first British colony and the first to break free. When the British gave independence to Southern Ireland in 1922, after four years of terrorism and guerrilla warfare, they started down the long road of imperial withdrawal that was to wind through India, Palestine, Kenya and Cyprus.

Now, a half-century later, Britain again finds itself entangled in Ireland, deploying thousands of troops, hunting down rebels and trying to find a compromise for the insoluble.

As in every other colonial situation, the logic of history as shown in the trend of political events and attitudes points inexorably in one direction—toward total British withdrawal. The remaining Protestant settlers will have to make their own terms with the Catholic natives.

There is no way that the British can alter the history and sociology of the six counties of Northern Ireland and make them into a viable, peaceful corner of Britain. They are Irish and there will be no lasting settlement until they are reunited with the rest of Ireland.

A quasi-independent Northern Ireland has always been a creature of artifice, not a natural entity. Geographically, historically, culturally, Ulster—to use Northern Ireland's ancient name—is as much an integral part of Ireland as New England is of the United States.

Autonomy for Northern Ireland, which was part of the 1922 settlement, could only have worked if the Protestant ruling faction had shown magnanimity and imagination toward

one-third of the population that is Catholic. Those qualities were not forthcoming.

Most Americans, accustomed to thinking of British fairness and the excellence of British law, assumed that the Catholics suffered nothing more in Ulster than mild social discrimination, inability perhaps to get into the best clubs or to advance in certain professions. The realities were much more bleak and oppressive.

While the rest of Britain, weary of Irish quarrels, resolutely turned its mind to other things, the ruling clique in Northern Ireland systematically discriminated against Catholics in the allocation of public housing in the administration of social services and in police work. During the Depression of 1932, a leading Northern Ireland politician publicly urged employers to hire "good Protestant lads and lassies." The city of Londonderry, which has a Catholic majority, was gerrymandered to produce a Protestant-controlled city government.

The violence of the last three years was the inevitable result of this drab tyranny.

As usually happens when an unjust equilibrium begins to shift, each concession to the rebels whets the appetite for change. Every reform short of total surrender seems too little or too late. Now the Catholic members have withdrawn from the Northern Ireland Parliament entirely, and the popular mood of the Catholics is clearly to settle for nothing less than reunion with the south.

Two years ago when British troops were first sent to Ulster, Peregerine Worsthorne wrote in The London Sunday Telegraph: "But how many of us, truth to tell, care or feel genuinely involved? It is part of a make-believe world to pretend that Ulster, in any meaningful sense, is part of the United Kingdom. We do not feel its agony, share its sentiments, understand its history, suffer its tearing rages.

"Imagine what would be happening today if rioting and insurrection were taking place on a comparable scale in some area of Britain itself. Is it conceivable that Parliament would stay in recess or the monarch on holiday? There would be anxious crowds in Downing Street and around the Palace. The national atmosphere would be fundamentally different—as different as death in the family is from death down the street."

Mr. Worsthorne warned that only the Irish could settle their own quarrel.

"We can no more do it for them than for the Indians and the Pakistanis, the Israelis and the Arabs, the Cypriot Turks and the Greeks. Few thought at one time that we would wash our hands of any of these responsibilities. But we did, and we will do so again."

What Mr. Worsthorne, a leading Conservative commentator, wrote then is now being taken up across the British press. John Whale, writing in the politically independent Sunday Times, has urged a constitutional conference bringing together the Government of London, Belfast and Dublin to negotiate the terms of Irish reunification.

In the left-wing New Statesman, Paul Johnson wrote last week: "In Ireland, over the centuries, we have tried every possible formula: direct rule, indirect rule, genocide, apartheid, puppet parliaments, real parliaments, martial law, civil law, colonization, land reform, partition. Nothing has worked. The only solution we have not tried is absolute and unconditional withdrawal. . . . It is time the crutch of British 'peacekeeping' was removed and the Irish forced to come of age."

What the journalists are writing today will be the policy of the British Government tomorrow. And sooner, rather than later.

Mr. RIBICOFF. Mr. President, I yield at this time to the distinguished cosponsor of the resolution, the senior Senator from Massachusetts.

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

Mr. KENNEDY. Mr. President, I am pleased to join with Senator ABRAHAM RIBICOFF in introducing a Senate resolution calling for the immediate withdrawal of British troops from Northern Ireland and the establishment of a united Ireland. An identical resolution is being introduced today in the House of Representatives by Congressman HUGH CAREY of Brooklyn.

We believe that the resolution states the only realistic means to end the killing in Northern Ireland, and to bring peace to a land that has given so much to America, a land that has done so much to enrich the history of our own Nation, a land that is suffering so deeply today.

The conscience of America cannot keep silent when men and women of Ireland are dying. Britain has lost its way, and the innocent people of Northern Ireland are the ones who now must suffer. The time has come for Americans of every faith and political persuasion to speak out. We owe ourselves and our sacred heritage no less.

Down through the centuries, the people of Ireland have been forced to wage a continuing and arduous struggle for freedom and equality. For generations, division and despair have scarred the countryside. The ancient right of self-determination has been denied. Often alone, often without notice from others throughout the world, brave men and women of Ireland have given their lives for the principles they hold dear. Millions have been driven from their homes, forced to leave the land they love, obliged to seek a new life in nations where the yoke of repression could not reach.

Today, the Irish struggle again. But now, they are not alone. They have the support of free peoples in every corner of the world. Their cause is just, and the reforms they seek are basic to all democracies worthy of the name.

The crisis now, however, is especially serious, because the hate and bitterness are taking a new and far more drastic turn. Ulster teeters on the brink of a civil war that threatens to engulf all of Ireland. The Government of Ulster rules by bayonet and bloodshed. The struggle today in the ghettos of Londonderry for liberty and the right of self-determination, for principles that should be the birthright of all peoples who call themselves free men.

In recent months, we have witnessed appalling outbreaks of civil strife in Northern Ireland—the worst in the entire half-century since Ireland was partitioned. The soaring toll of death and violence is uncontrolled. Thousands flee their homes in terror. Businesses are bombed, and factories close down. Barbed wire roadblocks imprison every street corner. Young children stand on curbstones and shout shrill insults filled with hate. A child is slain returning from an errand for his parents. A priest is killed as he kneels over a desperately wounded victim. A lorry backfires, and the driver is cut down in a wanton hail of military bullets. And, weekend headlines in the respected London Sunday Times bring reports of the newest horror—eyewitness accounts of torture and brutality in Ulster detention camps.

The cause of the present crisis is not difficult to find. As the newly formed American Committee for Ulster Justice has eloquently declared:

British armor patrolling the streets of Ulster towns is the end result of prolonged misrule. It is the result of fifty years of outright discrimination in employment, in housing, and in political representation. It is the result of a sectarian and oppressive police force, and of a judicial and prison system aimed at suppressing a minority. It is the result of a one-third minority deprived of the right to live in dignity in their own country.

The explosive situation in Northern Ireland transcends the traditional feelings of those who believe America ought not to intervene in the affairs of another nation. That principle is utterly without application here. There are ties between America and Ireland that simply cannot be ignored.

As President Kennedy liked to say, America is a nation of immigrants. The Irish yield to none in their contributions to the people and culture of America. The waves of Irish immigrants who sought our shores in the 19th century launched a movement that spanned our continent and changed the course of American history. They say today that Irish blood flows in the veins of one out of every seven Americans. There are more Irishmen in America now than in the Ireland they left behind.

The Irish have had a monumental impact on the America we know today. Wherever we look—in business and the labor movement, in literature and music, in science and religion—and above all in public service at every level of government, we find citizens of Irish descent who helped to make our Nation great.

They built our railroads, dug our coal, erected our buildings and our churches. They organized our unions and our businesses. They fought in all our wars. They gave us giants like Eugene O'Neill and Scott Fitzgerald in the world of literature and drama. Louis Sullivan in architecture; George M. Cohan and Victor Herbert in the field of music; actresses like Helen Hayes; athletes like John L. Sullivan, and Gene Tunney; John McGraw and Connie Mack; pillars of the church like Archbishop Ireland, Cardinal Gibbons, Cardinal Spellman, and Cardinal Cushing; labor leaders like George Meany; military heroes from the Revolution to Vietnam; and political leaders at every level—Federal, State, and local—whose dedication helped ensure the growth and stability of our Nation.

But the wearing of the green knows no narrow boundary of religion or nationality. Even without these bonds of blood and history, the deepening tragedy of Ulster today would demand that voices of concerned Americans everywhere be raised against the killing and the violence of Northern Ireland, just as we seek an end to brutality and repression everywhere. But, because the killing and the violence go on in Ireland, the call to action in America is irresistible.

It is our hope, therefore, in introducing this resolution, that every Member of the Senate and House of Representatives will respond to the cry of Ireland in its hour of need, and join us in our call for peace. Together, we can rally the conscience of the world, and thereby bring powerful new pressure for peace.

Alan Paton, the distinguished South African writer, stated the issue eloquently many years ago in terms that draw the contrast sharply between the heritage of freedom we seek to leave our children in America and the heritage of fear that is the plight not only of young black men in South Africa, but of young Catholics in Ulster and oppressed peoples everywhere:

"Cry, the beloved country," he said, "for the unborn child that is the inheritor of our fear. Let him not love the earth too deeply. Let him not laugh too gladly when the water runs through his fingers, nor stand too silent when the setting sun makes red the land with fire. Let him not be too moved when the birds of his land are singing, nor give too much of his heart to a mountain or a valley, For fear will rob him of all if he gives too much."

Men have not known that depth of fear in America for more than a hundred years. But they know it today in Northern Ireland, and that is why Americans now must speak.

I have said many times in the past that the basic issue in Northern Ireland is human rights. Until the minority enjoys equal rights with the majority, peace cannot come to Northern Ireland. Equality is the only instrument to erase the hatreds nurtured by years of fear, repression and mistrust. Americans well know that injustice breeds bitterness, and that from this bitterness can come violence at almost any provocation. America has learned that the solution is not repression, the solution is not armed troops, the solution is not barbed wire detention camps. We have found a better way, a way of peace and reconciliation, and we believe that Northern Ireland can reach the same result.

The heart of the solution we offer today is the call for immediate withdrawal of British troops from Ulster and the establishment of a united Ireland. Without a firm commitment to troop withdrawal and unification, there can be no peace in Northern Ireland. The killing will go on, and the intolerable mounting violence will continue.

To those who say that the inevitable result of a troop withdrawal will be a blood bath in Northern Ireland, I reply that the blood is upon us now, and the bath is growing more bloody every week. As the resolution states, the only hope for peace is the prompt return of law enforcement to local civilian control in Ulster, in accord with procedures acceptable to all the parties.

Tragically, the Government of Great Britain fails to realize that the presence of British troops in Ulster is compounding the violence instead of contributing to peace. Indeed, the government is moving blindly in the opposite direction. Last week, we learned that another 1,500 British troops are embarking for Northern Ireland. Supposedly, the troops will seal the border to the south, but all they will really seal is yet another step in the escalating violence.

Rarely has there been a clearer example of the well-known truth that those who cannot remember the past are condemned to repeat it. Britain has seen it all before, for the tragedy of Ulster is yet another chapter in the unfolding larger tragedy of the Empire—it is India and Palestine and Cyprus and Africa once again. It is the birth of the Irish Republic in 1920. It is the struggle of men everywhere for the basic rights of freedom and self-determination.

In another sense as well, the tragedy of Ulster is the tragedy of America in Indochina. For Ulster is becoming Britain's Vietnam. Indeed, it is fair to say that Britain stands toward peace in Northern Ireland today where America stood in Southeast Asia in the early nineteen sixties.

The parallel is uncanny. When President Kennedy died, only 120 American soldiers had been killed in action in Vietnam between 1961 and 1963. This week we learned that 128 persons had died in Northern Ireland in the 2 years of bitter violence that have gripped that land since British troops first arrived in 1969.

We know that the years from 1961 to 1963 were only an early chapter in the American horror of Vietnam. We know the tragedy that unfolded there in later years—45,000 Americans have now died in the war; hundreds of thousands of North and South Vietnamese soldiers have been killed; millions of innocent civilians have died, and millions more are homeless refugees in their own country.

Surely, if Britain sees and understands the parallel, we can avoid a repetition of Vietnam in Ulster. The most hopeful sign I see is the growing volume of press reports that the mass of British people themselves see the issue more clearly than their government. A recent poll, taken in September, reveals that fully 59 percent of the British public want to end the killing by bringing British troops home from Ulster now. Simple humanity demands no less. Without that step, no peace is possible, and there can be no settlement of all the other issues.

It is equally clear that the true answer to these other issues is the unification of Ireland, the overall goal we seek in our Senate resolution. America learned a century ago that our Nation, divided against itself, could not stand. The question now for Ireland is whether the people there will accept that lesson without enduring a civil war like our own. I believe deeply that they will. In 1918, the people of Ireland voted 81 percent in favor of an independent Republic. If only the cruel and constant irritation of the British military presence is withdrawn, Ireland can be whole again.

Some have urged that the only route for Britain out of Ulster is the solution used by President De Gaulle to end the Algerian war. Just as De Gaulle opened the arms of France to welcome home those Frenchmen who felt they could not live in a free Algeria, so, it is urged, Britain could open its arms to any Protestants in Ulster who feel they could not live in a united Ireland.

But I do not believe that such a solution will be necessary, at least on any wholesale scale for the Protestants who live in Ulster now. It is far more likely that, once the commitment to unification is made, the 500,000 Catholics and 1 million Protestants of Ulster will work together in a new Ireland, to create the sort of political and social arrangements under which both can live and work in peace together, with full and mutual respect for the rights of all. Anyone who doubts that truth need only examine the extraordinary record of equality, tolerance, and religious freedom compiled by the overwhelming 2.7 million Catholic majority in the Republic of Ireland toward the 300,000 Protestant minority there. Any threat the Protestants of Ulster feel is far more a result of guilt over their discrimination against the Catholics of Ulster than a realistic fear of future discrimination against themselves at the hands of the Catholics of a united Ireland.

In addition to the calls for the withdrawal of British troops and the establishment of a united Ireland, there are four other major actions that our Senate resolution proposes:

First, there must be an end to the current internment policy and the simultaneous release of all the prisoners who have been arrested and imprisoned under that brutal and arbitrary policy. For it is a policy that is nothing more nor less than mass arrest and open-ended imprisonment on the basis of mere suspicion, without trial or even the most rudimentary safeguards of fundamental justice and due process of law.

Originally, many of the prisoners were held on HMS *Maidstone*, a prison ship anchored off the Irish coast. Today, more than a hundred prisoners are confined in Crumlin Road in Belfast, and nearly 200 are held at Long Kesh outside the city, a place that many observers say has all the hallmarks of a concentration camp.

These men are political prisoners in the true sense of the word. The internment order was issued on August 9 by Prime Minister Brian Faulkner of Northern Ireland. It was issued under the so-called Special Powers Act, whose blanket language authorized Faulkner to "take all such steps and issue all such orders as may be necessary for preserving the peace and maintaining order."

To the Catholic minority in Ulster, the Special Powers Act is the symbol of their repression. Their deepest fears have been borne out by the internment order issued under it. Indeed, it is fair to say that the act itself probably contains the most sweeping single grant of arbitrary power in any democratic nation in the Western World.

The act itself has become a model for repressive regimes throughout the world. It was cited with approval as recently as 1963 by Prime Minister Vorster in South Africa. In the course of proposing a series of restrictive measures for South Africa, including the infamous 90-day detention law, Vorster argued that he would be willing to exchange all the authority he sought for one clause of Northern Ireland's Special Powers Act.

There can be no justification for the application of the act in Northern Ireland. Internment is a cruel and abhorrent policy. The random midnight roundup of suspects on the night of August 9 this year—the knock on the door, the violent entry, the arrest in the dark of night—rank as yet another flagrant example of the repression of the Ulster minority.

The government said the detention order was aimed at both Protestant and Catholic extremists, but 300 Catholics have been arrested, and not a single Protestant. The only real result of the internment policy has been to inflame the population more deeply, and to trigger a new and far more terrifying escalation of the violence—in the first 7 weeks that followed, the issuance of the internment order, 17 British soldiers, 35 civilians, and one policeman were killed, and the end is not in sight. Surely, the first step on the route back to sanity in Ulster must be the revocation of the order and the release of the prisoners.

Second, the resolution calls for full respect for the civil rights of all the people of Northern Ireland, and the end of all political, social, economic, and religious discrimination that now exists in Ulster. The crisis in Northern Ireland is a lesson to the world that religious intolerance can run just as deep and be just as cruel and violent as racial discrimination. I fully support the struggle for equal rights by the oppressed Catholic minority in Ulster, just as I support the rights of black Americans and other minorities wherever they are oppressed in the United States, whether in Jackson, Miss., or in Roxbury, Mass. For too long, Great Britain, one of the noblest bastions of freedom and equality in the history of the world, has allowed some of the most blatant and individious imaginable discriminations to flourish on its Ulster doorstep. The time has come to end them.

Third, the resolution calls for implementation of the many basic reforms promised by the Governments of Great Britain and Northern Ireland since 1968, including the reforms specifically promised in the area of law enforcement, housing, employment, and voting rights. Time and again, in recent years, the people of Ulster have heard the promise of reform, but they have never had performance. Landmarks like the O'Neil reforms of 1968 and the Downing Street Declaration of 1969, lie forgotten on the drawing boards. The time has come for movement on all of these promised actions.

Fourth, and finally, the resolution calls for the dissolution of the Parliament of Northern Ireland. Today, the Parliament of Northern Ireland has become one of the overriding symbols of oppression of the Ulster minority. For generations, the Parliament at Stormont has been the tool of Protestant domination in Ulster, and I can find no justification for its continuance. Instead, pending the overall settlement of the Ulster issue, the people of Northern Ireland should be governed directly from Westminster—the British Parliament in London—just like every other British subject. There has never been a valid rationale for the interposition of the Stormont Parliament between the Ulster people and Westminster. It is an artificial barrier between the people and their government, and the sooner this parliamentary thorn is removed, the better.

We believe that the sum of these proposals offers the only real hope for the freedom of the people of Northern Ireland and an end to the reign of violence and terror that threatens to consume that land. No one doubts that Ireland stands today on the brink of a massive civil war. The spectre we face is nothing less then the senseless destruction of Ireland herself. No American who loves Ireland or who remembers her proud and noble history can stand silent in the face of the tragedy and horror now unfolding in Ulster.

Ireland has given much to America, and we owe her much in return. Perhaps, if America can see the issue clearly, Britain will understand.

The immortal words of the Irish martyr, Robert Emmet, are as current today as when he spoke then from the dock in 1803. Condemned to death for his role in a Dublin uprising that year, he addressed the court in words as familiar to every schoolchild of Ireland as Lincoln's Address at Gettysburg is to the children of America:

Let no man write my epitaph; for as no man who know my motives dares now vindicate them, let not prejudice or ignorance asperse them. Let them and me rest in obscurity and peace; and my tomb remain uninscribed, and my memory in oblivion, until other times and other men can do justice to my character. When my country takes her place among the nations of the earth, then and not till then, let my epitaph be written.

SENATE RESOLUTION 181—SUBMISSION OF A RESOLUTION RELATING TO THE FOOD STAMP PROGRAM

(Referred to the Committee on Agriculture and Forestry.)

Mr. CHILES. Mr. President, the history of the office of President since the beginning of our country has been a history of growth in power. My purpose today is neither to trace this development nor to decide upon its acceptability, but rather to briefly comment on one aspect of its growth and offer a resolution designed to reestablish a more realistic constitutional balance.

The Constitution offers no specific guidelines concerning the impoundment of appropriated funds. It is clear, however, the framers never intended to allow the President an item veto. But the effect of impounding funds may correctly be considered a kind of item veto. If the President and the executive branch are continually allowed to refuse to spend funds after an appropriations bill has been signed into law, in reality the President is exercising an unconstitutional absolute item veto without danger of being overridden by a two-thirds vote of Congress.

This is not to say that all methods of holding up funds by the Executive are unconstitutional. Whenever a program costs less than originally expected; whenever Congress sets only ceilings on expenditures and allows the President discretionary powers over programs; and whenever actual congressional directives require the President to freeze funds for projects, surely no one could question the constitutionality.

But when the Congress finds a legislative program cancelled, abbreviated, or held back because the President considers the purpose, for one reason or another, inexpedient or inefficient, he is not acting on the basis of constitutional authority. He is, in fact, matching his will against the will of Congress which is responsible for the creation and funding of programs by the Federal Government.

This kind of Presidential action undermines public confidence in the ability of Congress to act with authority of appropriations. Our tradition of separation of powers and the system of checks and balances are twisted and distorted by this practice. The Chief Executive, according to the Constitution, has the duty to see that the laws are faithfully executed. When Congress mandates funds for spending and the congressional mandate has been signed into law by the Chief Executive, the dangerous trend of impounding becomes a practice which could eventually destroy public reliance on the Congress and seriously damage our tradition of separate branches of the government functioning in their correct constitutional roles.

Proponents of impoundment of funds by the Executive say the practice of freezing funds is one of a pure political nature. The decisive appeal regarding the fund-freezing is not to legal principles and Court decisions, but to constituencies and agency support. This is interpreted to mean the President may withhold expenditures of funds so long as the political system permits him to do so. Presidents supposedly exercise this impoundment power with considerable restraint and circumspection. But the question remains—who determines which programs are unnecessary? Who determines when the President has exercised restraint in his impoundment? Surely not the President alone.

The budgetary process must not be confused with the impounding issue. Bargaining, compromising, and persuading typify the process of congressional appropriation. But once the appropriation has been passed and signed into law, the President's duty becomes clear—to execute that law, not to obstruct constitutional intent, nor to subvert our system of balanced Government.

Our Constitution's framers understood best how best to avoid tyranny. While conditions in our modern world may well impell us to give the President some additional authority, we must still guard carefully against the accumulation of all powers—legislative, executive, and judiciary in the same hands. We must guard carefully our power of the purse as one of the Congress' few means for controlling the Federal bureaucracy.

One specific example of the practice of freezing funds prompts me to introduce a resolution which would express the sense of the Senate concerning the availability of appropriated funds for the food

stamp program and would extend the food stamp program to all areas which have submitted proper applications which are certified by the USDA. This situation is a classic example of the growing executive practice of impounding or freezing funds. In this current fiscal year Congress has appropriated $2,200 million to carry out and extend the food stamp program; $90 million appropriated for carrying out the food stamp program last fiscal year remains available, making a total of $2,290 million which Congress has authorized and appropriated and which is available for the program for this fiscal year; $198,516,000 of this sum has been withheld from the food stamp program by the Office of Management and Budget and is not available. Nearly 200 new areas have made application for participation in the food stamp program. It was the intent and mandate of the Congress that these funds be spent to assist needy people in obtaining an adequate diet by expanding this program to eligible areas. Authorization and appropriations were signed into the law of the land by the President. My Resolution would make this Congressional mandate as clearly specific as possible that this money be immediately released by the Office of Management and Budget and that all pending applications for participation in the food stamp program which meet the legal requirements should be immediately approved and the program extended to all areas covered by these applications. In my State of Florida, the city of Jacksonville typifies an area that wants very much to get off the commodity program and on food stamps. Jacksonville realizes, as many other areas do, the many important factors strongly favoring the food stamp program over the surplus commodity program.

First of all, on the food stamp program individuals can select foods necessary for their diet. The foods are fresh and more meats and vegetables are available; transportation and other administrative problems are diminished. There is less waste and spillage, and the program could provide supplements to diets for the elderly and the young.

There are, admittedly, some abuses to the administration of the food stamp program. However, the good that can be accomplished through the enlargement of the program far outweighs any abuses.

In the State of Florida alone over 40 counties have met with U.S. Department of Agriculture application approval and want to enter the program, but like Jacksonville they are held back by the freeze.

One of the greatest problems in this situation is that again we are saying, "If you have your food stamp program and were in before the freeze, you may participate in the program; but if you have made valid application and did not come in before the freeze, you cannot participate."

People do not understand how their Government can say to one city. "You can have this program and all the benefits and fresh food; you do not have to worry about having commodities that people cannot cook and waste," and then say to another city, "You cannot have this because not Congress, not the people elected by the people of this land, but someone in the Office of Management and Budget decided he wants to freeze these funds."

How long will they be frozen? Perhaps until next year, an election year. But Congress has appropriated the money and the measure has been signed into law.

The making of general policy in the United States, constitutionally, traditionally, and politically, belongs to the Congress. This resolution would be a step toward reestablishing that goal.

Mr. President, I ask that a copy of this resolution be printed in full in the RECORD at this point in my remarks.

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

S. RES. 181

Resolution expressing the sense of the Senate concerning the availability of appropriated funds for the Food Stamp Program and that the Food Stamp Program be extended to all areas which have submitted proper applications

Whereas in the current fiscal year Congress has appropriated $2,200,000,000 to carry out and extend the Food Stamp Program; and

Whereas $90,000,000 appropriated for carrying out the Food Stamp Program last fiscal year remains available, making a total of $2,290,000,000 which Congress has appropriated and which is available for the Program this fiscal year; and

Whereas $198,516,000 of this sum has been withheld from the Program by the Office of Management and Budget and is not available; and

Whereas nearly 200 new areas have made application for participation in the Food Stamp Program; and

Whereas the full amount of money which Congress has appropriated for this Program is urgently needed for the orderly expansion of the Food Stamp Program to assist other needy people in new areas to obtain an adequate diet: Now, therefore, be it

Resolved That it is the sense of the Senate that the full amount of appropriated money be immediately released by the Office of Management and Budget so that the full amount can be made available for carrying out the Food Stamp Program; and Be it Further

Resolved, That it is the sense of the Senate that all pending applications for participation in the Food Stamp Program which meet the legal requirements should be immediately approved and the program should be extended to all areas covered by such application.

SENATE RESOLUTION 182—ORIGINAL RESOLUTION REPORTED RELATING TO FUNDS FOR COMMITTEE ON FINANCE

(Referred to the Committee on Rules and Administration.)

Mr. TALMADGE (for Mr. LONG), from the Committee on Finance, reported the following original resolution:

S. RES. 182

Resolved, That the Committee on Finance is authorized to expend from the contingent fund of the Senate, during the Ninety-second Congress, $20,000 in addition to the amount, and for the same purposes, specified in section 134(a) of the Legislative Reorganization Act of 1946.

SENATE RESOLUTION 183—SUBMISSION OF A RESOLUTION RELATING TO FUND FOR THE SELECT COMMITTEE ON NUTRITION AND HUMAN NEEDS

(Referred to the Committee on Rules and Administration.)

Mr. McGOVERN submitted the following resolution:

S. RES. 183

Resolution continuing, and authorizing additional expenditures, by, the Select Committee on Nutrition and Human Needs

Resolved, That the Select Committee on Nutrition and Human Needs, established by S. Res. 281, Ninetieth Congress, agreed to on July 30, 1968, as amended and supplemented, is hereby extended through February 28, 1973.

SEC. 2. (a) In studying matters pertaining to the lack of food, medical assistance, and other related necessitates of life and health, the Select Committee on Nutrition and Human Needs is authorized from March 1, 1972, through February 28, 1973, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, (3) to subpena witnesses and documents, (4) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel, information, and facilities of any such department or agency, (5) to procure the temporary services (not in excess of one year) or intermittent services of individual consultants, or organizations thereof, in the same manner and under the same services under section 202(i) of the Legislative Reorganization Act of 1946, (6) to interview employees of the Federal, State and local governments and other individuals, and (7) to take depositions and other testimony.

(b) The minority shall receive fair consideration in the appointment of staff personnel pursuant to this resolution. Such personnel assigned to the minority shall be accorded equitable treatment with respect to the fixing of salary rates, the assignment of facilities, and the accessibility of committee records.

SEC. 3. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

SENATE RESOLUTION 184—ORIGINAL RESOLUTION RELATING TO FUNDS TO IMPROVE THE PAYROLL AND PERSONNEL SYSTEM OF THE SENATE

(Placed on the calendar.)

Mr. JORDAN of North Carolina, from the Committee on Rules and Administration, reported the following original resolution, and submitted a report (No. 92-401) thereon:

S. RES. 184

Resolved, That the Committee on Rules and Administration is authorized to expend, from the contingent fund of the Senate, not to exceed $145,000, to improve through the use of computers the payroll and personnel system of the Senate. Expenses of the committee under this resolution shall be paid upon vouchers approved by the chairman of the committee.

ADDITIONAL COSPONSORS OF RESOLUTIONS

SENATE RESOLUTION 70

Mr. BYRD of West Virginia. As President, I ask unanimous consent to have

printed in the RECORD a statement prepared by the distinguished Senator from South Carolina (Mr. HOLLINGS).

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

STATEMENT BY SENATOR HOLLINGS

Yesterday, I requested that the Senator from Alaska (Mr. Stevens) be added as a cosponsor of Senate Resolution 70. It should be, in fact, the Senator from Illinois (Mr. Stevenson), and I ask that the permanent record be changed. I request that unanimous consent be given to add Senator Stevenson as a cosponsor of Senate Resolution 70, expressing the sense of the Senate with respect to disclosure of the results of the national nutrition survey.

The PRESIDING OFFICER. The change will be made.

REVENUE ACT OF 1971—AMENDMENTS

AMENDMENT NO. 477

(Ordered to be printed and referred to the Committee on Finance.)

Mr. SCOTT. Mr. President, I submit certain amendments, intended to be proposed by me, to the bill (H.R. 10947) to provide a job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes, for appropriate reference.

The PRESIDENT pro tempore. The amendments will be received, printed, and appropriately referred.

CONSUMER PRODUCT WARRANTIES AND FEDERAL TRADE COMMISSION IMPROVEMENTS ACT OF 1971—AMENDMENTS

AMENDMENT NO. 478

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

Mr. COOK (for himself, Mr. COTTON, and Mr. HRUSKA) submitted amendments, intended to be proposed by him, to the bill (S. 986) to provide minimum disclosure standards for written consumer product warranties against defect or malfunction; to define minimum Federal content standards for such warranties; to amend the Federal Trade Commission Act in order to improve its consumer protection activities; and for other purposes.

SENIOR CITIZENS' TRANSPORTATION SERVICES ACT—AMENDMENTS

AMENDMENT NO. 479

(Ordered to be printed and referred to the Committees on Banking, Housing and Urban Affairs and Commerce.)

Mr. PERCY submitted amendments, intended to be proposed by him, to the bill (S. 1591) to provide certain new transportation services to elderly persons, to authorized studies and demonstration projects for the improvement of transportation services to the elderly, and for other purposes.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, October 20, 1971, he presented to the President of the United States the following enrolled bills:

S. 24. An Act to provide that the cost of certain investigations by the Bureau of Reclamation shall be nonreimbursable;

S. 123. An Act to authorize the Secretary of the Interior to modify the operation of the Kortes unit, Missouri River Basin project, Wyoming, for fishery conservation;

S. 1151. An Act to authorize the Secretary of the Interior to revise a repayment contract with the San Angelo Water Supply Corporation, San Angelo project, Texas, and for other purposes; and

S. 1939. An Act for the relief of the Southwest Metropolitan Water and Sanitation District, Colorado.

NOTICE OF HEARING ON CERTAIN NOMINATIONS

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Wednesday, October 27, 1971, at 10:30 a.m., in room 2228, New Senate Office Building, on the following nominations:

William C. Stuart, of Iowa, to be a U.S. district judge for the southern district of Iowa, vice Roy L. Stephenson, and

Earl E. O'Connor, of Kansas, to be a U.S. district judge for the district of Kansas, vice Arthur J. Stanley, Jr., retired.

At the indicated time and place persons interested in the hearing may make such representations as may be pertinent. The subcommittee consists of the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Nebraska (Mr. HRUSKA), and myself as chairman.

NOTICE OF HEARING ON HUD PERSONNEL

Mr. SPARKMAN. Mr. President, I should like to announce that the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing, and Urban Affairs, will hold a hearing on the afternoon of Tuesday, October 26, 1971, at which time the Honorable George Romney, Secretary of the Department of Housing and Urban Development, will explain the proposed reduction in HUD personnel, as recently announced by the Secretary.

The hearing will commence at 2 p.m. and will be held in room 5302, New Senate Office Building.

NOTICE OF HEARING ON INCORPORATION BILLS

Mr. HRUSKA. Mr. President, on behalf of the Standing Subcommittee on Federal Charters, Holidays, and Celebrations of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Friday, November 12, 1971, at 10 a.m., in room 2228, New Senate Office Building, on the following incorporation bills:

S. 303, to incorporate the Historic Naval Ships Association.

S. 902, to incorporate the Gold Star Wives of America.

S. 913, to incorporate the Navy Wives Clubs of America.

S. 1281, to incorporate National Federation of Music Clubs.

S. 2337, to incorporate Recovery, Inc.

S. 2509, to incorporate Pop Warner Little Scholars, Inc.

S. 2529, to incorporate Junior Achievement, Inc.

All persons desiring to appear and give testimony as to these proposals should contact the subcommittee in room 2226, New Senate Office Building, as soon as possible, in order that a schedule of witnesses may be prepared.

The subcommittee consists of the Senator from Arkansas (Mr. MCCLELLAN) and myself, chairman.

ADDITIONAL STATEMENTS

THE SITUATION IN VIETNAM

Mr. MCGOVERN. Mr. President, since the earliest days of its implementation I have been expressing grave concern about the so-called Vietnamization strategy.

Unless it contemplates an indefinite American involvement in Indochina, Vietnamization is no more than a formula for delayed defeat for the government of Mr. Thieu, a prospect which Mr. Thieu constantly expedites by his dictatorial practices. Meanwhile, the President's strategy exposes declining numbers of American forces to increasing danger, while shrinking their capacity for self-defense. Further, it contains slight hope, if any, for the early return of American prisoners of war.

For these reasons I have advocated the establishment of a deadline for the withdrawal of all American forces, conditioned only upon release of all U.S. prisoners, as the most promising method of shedding our foul burden in Southeast Asia.

I state quite frankly that I did not expect to discover anything to change that assessment, and I did not, when I traveled to Vietnam last month. But our trip was not lacking in revelations. Specifically, I must say that I was surprised at the wide disparity between the official glowing assessments of the progress of Vietnamization we received here in Washington and the doubts and pessimism of officials, both civilian and military, in the field.

In this context, I hope other Senators will consider carefully the complete text of a letter to Secretary of State William Rogers from Mr. John Isaacs, a Foreign Service officer who resigned his position on October 7 after serving 13 months in Vietnam. The thrust of his report is not at all atypical. In fact, it was confirmed in literally dozens of conversations we had in Saigon.

Mr. President, I ask unanimous consent that Mr. Isaac's letter be printed in the RECORD.

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

WHITE PLAINS, N.Y.,
October 7, 1971.

WILLIAM ROGERS,
Secretary of State,
Department of State,
Washington, D.C.

DEAR SECRETARY ROGERS: I am writing to you to submit my resignation from the Foreign Service of the United States.

To review my brief career, after I entered the Foreign Service in June 1969, I spent one

year in training for an assignment in Vietnam and a little over 13 months serving with CORDS (Civil Operations For Rural Development Support) working in the pacification program in Vietnam.

During my service in Vietnam, I spent six months working with refugees in Binh Tuy Province of Military Region 3, five months as Region 3 branch chief for the war victims office, and the last two months as an Operations Officer in the War Victims Directorate in Saigon. I have been fortunate to have been able to travel frequently to the 11 provinces of Region 3 and to the other three regions at least twice each. Recently the State Department promoted me to the FSO–6 level.

When I came to Vietnam in August 1970, I was already deeply opposed to our military and civilian involvement, but was determined to gain a new perspective in the war and to "see things for myself." I even had some modest hopes for helping some Vietnamese.

However, the longer I stayed in Vietnam, the more convinced I became of the utter futility of my remaining here and in the Foreign Service as well.

There is little doubt that my 13½ months in Vietnam have been an instructive experience. Perhaps I can divide my learning into three subject areas:

First, it is clear that the war in Vietnam has been lost and that the continued participation of Armed forces under the guise of Vietnamization is a fraud being perpetrated on the American people to cover up the loss.

Second, it is evident that the pacification program is and will continue to be an overwhelming and expensive failure.

Third, while I could continue in the Foreign Service by remaining in Vietnam until I receive a new assignment, I have concluded that the Foreign Service no longer offers me the career that I desire.

THE WAR AND VIETNAMIZATION

The present Administration policy in Vietnam, the Vietnamization program, while designed to reduce American casualties, has really been nothing more than a change in tactics. Rather than send our American soldiers to die and to cause embarrassment to the Administration, President Nixon has decided to substitute air power for ground power. Thus, bombers and gunships are being flown over South Vietnam, North Vietnam, Laos and Cambodia in an attempt to accomplish what 535,000 troops have failed to do.

This present policy clearly indicates that the Administration retains hopes for "winning" the war in Vietnam, at the very least by maintaining a government in power friendly to the United States. Some, such as Admiral John S. McCain, Jr., Commander of U.S. Pacific Forces, go even further to say, as he was quoted in September 1971, that "We are winning the war in Southeast Asia."

Unfortunately, the top levels of the Administration are deluding themselves to believe that even a limited victory can be achieved. Most Americans now working in Vietnam know otherwise. The confidence that Ambassador Bunker, John Vann, province and district advisors used to have here has now been replaced by a sweeping pessimism. The realization is solidifying that the war is forever lost. While the Administration continues to proclaim the success of Vietnamization, the mood of advisors in Vietnam is that of discouragement in the face of a hopeless fight.

The one-man election, coming after a year which saw the uncountable losses of life in Laos, the growth of serious drug and morale problems in the army, and the division of American opinion over the conviction of Lt. Calley, have all combined to shatter any optimism prevalent when I arrived here a year ago.

Now there is a general expectation that, while the South Vietnamese government will remain in power for the present, it is only a matter of time before it comes crashing down over the remaining Americans in the country. While no single factor will cause the demise, there are several frequently mentioned by the American advisors here:

1. The South Vietnamese army lacks motivation and discipline in the face of a highly motivated and disciplined enemy force. The other side has shown itself willing to face the French, the Americans and the onslaughts of sophisticated weapons. While the South Vietnamese armed forces have been built to 1.2 million men, no one has discovered a means to shake them into caring enough to fight.

2. An American-style army has been established which will bog down the Vietnamese in a huge logistical effort which they can neither afford nor operate by themselves. The debacle in Laos demonstrated the Vietnamese dependence on the Americans for the complex logistical back-up, artillery and airpower. Vietnamese units had to be ferried in and out of combat and protected by American power to survive. A conventional army, not a jungle force, has been created.

3. The South Vietnamese government remains unstable and sadly lacks the support of the people. The United States has attempted to graft an American-style administrative structure responsive to the needs of the country; however, the new system has failed to catch on with the people. Without a strong, popular leader, the political situation remains so fragile that the question is not whether there will be another coup d'etat but when it will occur.

4. Deeply-entrenched corruption extends throughout the Vietnamese hierarchy. It is rotting away what little support the government still retains. Investigations have been made and reforms attempted, but the desire of government officials to enjoy American profits while the money flow continues is all too frequently a higher priority than establishing an effective government.

5. Economic instability continues to plague the Vietnamese people. The United States has had to provide $4.29 billion to support the economy since July 1963 and still finds it necessary to send in $565 million in this fiscal year. The taxation system is so inadequate that, according to Public Administration advisors, the Viet Cong collect more in taxes than does the South Vietnamese government in some Regions. Economic problems will grow with the on-going withdrawal of American forces. More of the 117,000 Vietnamese officially employed by the Americans as drivers, interpreters and construction workers (and probably double that number are dependent on the Americans in unofficial capacities such as personal servants and bar girls) will lose their jobs.

6. There remains a lack of a strong, capable leadership in either the army or the government. The weak leadership of the army is the problem stressed most frequently by American military advisors. The one-man election further complicates the difficulties of finding popular, effective political leadership.

In short, the war has been lost. All the above factors have played into the defeat; that the Administration is still intent on "winning" the war under the label of Vietnamization is clearly self-delusion in the face of the realities of Vietnam.

THE FAILURE OF PACIFICATION

A second American failure is that of our continued support of the disastrous pacification program. I have spent the past 13½ months attempting to find substantial achievements of pacification and have discovered very little.

CORDS was established in October 1967. The great pacifiers, the Robert Komers, the William Colbys and the John Vanns, have devised a series of programs from Phoenix to Chieu Hoi to R.D. Cadre to Land Reform. Under the name of pacification, countless schools, dams, bridges, dispensaries, irrigation projects, roads and refugee villages have been built. Countless briefing charts and statistical tables as well have been designed to indicate steady progress in the "other war."

Yet for all the "successes," the pacification program has never been able to accomplish its key task in Vietnam; namely, the winning and the holding of the allegiance and trust of the Vietnamese people to the extent that the people will support the government and defend it against its enemies. For all the schools and dispensaries built, the pacifiers have never devised a method to get the Vietnamese people to care enough to fight for the government. And with such an unconcerned population, the war can never be won.

The French intelligence commandant stated in 1954, "Pacification will be fully realized not when we will have occupied each inch of earth but when we will have conquered all the hearts and won all the minds." John Vann, one of the key architects of the pacification program, said much the same thing in a July 1971 interview: "Military occupation is only the first step to pacification."

The French failed in their key goal in 1954. The United States has failed in 1971. Vann admitted as much when in another part of the interview he said, "The majority of the country still opposed the government. The population is up for grabs." In fact, the loyalites of the population have not been won despite program after program, despite the spending of billions of dollars on pacification projects, despite the sending of advisors to every district and every province in Vietnam, and contrary to all statistics demonstrating success.

It is true that when the American army came to Vietnam in force in 1965, they did succeed in occupying Vietnam. No doubt the United States staved off military disaster and improved security. But now, with these troops leaving, it is evident that nothing permanent has been achieved. We have never gotten beyond the first step of military occupation.

There are many reasons for this failure. One of the major reasons why the pacification program has never succeeded is that few Americans understand or have even taken the time to understand the people of Vietnam or the conditions in the country. The United States arrogantly assumed that any American could be sent to Vietnam to advise the Vietnamese because of "superior" knowledge and "advanced techniques." Yet failure to take into account cultural differences has led CORDS to push program after program which have never worked.

One result is that American agriculture experts with scant knowledge of conditions in Vietnam who introduced a vast grain sorghum program failed to consider adequately soil conditions, marketing procedures, rain seasons, proper procedures and cultural habits. An agriculture expert in Region 3 admitted to me in June 1971 that the program still is pushed only "for the sake of advisors' jobs" and that the program will be kept going "until the United States gets out, and then we can let it fall on its face."

We have pushed Food for Peace imports on the Vietnamese as a free distribution program for years, and intend to send in over $8.6 million of commodities in 1972, despite recognition for years by advisors at the lower level that, as put in a joint CORDS and USAID report dated April/May 1969 concerning Region 2, "with a few exceptions none of the U.S. agricultural surplus commodities (Food For Peace) are pleasing to the Vietnamese palate. This, in large part, explains why U.S. PL 480 agricultural commodities are sold for piasters to buy rice rather than

consumed by the recipients as planned by the U.S. Congress."

We have constructed buildings in every province in the country, such as the two market places in Chau Thanh District of Binh Duong Province or the water system for an ethnic minorities boarding school in Binh Long Province, called "white elephants" by CORDS, because we thought that the Vietnamese should want them, only to discover the Vietnamese do not use them.

We have created huge programs such as Phoenix and RD Cadre which are U.S. inspired, U.S. initiated, U.S. funded and U.S. pushed. These programs consistently surpass all goals of achievement, but are accepted by Vietnamese officials only in a pro forma way. These programs will certainly die as soon as the Americans stop funding them. The list of examples can cover the spectrum of CORDS programs as consistent lack of understanding has led to repeated failures.

Another reason for the failure of the pacification program is that CORDS has never developed an honest reporting system to give an accurate picture of the situation in Vietnam. Instead, misinformation has been passed from district to province to Region to Saigon and on to Washington.

On June 27, 1971, William Colby and Creighton Abrams sent around a memorandum on several subjects, including reporting. It stated: "The critical factor in CORDS reporting is integrity. Local CORDS reports are used as a basis for decisions at the highest levels of the GVN and the U.S. Government. It is essential that these be objective, and as comprehensive as the local officer can possibly make them."

Despite these words, there is a persuasive feeling in CORDS that the high-level officials in Saigon and Washington just don't want bad news. Added to this belief is the fear by officials at district and province levels, both military and civilian, that bad news will reflect badly on future careers. As a result, reports show mostly carefully sanitized information. The examples are plentiful:

When I was working in Binh Tuy Province, I conducted surveys using Vietnamese research teams which showed a decline in security in two northern districts. The Province Senior Advisor forbade me from sending the surveys to higher headquarters. "It would only make us look bad," he said.

A civilian advisor in the Delta wrote a report which indicated irregularities in local elections in his district. He was forced to revise the report when higher authorities were upset at the indication of unfair influence in the election.

A Province Senior Advisor in Military Region 2 never mentioned in his monthly reports that an estimated 350 Montagnards were dying of diseases complicated by malnutrition in early 1971, until private accounts and newspaper reports forced the news out.

The Deputy for CORDS in Military Region 3, after receiving a report which included a section entitled "Non-Reporting or Misrepresentation of Unfavorable Incidents," had to plea in February 1971 for more complete information in reports to his office instead of "the lack of information provided to this headquarters on the conditions he alleges."

Only last month, higher refugee officials advised war victims advisors to answer any questions of General Accounting Office investigators, but never to volunteer any information or to share any reports unless specifically asked.

Therefore, rather than the "objective" and "comprehensive" reporting asked for, CORDS, like the military, has reduced all information to precise briefings and clear statistics designed to avoid news which doesn't show progress and to eliminate all ambiguity. The Americans at the higher levels never find out what is happening in Vietnam.

The reductio ad absurdum of the entire briefing system came in an unclassified derective dated September 8, 1971, to all Saigon directorates on preparation for a large-scale command briefing:

"Develop ten or twelve high impact indicators that say persuasively that much progress has been made; that our effort has not been a fruitless venture; that we have helped to establish conditions and build systems that at least give the Republic of Vietnam an opportunity to choose its future course of events. Final thought should be that a strong, broadly-based military establishment has been created in RVN that will be difficult to destroy by military action. Whether RVN can withstand subversion and political dissention remains to be seen and is a matter that only the Vietnamese people and their leaders can resolve."

A third reason why pacification has failed is due to deficient personnel and logistics systems set up to run the programs. It is not without reason that many of the younger advisors label CORDS "the army of the unemployables." CORDS is filled with ex-majors and ex-colonels and miscellaneous civilians whose talent for maintaining themselves in a job is far superior to their ability to advise in a strange country.

CORDS has sent civilians to Vietnam to advise Vietnamese military men on perimeter defenses of district compounds and military men to act as development advisors in provinces. It sends here aging bureaucrats attempting to earn enough for a comfortable retirement and younger liberal arts graduates whose degrees do not substitute for technical expertise needed by the Vietnamese.

CORDS is run jointly by military, USAID, State Department, USIA and CIA, and controlled by no one. Long meetings are being conducted in Vietnam at this time to decide if the organization should continue to exist, and if so, in what form. CORDS is truly a bureaucracy in search of a mission. If it ever performed effectively, today it is certainly an ineffective organization whose advice is usually disregarded by the Vietnamese.

CORDS has set up a cumbersome logistics system to provide all the comforts of home which cause district and province teams to spend what a District Senior Advisor in Gia Dinh Province estimates as 75–80 per cent of its time on self-support. In Region 3 alone, the CORDS teams required in September 1970, as one neatly drawn briefing chart explains, 682 air conditioners, 256 stoves, 478 refrigerators and 891 desks to maintain itself. A Province Senior Advisor in one of the smaller provinces in Region 3 estimates that at least 10 days per month were spent merely writing reports and showing around high-level visitors rather than advising.

CORDS has set up such a vast bureaucracy with a group of people so sadly lacking in advisorial capacity that any real accomplishments are impossible. Before I came to Vietnam, I had thought CORDS to be merely a destructive paramilitary organization; after 13½ months here, I have come to know that it is inefficient and ineffectual.

THE FOREIGN SERVICE

Although it would not be difficult for me to remain in Vietnam for a few months and to wait until I get assigned to another Foreign Service post, I can no longer remain in the State Department.

I came into the Department with a long-standing interest in international affairs. I have studied in two European countries and received a Master's Degree in international relations. My interest in the Foreign Service is of many years standing.

However, when I entered the Department of State in June 1969, I had certain stereotypes of a Foreign Service Officer: the good, grey men afraid to express strong opinions or to take any stand which might adversely affect careers. I had an image of an Officer described in the September 24, 1971, CORDS Field Advisors Association newsletter as "obsequiousness and lack of frankness of subordinates toward superiors." However, these were only impressions formed on the basis of limited experience.

Unfortunately, in a little over two years in the Foreign Service, I have had most of my stereotypes confirmed. Not entirely, I must add. I met and trained with many bright, articulate and outspoken younger officers for whom I have extremely high respect. Yet, I suspect that in five or ten years, all these people will have quit the Department or else be ground down into "institutional grey." The system stifles creative thought, and the pressures of success are too overwhelming to allow for great diversity or courage.

Even in training two years ago, the two most frequent sets of advice given to younger officers were "keep a low profile," or refrain from being too visable or divergent, and "get a leg up," or try to get that extra push over fellow Officers.

More disturbing than this oppressive weight of the institution, which may be endemic to all large institutions, is the Department's willingness to disregard the truth. My group of Foreign Service Officers was lied to to persuade us to go to Vietnam, lied to on assignments and lied to when we asked for explanations. By now it is unfortunate but true that I have grown to distrust most of the senior Officers with whom I have had contact. That all Officers are told to get any promises from the Department in writing is a sad commentary on the trust existing among Officers. Eventually, Officers get so used to deceiving others that they wind up deceiving themselves as well.

With these criticisms in mind, I had to give thought to those who urged me to stay within the Department and to "reform" the system. Perhaps some Officers with different ideas can bring about some change in the system. In the long run, though, I don't believe that any real change is possible. The system is much too entrenched. Any concrete attempt at change is likely to be crushed. I know from previous attempts at protest.

Certainly there are periodic official attempts at encouraging reform, from starting "Open Forum" designed to encourage Officers to speak out, to task force recommendations this year for "Openness at Missions and Creative Dissent." Yet one has to remain skeptical of the willingness of the Department to change when the initiator of this last document was the same official who, when five Officers wrote a private letter critical of CORDS and procedures used for recruitment, stated on May 4, 1970, that "the Department can not function if Junior Officers continued such criticisms to their superiors."

In adding up my criticisms of the Department, I think that the most charitable thing to say is that I am not meant for the State Department and the State Department is not meant for me. While I would enjoy living in other countries, I don't want to live enmeshed in the administrative framework of the Department. I don't wish to be forced to defend policies with which I cannot agree. And if I wish to alter what I feel to be bad policies, I have come to conclude that the most effective means of bringing about such change is not within the State Department.

The present Peace Corps Director in Morocco summarized the dilemma of all young Foreign Service Officers in a September 10, 1971 essay in the New York Times: "In the present era of self-deception, younger officers in both military and foreign service are apt to either adapt themselves to the system or drop out in disgust. Unfortunately, most will adapt."

I choose not to adapt. Instead I am submitting my resignation from the Foreign Service, and at the same time, return to you my medal for civilian service in Vietnam.

Sincerely,

JOHN D. ISAACS.

UTAH STATE UNIVERSITY ALUMNI LEAD CONSERVATION EFFORT

Mr. BENNETT. Mr. President, we in Utah are very proud of our many native sons and university graduates who are serving with distinction in the Nixon administration.

Among them are three men who are spearheading national efforts in the increasingly important area of conservation of our natural resources. Not only do these three men have other ties to Utah; they are unique in that they all are products of the same university—Utah State University, which was known as the Utah State Agricultural College when they matriculated.

The men I refer to are Edward P. Cliff, Chief of the U.S. Forest Service since 1962; Ellis L. Armstrong, who is Commissioner of the Bureau of Reclamation; and Burton W. Silcock, who is Director of the Bureau of Land Management. Both of the latter two were appointed by President Nixon.

An excellent article on their contributions to the cause of conservation was written recently by Frank Hewlett, Washington correspondent for the Salt Lake Tribune. I ask unanimous consent that the article be printed in the RECORD.

I wish to congratulate these public servants on their outstanding work; to congratulate Utah State University, which helped prepare them for Government service; and congratulate President Nixon for his wisdom in utilizing their talents for the good of our Nation.

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

THREE USU GRADUATES SERVING IN TOP FEDERAL OFFICES

(By Frank Hewlett)

WASHINGTON.—To Utah State University now goes the great distinction of providing the federal government with three of its top officials in the increasingly important field of conservation of the nation's natural resources.

They are:

Edward P. Cliff, chief of the U.S. Forest Service, a 1931 graduate.

Ellis L. Armstrong, commissioner of the Bureau of Reclamation, class of '36.

Burton W. Silcock, a member of the class of 1947 who recently took office as director of the Bureau of Land Management.

QUITE AN HONOR

That's quite an honor roll for a school with an enrolment of around 8,000 and only about a third the size of the state's University of Utah and Brigham Young University.

When the trio were on the Logan school's campus it was known as Utah State Agricultural College. Then, like now, the state's federal land grant college was tops in agriculture, forestry and engineering.

Dean of the USU "big three" is Mr. Cliff, an inveterate pipe smoker who has served as chief of the Forest Service under two secretaries of agriculture and was assistant chief when Ezra Taft Benson, another Utahan and USU student, was boss of the USDA.

The organization which the 62-year-old, Mr. Cliff has bossed since 1962 has 20,000 employes and administers 187 million acres of the public domain.

OGDEN POST

Mr. Cliff, a native of Heber City, began his 40-year career as a government forester in Washington State. He served for a time in Ogden as assistant regional forester in charge of the Division of Range Management.

The chief is proud of the range restoration work he started in Utah and says he will always be grateful for the editorial support from The Salt Lake Tribune during those years when he was under attack from the stockmen.

He says it's gratifying to go back to Utah and see the results of this work, particularly on the Davis County watershed and the Mt. Pleasant and Willard Canyon projects.

"These were environmental accomplishments of a basic nature which were undertaken long before everyone was getting into the ecology act," said Mr. Cliff.

When I asked the chief what was now his major problem, he first only smiled and said there wasn't a special one, but then he changed his mind and replied "It is trying to make a rational multiple use program work."

He is a great believer in the multiple use principle, says more benefits can be attained in this way and feels he is getting "well into a harmonious program."

Last year the 154 national forests he supervises recorded a record 172,500,000 visitor days. (A visitor day is one person spending 12 hours in a national forest.)

Last year the Forest Service also collected $288 million for the federal Treasury, virtually all of which was from the sale of timber.

During the same period it cost nearly $10 million just to pick up the garbage left by visitors to the national forests.

The cost of vandalism damage during that same period exceeded $2 million.

WOODSY WORKS

To help combat the growing problem of the pollution caused by people, the Forest Service has just introduced a new character, "Woodsy Owl," who promises to become even better known than famed Smokey the Bear, its veteran fire fighter.

Woodsy Owl, who urges the public to "give a hoot—don't pollute," originated, according to Mr. Cliff "in our division of information and education and was the product of quite a few minds."

The publicity received on the unveiling of Woodsy Owl has exceeded all expectations. The first Woodsy Owl poster is scheduled to be released in mid-October and according to the chief it will be on recycled paper. Later it is planned to have Woodsy Owl decals, bumper strips and coloring sheets for school children.

Second of the USU triumvirate is the 57-year-old Mr. Armstrong who besides being commissioner of the Interior Department's Bureau of Reclamation has held other high federal and Utah state positions during his eventual 35 years of public service.

UTAH NATIVE

Mr. Armstrong was born in Cedar City and grew up on irrigated farms in Southern Utah and Southeastern Idaho. The latter was a five-year period in the Idaho Falls area.

He worked his way through Utah State University and in 1936 graduated with a bachelor of science degree in civil engineering.

In 1958 Mr. Armstrong received USU's distinguished service award and last June he went back to his hometown of Cedar City to deliver the commencement address and receive an honorary doctor of science degree from the State College of Southern Utah.

Mr. Armstrong joined the Bureau of Reclamation in 1936 and for the next 18 years served in various capacities of an engineering and executive nature both in the field and in the design and construction responsibilities on the Deer Creek Dam in Utah and the Anderson Ranch Dam in Idaho.

OTHER PROJECTS

He left the bureau in 1954 to become assistant project manager for a firm of consultants for the New York Port Authority on the $700 million St. Lawrence Seaway Project.

In 1957 Mr. Armstrong returned to Utah to become state director of highways but the Beehive State lost him in less than two years when he was picked by President Eisenhower for U.S. Commissioner of Public Roads and director of his new $3 billion a year nationwide highway program.

When the administration changed Mr. Armstrong became president of the Better Highways Information Foundation in Washington and later president of the consulting engineering firm of Porter, Armstrong, Ripa and Associates of Newark, N.J.

In early 1968 he returned to his first love, the Bureau of Reclamation, as assistant regional director in Salt Lake City, a post he had held for 18 months when summoned back to Washington to succeed Commissioner Floyd E. Dominy.

LARGE BUREAU

The organization which Mr. Armstrong bosses has more than 9,000 employes and its budget for the current fiscal year is nearly $385 million. The Bureau's primary job is to plan, construct and operate facilities to irrigate lands, furnish municipal and industrial water and develop related hydroelectric power and flood control in the Western states. But it is also becoming increasingly involved in recreation and weather modification research.

Mr. Armstrong conceded the bureau has "some real problems ahead" but feels they can be resolved by good planning work and providing for a more effective use of the existing water supply.

The environmental problem is taking more and more of his time and in this connection, Mr. Armstrong said "I expect that in this last couple of years we've produced in America more instant ecologists than anything else.

"What we want and what we're working toward is quality environment that can provide a good life for man," he said.

MAN CAN USE

And as to those who are against building any more dams, he warned "Nature in the raw can be destructive, erratic, merciless, crude and cruel and without intelligent understanding and continual effort toward refining nature, man can lose the ruthless struggle for survival."

As for combatting the growing Western water shortage, Mr. Armstrong feels that first of all more recycling of water is essential.

He favors an accelerated desalinization program and is also hopeful that within the next three or four years there will be some substantial benefits from the bureau's cloud seeding projects which are still in the pilot stage. He says one area of special promise is the Upper Colorado River Basin where there is hope of increasing the annual precipitation by as much as 20 percent.

Youngest and newest of the USU trio is 49-year-old Burt Silcock who as BLM administrator manages 453 million acres of the public domain.

He is a native of Burley, Idaho, and for the past six years has been BLM's state director in Alaska where there are 272 million acres of public lands.

Mr. Silcock grew up on a farm in Idaho's Magic Valley where he developed a strong interest in conservation and the use of land and water.

In high school he excelled in football and track. He was also a star in these sports at USU.

He left USU for World War II military service and after three years in the Army as an enlisted man and officer, returned to Logan where he majored in land management and graduated in 1947.

His first full-time job was in Texas as a range conservationist with the Soil Conservation Service. A year later he joined the BLM.

Mr. Silcock was a member of BLM's field parties assigned to Missouri River Basin studies and worked mainly in Wyoming's

Big Horn Basin. He then had three successive BLM posts in Wyoming—two years as assistant district manager in Lander, two years as district manager in Pinedale and six years as district manager in Worland.

GRAZING WORK

While at Worland he worked out and negotiated grazing use adjustment to maintain livestock in numbers consonant with the amount of available forage. He also managed construction of erosion and food control structures on the 15-mile creek drainage area where detention dams, water spreaders, dikes and diversions were installed to preserve water and land.

In 1959 he moved to Boise as chief of the Division of Range and Forestry in the Idaho BLM office.

Three years later he became assistant director of the BLM Wyoming office with responsibility for lands and minerals resource programs, a position he held until transferred to Alaska in 1965.

In 1969 Mr. Silcock was cited by the Secretary of Interior "for excellence of service in the preservation of Alaska's natural resources and fragile environment."

In 1970 he received the coveted presidential management improvement award. Particular accomplishments for which he was cited were his progressive environmental management in preparation of the Alaska fire-fighting plan and his role in preparation of stipulations for the proposed trans-Alaska oil pipeline right-of-way.

Last June he was handpicked for the top BLM post by Interior Secretary Rogers C. B. Morton who at his swearing in ceremony said "Mr. Silcock brings a diversified background and outstanding qualifications in land and resources management."

The secretary also pointed out that Mr. Silcock was taking office at a time when "I believe we are going in to a new age of trusteeship of the public domain."

Mr. Silcock regards his job as a real challenge but says he looks forward to it with enthusiasm.

Now before the Congress is a proposed new national resource land management act which would serve as a basic law for BLM which is still operating mainly under the ancient Taylor Grazing Act. It would establish a national policy that these lands, located mostly in the Western states, would be managed under the principles of multiple use and sustained yield in such a way as to protect the quality of the environment.

Among the many innovations foreseen under Mr. Silcock's administration is the establishment of police protection for BLM lands, with rangers somewhat like the Forest Service and National Park Service now have.

BLM already has five of these rangers in California and the advisability of naming more is expected to be one of the subjects of discussion when Mr. Silcock meets with the BLM national advisory board next Wednesday in Boise.

PENSION PLAN LEGISLATION BEING CONSIDERED—U.S. NEWS & WORLD REPORT EXPLORES PROBLEM—SENATORS ACTIVE

Mr. RANDOLPH. Mr. President, as Senators know, the pension plan reform study of the Subcommittee on Labor, under the very able direction of the Senator from New Jersey (Mr. WILLIAMS), is well underway. Several days of exploratory hearings on the problems of pension plans have been held. A comprehensive measure has been introduced by the astute ranking minority member of the subcommittee (Mr. JAVITS). I believe that within our subcommittee and the full Committee on Labor and Public Welfare—both presided over by Senator WILLIAMS—there is a genuine sense of urgency that reform legislation which will more adequately guarantee the retired worker an adequate pension should be enacted during the 92d Congress.

In May of this year, I spoke in this forum stressing the need for new pension plan legislation and commending the efforts of the chairman and ranking minority member in developing the pension study.

Substantial press coverage has been given to this subject over the past several months. I call attention to an article entitled "New Pressures To Safeguard Pensions," published in U.S. News & World Report of October 11, 1971, and ask unanimous consent that it be printed in the RECORD.

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

NEW PRESSURES TO SAFEGUARD PENSIONS

Are many retirement plans a "cruel hoax"? Congress is told strict controls are needed so workers will get their money when the final whistle blows.

Pressure is building up in Washington for broad changes in the private pension plans that cover some 31 million people in business and industry.

The push comes from two directions—

Through new laws to "reform" present pension and retirement practices as an aftermath of recent disclosures in Congress.

Through changes in regulations made by the Internal Revenue Service. The IRS must approve all pension plans before the programs can qualify for tax exemption.

So far as the typical worker is concerned, the most significant part of the current furor over pensions centers in Congress.

Critics have been telling the legislators that in too many cases, private pension plans amount to a "cruel hoax" for thousands of workers.

Many employes have complained they worked years for a company while confidently carrying visions of comfortable retirement—only to find at the end they got little or nothing.

WHAT'S WRONG

Some of the principal accusations made at the legislative hearings:

Even though they have been with a firm for 20 years or more, many workers receive no pension credit if they leave for better jobs or their own positions are abolished.

Often a company pension fund will prove insufficient to cover all participants when a plant is closed or the firm is merged with another.

Regulation of pension plans is loose. Frequently, employes have little idea of what a fund's assets are or how much they have coming in benefits.

More congressional hearings are coming, and there is considerable support for tightening Government controls over private pensions, both in the Nixon Administration and in Congress.

Present Government regulations on pension funds are minimal. The Internal Revenue Service has laid down certain requirements in order for employer contributions to qualify for a tax exemption. Periodic fiscal reports must be filed with the U.S. Department of Labor.

But no single Government agency has over-all supervision of pension systems or is empowered to make certain that workers receive what they expect to get when they retire.

Vast coverage. Size alone of the private pension complex in this country makes it a formidable subject to tackle.

The number of employes covered by private pension plans in the United States rose from about 4.3 million persons in 1940 to an estimated 30.5 million in 1970.

In the same period, assets of those funds shot up from 2.4 billion dollars to about 137 billion dollars.

The pension plan of General Motors Corporation alone has assets of more than 2.7 billion dollars. Only 78 private companies in the whole nation have more valuation than that.

Experts are now predicting that by 1980 private pension plans will swell to 215 billion dollars and cover some 42 million persons.

"Despite the enormous resources commanded by these [pension] funds, however," said Senator Jacob K. Javits (Rep.), of New York, "there is grim evidence that private pension plans deliver on their promises to a relatively inadequate number of employes covered by these plans."

Case histories. What the Senator was talking about was cases such as the following ones, most of which have been cited by the Senate Labor Subcommittee:

Phil Martinez has been driving a truck around Chicago for more than 15 years and he looked forward to a healthy pension after 20 years on the job.

But he found out that he lost all his pension-plan credits, because his company transferred him for a few months to a station outside territory of his Teamsters Union local. The union told Mr. Martinez he would have to start all over again on another 20 years.

Stephen F. Duane of Jersey City, N.J., worked 32 years in a refrigerated-butter warehouse before the company which employed him shut down the facility. Mr. Duane was told he was three years short of the minimum age requirement of 55 and therefore would get no pension.

"It didn't seem fair that I put in half my life and got nothing for it," protested Mr. Duane. "For 30 years in an icebox, I got arthritic hands."

Murray Finkelstein of New York worked 20 years in a shoe store which closed last year. He took another job in a store only a few feet away but brought no pension rights with him. At age 58, he would have to work another 15 years for his new employer before qualifying for a pension.

As man living in Michigan worked 30 years for a firm that closed its plant this year and moved to North Carolina. The employe's union is suing for pension money, but it's uncertain whether this man will get anything.

"For many years my husband stayed on at the company under the delusion that we would be all set when he retired and would not have to ask for help from children, State or Federal Government," the worker's wife said.

"Now it looks like all we have left is our delusions."

"VESTING" PROBLEM

Probably the most controversial aspect of pensions is that of "vesting"—that is, the rate at which a worker obtains irrevocable rights to all or part of his retirement fund.

Some companies provide full vesting after a stated number of years. If an employe works those years and leaves, he still has the right to collect all the pension he has earned.

The years required for vesting vary widely, and some plans provide no vesting at all unless the worker remains with the company right up to the day he retires.

Some critics of pensions claim that only 1 out of 9 workers enrolled today in private plans ever will collect a cent of retirement benefits. Others argue that 1 out of 3 employes will get at least something.

The Senate Labor Subcommittee conducted a survey covering 51 pension plans

which required 11 years or more of employment for vesting. Among all the employes who had left those plans since 1950, only 5 per cent received any benefits.

Of 36 other pension plans providing vesting in 10 years or less, just 16 per cent of those who left the companies received credit for some retirement pay.

One of the nation's largest food-store chains confirmed that since 1950 about two thirds of its pension-plan participants had forfeited their rights.

A report by a Midwestern telephone company showed that in the last 20 years some 70 per cent of its pension-plan participants had left without qualifying for any benefits—including some who had worked for the company more than 15 years.

Some pension experts contend that workers who changed jobs before qualifying for a pension didn't really "lose" anything. They argue that the workers knew, or should have known, that they were forfeiting their pension rights by leaving.

"You can't lose what you never had," one expert asserted.

"Unjustly deprived." I. W. Abel, president of the United Steelworkers of America, sees it differently. Said Mr. Abel: "When a worker is deprived of his deferred compensation each time he changes employers or when he loses his job, he has been unfairly and unjustly deprived of part of his earnings."

Some proposals in Congress would require all private pension plans to provide vesting privileges for its members within specified periods. Defenders of the present pension system warn this would only make it more difficult to establish new pension plans and would penalize older members of existing setups who are nearing retirement.

"The primary purpose of a private pension plan is to provide adequate pension benefits for the longer-service employes," asserted H. C. Lumb, vice president of Republic Steel Corporation.

In many cases, some pension experts argue, vesting was purposely traded off during union-company bargaining in return for some other benefit—such as larger retirement checks, disability pay or pensions for widows of workers.

A compulsory vesting law, one consultant contends, would double or triple basic pension plans.

Funding examined. Cases of outright fraud involving use of pension-plan money attract a lot of attention, but these are relatively rare. Much of the criticism in Congress is aimed instead at the way even some of the most respectable plans are funded.

The Senate Labor Subcommittee, for instance, noted the pension fund for employes of one of the nation's largest utilities is 364 million dollars short of meeting its current liabilities. This amounts to nearly half the firm's total assets.

More than 25 per cent of the assets of the employe pension fund of a chain retailer is invested in the firm's own properties, the subcommittee said.

Cited as a classic case involving pension-plan funding was that of Studebaker Corporation, which folded its pension for auto workers in 1963 when the company went out of the car business.

Studebaker's pension plan for employees at its main automobile plant in South Bend, Ind., had been operating for 13 years. But it was not set up to be fully funded—capable of paying all its obligations—for another 17 years. When the plan was terminated, the 25 millions in assets was divided as far as it would go.

Full pensions went to 3,600 workers already retired or over age 60. Another 4,000 employes between ages 40 and 60 received 15 per cent of what they had coming. The remaining 2,900 workers under age 40 got nothing.

Some pension actuaries argue there was nothing basically wrong with the Studebaker pension plan. The problem, they say, was with the company itself, which simply failed for competitive reasons before enough money could be pumped into the fund.

The United Auto Workers Union says the difficulty is that Studebaker's experience is not unusual.

A union study showed 20 pension plans covering UAW members folded involuntarily last year. This was more than double the failure rate of a decade earlier.

Need for reinsurance? For this reason, the UAW contends, first priority in reforming private pensions should be given to establishing a reinsurance program into which the funds would pay a premium to make certain all participants receive full payment in event the plan is terminated.

Such a reinsurance plan, the UAW said, would cost the automobile industry less than half a cent per man-hour worked.

Leonard Woodcock, UAW president, asserted:

"This is the single step which, more than any other, will create confidence in the system for the millions of wage earners who, under present conditions, cannot be certain that substantial earned pension rights will not suddenly become just so much paper if plant shutdowns, business failures or other vagaries of the economy result in termination of their plans."

"Portability" suggestion. Lack of "portability"—the opportunity to transfer pension credits from one employer to another—would be solved by some proponents through establishing a Government agency to keep track of a worker's various pension funds as he changed jobs and combine them into a single retirement account.

Other proposed pension reforms include tougher laws pinpointing fiscal duties of plan trustees and requiring more-detailed reporting to pension-plan members.

Full support lacking. But all these ideas might have to simmer a while as Congress grapples with other economic problems. Most labor unions, with notable exception of the Steelworkers and UAW, seem to be placing low priority on pensions.

Backers of the various pension-improvement bills also do not agree on which Government agency should administer any new laws passed—the Labor Department, the Treasury Department through the Internal Revenue Service, or perhaps a new and independent agency set up along lines of the Securities and Exchange Commission.

Sentiment in the House of Representatives appears at this point to favor authorizing a study by experts to recommend specific ways to cure the alleged ills in private pension plans. That would delay a vote on reform bills until at least late next year.

Chances for pension-fund action seem better in the Senate, where the Labor Subcommittee, headed by Senator Harrison A. Williams, Jr. (Dem.), of New Jersey, has been holding a series of public hearings on the issue.

"Congress has the obligation," said Senator Williams, "to assure workers that pension plans do furnish them with meaningful benefits and that pensions are not just promises resulting in cruel delusions at a late stage in life."

AMERICA'S DEFENSE POSTURE

Mr. BEALL. Mr. President, on September 23, my friend and colleague from Maryland (Mr. MATHIAS) addressed the defense industry executive seminar of the National Security Industrial Association on the subject of America's defense posture. I ask unanimous consent that the address be printed in the RECORD.

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

ADDRESS OF SENATOR CHARLES MCC. MATHIAS, JR., BEFORE THE DEFENSE INDUSTRY EXECUTIVE SEMINAR OF THE NATIONAL SECURITY INDUSTRIAL ASSOCIATION

In January 1790, in his first annual address to Congress, George Washington put forward the philosophy that has guided our defense posture to this day.

"To be prepared for war is one of the most effectual means of preserving peace."

Now, 181 years later, as we face the bleak prospect that American strategic superiority may be ending, this sage advice could well serve as the keynote for this conference.

And so, let me express my profound gratitude to the National Security Industrial Association for giving me this opportunity to participate in the Defense Industry Executive Seminar and to discuss with you how best to maintain our strategic edge. For only by maintaining our own strength, can we hope to preserve world peace.

To say that this nation is beset by deep and serious troubles is to resort to understatement. On the one hand we are increasingly disturbed by the somber specter of Soviet military and technological advance: the steady development of her air force and missile system; the progress of her modern and expanding navy; the rapid advances of her technology. On the other hand we are overwhelmed with domestic woes: 205 million people seriously divided along lines of geography, age, income and race; a country still mired in a wasting and unpopular war, wracked by economic deficits and adverse trade balances; a military establishment seriously discredited and rent by its own internal difficulties; a citizenery filled with cynicism and suspicion rather than unity and trust.

I need not go on. Both the external threat and our internal weaknesses are amply evident. What is not so clear is the remedy. So while it is safe to say that our problems will be with us for many years to come, it is far less easy to suggest what we ought to do to deal with these problems.

Let me suggest three areas in which I see some prospects for decisive remedial action. First, we must get out of Vietnam. Second, we must restore the vitality and confidence of our armed services. Third, we must reduce the cost of military procurement in order to get maximum defense for the money.

Let us begin—as we always seem to begin—with Vietnam. I have for years urged that we get out of Vietnam and have initiated or backed innumerable measures in Congress to end that war. No matter how you view our involvement there, it seems fair to say that Vietnam has been at the core of much of the dissent and confrontation that has wracked this nation. Whether you believe, as I do, that Vietnam has been the source of many of our problems, or as others assert, that it has been only the symptom of a deeper national distemper, the point is moot for present purposes. I would only interject here that like Senator Jackson, Senator Montoya, and many other distinguished colleagues, I find it exceedingly bitter to contemplate that the 45,000 American boys killed, the 300,000 wounded, and the more than 100 billion dollars spent have brought us the one-man "democracy" we see in South Vietnam today—a democracy I find difficult to distinguish from that of the Soviet Union, where the people's vote serves only to confirm the party's choice.

I bring up the subject of Vietnam, not to explore all the agonizing questions it raises, but simply to point out what a tremendous toll it has taken of our once unquestioned strategic superiority. Look, for example, at the role Russia plays in that war. The total Soviet-Chinese combined contribution to the

war has probably never exceeded $3 billion per year. The Soviet share was never higher than $1.5 billion and is now likely less than that. By contrast, the war has cost us some $30 billion annually at the height of our involvement. This is more than ten times the combined annual cost to Moscow and Peking and more than twenty times the cost to Moscow alone. Nor does this include the inflation and the other economic and social effects felt here at home which are not felt by the Soviet Union.

Understandably the Soviets have taken full advantage of this situation. The money they have not spent in Indochina has been used to modernize and expand their armed forces. Their navy is growing in quality and size and threatens to relegate our own to second place. Their air force and missile system are near parity with ours and exceed ours in some important respects. The preponderance of power we had only a few years ago simply no longer exists.

Equally disquieting, their vigorous research and development programs are threatening our technological superiority. And even if we now decide to spend what it takes, there is no way to make up the lead time. A Poseidon submarine begun today would not sail for five years. A new submarine class could hardly be operational before 1980.

Yet, however late the decision may be, we must hasten to end our involvement in Vietnam and apply our resources to the areas that count. Our war costs have diminished from $30 billion to something less than $8 billion yearly. But this is still an extremely significant sum.

Let me add here that I believe we can also effect some savings in Europe—not only through budgetary offset but possibly in terms of reduced troop levels. Unlike the situation in Vietnam, the presence of American forces in Europe has had a positive and pronounced effect on the strength and stability of Europe and on our strategic balance with the Soviet Union. Consequently any change in our troop levels must be approached with caution and effected only in full consultation with our NATO allies.

In no respect has the Vietnam war so sapped and subverted our stragtegic position as in its impact upon our armed forces. A deep and pernicious malaise has spread like a cancer through most of our military forces and has rendered them demoralized and near collapse. The Washington Post has recently carried a series of dramatic articles examining such military ills as the drug situation, the wanton violence, the racial strife and the loss of discipline and concern in the press and elsewhere. And with good reason, for the problems plaguing our armed services have cast into doubt their reliability as our effective fighting force.

In an article in the *Rome Daily American* on September 7, Colonel Robert D. Heinl, Jr., reports the following:

"Under current contingency plans we have to be ready to fight at least one-and-a-half wars (until recently it was two-and-a-half.)

"Yet the hard reality, given the present collapse of their morale, discipline, self-esteem, and battle-worthiness, is that the armed forces, by private admission of numerous senior officers, are today not fit to fight half a war, let alone one-and-a-half—even if we had 33½ divisions and a thousand percent military pay raise, too.

"If the Russians were to march next week, the true state of affairs would become quickly evident, just as the condition of our divisions in the Far East became quickly apparent in July 1950 when we tried to stem the North Korean onslaught."

The far-reaching implications of this assessment upon the credibility of our commitments through the world needs no elaboration.

Clearly we must take whatever measures are necessary to restore our military services to an effective fighting force. It is my view that to do so we must move from a draft to a volunteer service. I do not propose this as a matter of principle but as a necessary expedient in response to a grave crisis. Examining our ailing military, one finds that the most consistent cause of the problems is the draftee himself. Some of the problems like drug addiction he brings with him. Others develop after he enters the service. What results—instead of a positive, dedicated soldier—is an unhappy, unwilling, and unreliable individual. While the development of this situation can be explained in a dozen ways, what is important here is the need to take immediate corrective measures. By an increase in military pay and an accelerated phase out of draft calls, we should aim for a smaller but better military service. Emerging from Vietnam, we have little cause to maintain almost three-million men under arms. Without prejudice to our defense needs or our strategic commitments, our forces can be reduced to 2.5 million men almost immediately and to 2-million men by the end of 1972.

The need for taking this decisive action is well presented by Colonel Heinl:

"An unwilling, demoralized draftee is, under today's conditions, a gap disguised as a soldier.

"To test that proposition we have only to look at our remaining forces in Vietnam: seditious, near-mutinous, avoiding combat, drug-ridden, murdering their officers, racially tormented, and unfit and unwilling (save among such brave exceptions as the chopper pilots and the advisors) to fight.

"In Europe (according to senior commanders who will speak frankly) disintegration and loss of military control, though less dramatic, are nearly as apalling.

"Given these awful givens, certain facts have to be faced. The Armed Forces, with some exceptions, need to be rebuilt from the ground up. Nothing less will do. The only serviceable building materials for the new armed forces will be men who want to be soldiers, sailors, or airmen. "True Volunteers" is what the Gates Commission called them, and true volunteers alone will serve purpose."

Our third major objective, and the one of most immediate concern to defense industries, is to reduce the cost of military procurement.

To resort to a sad cliche, the dollar does not buy what it used to. But nowhere is this fact more evident than in the field of military technology. This fact is taking on ominous dimensions. For if we continue the present trend we will price ourselves right out of the strategic race. This warning was made in very clear terms several weeks ago by the Senate Armed Services Committee in its report on the Military Procurement Authorization Bill now before the Senate. The importance of this problem to our future defense posture, in my view, would be hard to overstate.

Some salient facts: the savings of more than $18 billion dollars per year realized by our phasedown in Vietnam has largely been consumed by inflation. Though the military budgets for fiscal years 1968 and 1972 were about the same, ($76–78 billion), the 1972 budget buys about $20 billion less. I repeat: $20 billion less. It boggles the mind.

At the same time the costs of our modern weapons systems have increased astronomically. Let me quote from the Armed Services Committee Report:

"The purchase cost of modern weapon systems has increased by many times even within the last few years. It was to be expected that a new fighter aircraft for the mid-1970's would cost considerably more than the fighters of World War II vintage. It is striking, however, that fighter aircraft now being developed for procurement in the mid-1970's will cost five to six times more than comparable aircraft at the beginning of the 1960's. The cost of tanks is increasing over fourfold during the 1965–1975 decade. A burst of .50 caliber machinegun fire, our primary air-to-air munition until the end of the Korean War, costs about $20; we are now developing tactical air-to-air munitions costing several hundred thousand dollars per round—an increase by a factor of tens of thousands. The avionics package in some types of new military aircraft will alone weigh 2 or more tons and cost several million dollars. At over $1,000 per pound this is about twice as costly as gold."

Recognizing the skyrocketing costs of modern weapons, we must ruthlessly identify and eliminate all unnecessary expenditures so that we may obtain the maximum defense benefit for our dollar.

I have long been convinced that significant savings can be achieved by the expedient of producing the simplest weapon adequate to the job. From the simplest hand gun to the most sophisticated aircraft, there is persuasive testimony suggesting that we have loaded them with refinements both unnecsary and costly. I am pleased to note that the Armed Services Committee shares this view. Again to quote its report:

". . . We have produced some weapons too complex to be effective . . . Moreover, simple and reliable modern weapons have often been neglected in the pursuit of weapons of great technological complexity. When the Navy wished to arm its proposed new class of PF escorts with a modern 35-millimeter gun, it was necessary to use a gun of Italian make because none had been developed in the United States."

Another source of savings is the elimination of unnecessary overlapping or concurrency. According to the Armed Services Committee, a large degree of concurrency between development and production in some weapons program has resulted in "commitment to production while great technological uncertainties still remain to be solved. Thus, when changes prove necessary in weapons design in the later stages of development, concurrency has maximized the cost of these changes." It is therefore gratifying to note that the Department of Defense has underscored the necessity of eliminating unnecessary concurrency.

Finally, yet another source of significant savings is the exercise of the greatest possible selectivity. We must be exhaustive in ensuring that we choose the right weapon for the job. We can no longer afford to permit considerations of inter-service rivalry to hinder the selection of the superior weapon or cause the development of redundant weapons for the same task. We must apply critical, selective criteria to every stage of development and be prepared to scrap even the most advanced program if the product proves to be less than satisfactory.

A recent example of this kind of critical examination is a detailed report on three aircraft now being funded for the task of close support: the Cheyenne Helicopter; the Harrier, a British built V/STOL aircraft; and the fixed-wing STOL aircraft, the AX. Among other things, this report recommends that the Cheyenne program be terminated, that the purchase of the Harriers be limited to 60 aircraft, and that the AX program should go forward. These recommendations, if carried out, will result in a $6 billion savings over the next ten years.

I mention this report here, not to unfold its details to you at this time, but simply to illustrate the kind of critical examination that must be focused on all of our defense procurement expenditures if we are to be able

to afford the advanced technology essential to maintaining our strategic position in the world.

The Armed Services Committee has defined your challenge with dramatic clarity:

"If the geometric cost increase for weapons is not sharply reversed, then even significant increases in the defense budget may not insure the force levels required for our national security. . . . If we can afford a permanent force structure of only one-fifth as many fighter aircraft or tanks as our potential adversaries . . . because our systems are about five times more expensive than theirs. . . . Then a future crisis may find us at a sharp numerical disadvantage."

I cannot overemphasize how important it is that you in the defense industries face up to this challenge.

I sense a growing consensus among the American people—at all points of the political spectrum—not that we spend too much on defense, but that far too much of what we spend on defense is wasted. I do not believe there is a single American who does not want a strong and a secure America. But there are a great many Americans who cannot understand why the defense budget should eat up an increasing amount of our public money while buying a proportionately decreasing amount of security. There are a great many Americans who cannot understand why we seem able to expend billions upon billions of dollars in the name of defense, and never seem able to spare even minimum amounts of money for our immense domestic needs.

There are a great many Americans, beginning with the late Senator Robert A. Taft, who have begun even to question the credibility of our defense and military establishment, and who will no longer accept without intense and exhaustive scrutiny their assurance that this expenditure is essential, that piece of hardware vital.

The American people will no longer underwrite mammoth defense budgets that do not buy them what they pay for—real strength and security.

Nor can the country forever afford excessive defense budgets that not only bring us far less strength and security than they should, but do so at the expense of domestic peace and welfare.

Billions for defense, but not one cent for waste—that is what the American people demand and deserve.

CONSTITUTIONAL CONVENTION ACT

Mr. ERVIN. Mr. President, yesterday the Senate took a great step forward in preventing the confusion and chaos that would result if article V of the Constitution were invoked by two-thirds of the States in petitioning the Congress to call a convention to propose admendments to the Constitution. I hope the House will also move to complete legislative action.

In yesterday's debate I paid tribute to some of the persons who rendered invaluable aid in the effort to draft and perfect the bill. I would like to add to that list the late Senator from Illinois, Mr. Dirksen, who was a member of the Subcommittee on Separation of Powers when the bill was first developed; Mr. Lawrence Brady, his minority counsel during that time; Mr. Paul L. Woodard, chief counsel and staff director of the subcommittee when the bill was first drafted and hearings were held; Mr. Lawrence M. Baskir, chief counsel and staff director of the subcommittee when the final version of the bill was marked up and the draft report written. Also, a great debt is owed to the subcommittee's senior consultant, Prof. Philip Kurland, of the Chicago University Law School, and Prof. Alexander Bickel, also a subcommittee consultant.

To these persons, and to the present staff members of the subcommittee whom I mentioned yesterday, much credit for the success of this legislation belongs.

THE BLACK ATHLETES FOUNDATION FOR SICKLE CELL ANEMIA RESEARCH

Mr. HUMPHREY. Mr. President, I urge Congress to give its immediate support to a widespread public and private attack on sickle cell anemia, which takes such a heavy toll among the black citizens of our country.

It is to our discredit that we have failed to recognize the gravity of this disease in the past and to set in motion the efforts necessary to combat it.

Almost 2 million Americans carry the sickle cell trait—and at least one of every 500 black babies born this year will suffer from this dread disease.

Not only is life expectancy drastically reduced for those afflicted, but there is great pain and suffering and long periods of hospitalization.

If we are to control this disease, government must also have the support and help of private groups and individuals. Among those responding thus far, I am proud to report, are black athletes who have established a Black Athletes Foundation for Sickle Cell Anemia Research.

I have pledged my vigorous support to the founders of this organization, Willie Stargell and Dock Ellis of the Pittsburgh Pirates. And today in Philadelphia I joined with them and others in a public education effort. I ask unanimous consent that remarks on this occasion be printed in the RECORD.

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

STATEMENT ON SICKLE CELL ANEMIA AND THE HEALTH NEEDS OF AMERICA'S MINORITIES

(Remarks by Senator HUBERT H. HUMPHREY)

One of the most important challenges confronting medical research today is the discovery of a cure for sickle cell anemia.

This blood disease will afflict at least one of every 500 black babies born this year, and the children afflicted will face a life expectancy of only 20 to 40 years, with much of that time spent in pain and recurrent illness and hospitalization.

It is a national disgrace that we have failed to launch an all-out effort to detect and combat this disease caused by a gene mutation occurring almost exclusively among black people.

Almost 2,000,000 Americans today carry the sickle cell trait, or defective gene. When inherited from both parents, it is transformed in a significant percentage of children into a malady affecting the red blood cells that elongate under stressful activity to block capillaries and deprive tissues of vital oxygen.

A comprehensive national program of research, testing, and public education on sickle cell anemia will require substantial public and private financial assistance just to control the spread of this insidious disease.

The recent establishment of the Black Athletes Foundation for Sickle Cell Anemia Research is an outstanding example of the kind of action required to meet this challenge. It is a research-financing effort born of deep commitment and direct personal experience, and I pledge my full support and assistance to the founders of this vital organization, Willie Stargell and Dock Ellis of the Pittsburgh Pirates.

Adequate financial support can greatly accelerate the significant progress that has already been made in the development of two accurate tests for the identification of the sickle cell anemia trait and disease, and in the discovery of vital disease-crisis treatment measures.

We must immediately provide for the intensive evaluation of these medical advances and the promotion of further discoveries. We must wage an all-out campaign to educate people about this disease and to encourage their voluntary participation in testing programs.

To help move toward these goals, I have joined as an original sponsor of the National Sickle Cell Anemia Prevention Act, introduced by Senator Tunney of California.

I have called for prompt Congressional action on this bill. It would provide for a coordinated federal grant program of $25 million per year for 3 years for research, voluntary screening, and counseling and public education, as well as a special $1.5 million grant program over three years for the development of centers for research and research training in sickle cell anemia.

Emphasis is also placed in this bill on the development of screening and counseling programs by the Department of Defense for all military personnel and civilian employees. And a similar requirement is directed at the Veterans' Administration and the Public Health Service on behalf of persons eligible for health care in these agencies.

Under all these programs, the voluntary participation of an individual and the protection of his privacy, through holding test results confidential, must be assured.

I am appalled at the failure of the federal government to have taken more comprehensive measures by now to promote research, voluntary testing, the public education on sickle cell anemia, in the face of the extensive evidence of this disease and developments in research that have come to light in recent years.

The budgetary allocation of $6 million for research in the current fiscal year represents an important beginning. Hopefully, it will be pressed forward by the recently appointed National Advisory Committee on Sickle Cell Disease under the Department of Health, Education, and Welfare.

It is time we faced the clear facts of higher rates of disease and death among the disadvantaged minority groups of America than among the white majority. It is time for us to act to assure all Americans an equal right to good health.

Today in the bicentennial city of Philadelphia, let us establish the priority goal to be achieved by 1976: The conquest of sickle cell anemia.

To a child, sickle cell anemia represents suffering, chronic fatigue, consistent absences from school.

In a man, the condition makes the holding of a job extremely difficult.

A woman may have severe difficulty with all phases of her pregnancy and delivery; she too, faces intermittent illnesses.

With no known medical cure, physicians can only help relieve symptoms, reduce pain and prevent complications.

To effectively combat sickle cell anemia, we need more money and manpower all along the line—for research, education, therapy and counseling.

And we need resources where they count—in the neighborhoods of black Americans and in rural America, with blacks involved in the planning and delivery of these services.

I urge that we give priority to screening every single pre-school and school child in America.

We can set up screening centers at fixed sites as well as in mobile vans that would travel to schools, playgrounds, parks and residences.

Under the Medicaid Law, every child of welfare families was long since to have been screened for all major ailments; this law must be implemented now for sickle cell and for all other major health problems.

But in all such efforts, we must become fully aware of the larger significance of the disease of sickle cell anemia. And that is that the overall health statistics for black, Spanish-surname, and Indian Americans are much worse than for white Americans.

Look at the toll taken by specific killers and cripplers—heart disease, cancer, stroke, kidney disease, tuberculosis, accidents. In instance after instance the color of one's skin increases the likelihood of being a victim of disease, disability and premature death. Nearly 200 years after our national independence, black, Spanish-speaking, and Indian Americans are still in bondage—to excessive physical and mental afflictions as well as to slums, inferior education, and poor jobs.

We know sickness makes people poor and poverty makes people sick. We know how poverty and malnutrition skyrocket infant mortality.

But there is much we do not know.

This is not a task for the U.S. Government alone; it is a task for state and local governments; for foundations, medical and paramedical societies; private citizens, yes, for all of us.

Let this be a decisive action by which we endeavor to assure all Americans equal health opportunity.

GEORGE A. GARRETT

Mr. SYMINGTON. Mr. President, in the death of George A. Garrett, Washington lost one of its most dedicated citizens, a man who quietly but continuously worked hard for the betterment of the community he loved and in which he lived.

As the dean of Washington newspapermen, Arthur Krock, said in a letter to the Washington Post:

George Angus Garrett merits the epitaph of Washington's First Citizen.

I ask unanimous consent that this letter and also and editorial entitled "George A. Garrett," published in the same newspaper, 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, Oct. 3, 1971]

GEORGE ANGUS GARRETT

In many respects, I think, George Angus Garrett merits the epitaph of Washington's First Citizen. "Civic minded" is often a trite expression, and, in the context of an elergy, is serviceable to the dictum of *de mortui nil nisi bonum*. But in the case of George Garrett it is abundantly descriptive.

He was kind of nature, but so are many others. He was generous of his time and energy in advancing the common good, but this, too, can be said of a host who labored to the same end. But his kindness was at all times constructive because it was rooted in true compassion for the less fortunate, and neither personal vanity nor caprice was a factor in his great endeavor to make Washington a livable city for the underprivileged. And this cannot be said of all who identify themselves with the forces of social reform.

He hated slums with a passion that can come only from the heart; yet he realized the traits of humanity which have, and always will, impede their total eradication. When trouble afflicted a friend, George Garrett was the first to share it and offer his assistance. And, though he had every facility to lead a life of ease and pleasure, he was constantly interrupting it to answer a call to which not everyone in his position would consider a duty.

Fate awarded him also the gifts of wit, enormous personal charm and a handsome presence. By his good works he deserved them all. And for those who knew George Garrett it is comforting that he lived long and happily "and ceased upon the midnight with no pain."

ARTHUR KROCK.

WASHINGTON.

[From the Washington Post, Oct. 4, 1971]

GEORGE A. GARRETT

George A. Garrett, who died Wednesday, followed several careers in the course of a long and vigorous life. In Washington he is likely to be remembered best for his leadership of a regiment of Washington's most enlightened businessmen in civic battles that have changed the face of the city.

When Mr. Garrett became president of the Federal City Council in 1954, it was by no means clear that cities would be able to carry out the very new concept of urban renewal. Mortgage lenders were particularly fearful of putting money into new housing on land that had been covered by Washington's scandalous Southwest slums. Twenty-four lenders successively refused to touch the Southwest project. With the whole redevelopment program in jeopardy, President Eisenhower turned to Mr. Garrett. When he announced the successful financing of the first construction, Mr. Garrett said: "What we achieve here in the way of better living will set the pace for many other cities in the country." He turned out to be right.

By the end of the 1950's, under Mr. Garrett, the Federal City Council had become the first effective lobby in support of the subway system that is now at last being built. Over the years, in this vastly intricate undertaking as in many others, he and the Council played an important off-stage role as negotiator and peace-maker.

Unlike the great commercial and industrial cities, Washington has never been able to rely on a general tradition of active and progressive business leadership. Mr. Garrett and his associates spent many years, and much energy, strengthening that tradition here. In a city of professional public administrators, he was an invaluable private citizen.

WELFARE CUTBACKS

Mr. RIBICOFF. Mr. President, today I am making public the results of a study prepared for me by the Department of Health, Education, and Welfare regarding the cutbacks being made all across the country in payments to recipients of aid to families with dependent children.

The study's data indicates that the time is long past due for welfare reform to be enacted. Such reform will enable the Nation to provide adequate benefits to alleviate human suffering and will relieve the intolerable fiscal burden on many of the States of the Nation—from Georgia to Wyoming, from Connecticut and New York to California.

From July 1970 to September 1971, 20 States from every region in the country have decreased some or all of their AFDC payments.

The study provides a State-by-State analysis of actions involving welfare payments.

Most of these States want to make a wholehearted effort to help the needy. But the prospects of fiscal ruination have forced them to make their already inadequate benefits even less adequate. The fiscal relief crisis is a crisis, then, not only for the States, but for each and every welfare recipient, 7½ million of whom are children.

In Connecticut, for example, benefit levels have been averaged out into a flat "equal monthly allowance" grant, resulting in benefit cutbacks for 30 percent of Connecticut's AFDC caseload, which amounted to 105,000 recipients—78,600 of whom were children—in May, 1971, the latest month for which precise data is available.

The implementation of a flat "equal monthly allowance" grant would save the State of Connecticut more than $2 million a year, including administrative cost reductions of $150,000 per year.

But while the Connecticut reductions in income assistance, rental payments and medical aid to hold the line on welfare costs which have increased five times in the last decade in Connecticut, the costs in terms of human misery will inevitably increase.

No State should be faced with having to protect its fiscal integrity at the expense of its neediest citizens.

It is abundantly clear that the time for welfare reform is now. The alternative is continuing human misery and State bankruptcy.

I ask unanimous consent that the study be printed in the RECORD.

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

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C. October 13, 1971.

Hon. ABRAHAM RIBICOFF,
U.S. Senate,
Washington, D.C.

Attention: Jeff Peterson.

DEAR SENATOR RIBICOFF: As indicated in a call today to Mr. Peterson's secretary, we apologize for the delay in responding to your letter of September 15, concerning the trends in AFDC benefit levels. The attached information was provided to us by John L. Costa, Commissioner of the Assistance Payments Administration. It includes a summary of state actions regarding the AFDC benefits and the effect on a family of four with an assumed income as well as on a family of four with no other source of income.

The detailed tables were developed to further illustrate for you the effects of state agency charges on determining eligibility and the amount of the assistance payment. In some situations the change in policy did not decisively result in either an increase or decrease for all recipients.

In thirty-one states there was some change, either an increase or decrease in AFDC policy for determining need and the amount of the assistance payment since July 1970.

Sincerely,
(Mrs.) PATRICIA REILLY HITT,
Assistant Secretary for Community and Field Services.

A. GENERALIZED SUMMARY OF EFFECT OF STATE AGENCY CHANGES IN AFDC POLICY SINCE JULY 1970

States which have decreased some or all payments in AFDC:

1. Alabama, June 1971.
2. California, June 1971. (?)
3. Connecticut, September 1, 1971.
4. Delaware, June 1971.

5. District of Columbia, August, 1970.
6. Georgia, June 1971.
7. Kansas, September 1, 1971.
8. Kentucky, September 1970.
9. Louisiana, January 1971.
10. Maine, July 1970.
11. Nebraska, September 1971.
12. New Jersey, July 1971.
13. New Mexico, April 1971.
14. New York, May 1971.
15. Nevada, July 1971.
16. South Dakota, April 1971.
17. Utah, October 1970.
18. Vermont, September 1971.
19. Washington, April 1971.
20. Wyoming, July 1970.

States which have increased payments for all AFDC recipients:

1. Arkansas, May 1971.
2. Colorado, July 1, 1970.
3. Hawaii, July 1971.
4. Illinois, July 1970.
5. Maryland, July 1971.
6. Wisconsin, March 1971.

B. DEFINITE EXPLANATION OF EFFECT OF CHANGES IN STATE POLICY IN NEED DETERMINATION IN AFDC SINCE JULY 1970

Summary tables—not mutually exclusive

I. States which have decreased payments for all AFDC recipients. Reduced number of persons eligible for a payment:

1. District of Columbia, August 1, 1970.
2. Kansas, September 1, 1971.
3. New Mexico, April 1971.
4. New York—The change in New York State actually resulted in increases for most AFDC recipients in all the counties excepting New York City and the seven surrounding metropolitan counties. Most AFDC payments for families in New York City and the surrounding counties were decreased. (Mostly New York City and 7 metropolitan counties), May 1971.
5. Utah, October 1970.
6. Washington, April 1971.

II. States which have decreased payments only for AFDC recipients with income and reduced number of persons with income eligible for AFDC:

1. Alabama, June 1971.
2. California (If New Welfare Reform Act of August 13, 1971 is implemented).
3. Delaware, June 1971.
4. Georgia, June 1971.
5. Kentucky, September 1970.
6. Louisiana, January 1971.
7. Nebraska, September 1971.
8. Nevada, July 1971.
9. Wyoming, July 1970.

III. States which have consolidated payments into a partial or total "flat" grant. May have increased or decreased payments:

1. Connecticut, September 16, 1971 (Not fully analyzed).
2. Massachusetts, August 1970 (Probably more increased).
3. New Jersey, July 1971 (Probably more decreased).
4. North Dakota, July 1971 (Probably more increased).
5. South Dakota, July 1970 (Probably more increased).
6. Vermont, September 1, 1971 (Probably more increased).

IV. States which have reduced other aspects of AFDC program:

1. New Jersey—Dropped AFDC–UF July 1971.
2. Maine—Dropped AFDC–UF, July 1971.

V. States which have increased payments primarily for families without income and decreased payments for families with income:

1. California (If Welfare Reform Act of August 1971 is implemented).
2. Nevada, July 1971.
3. Delaware, June 1971.
4. Georgia, June 1971.
5. Kentucky, September 1970.
6. Wyoming, September 1970.

VI. States which have increased payments to families with income. Families without income, no change;

1. Mississippi, June 1971.
2. Missouri, December 1970.

C. MOST RECENT CHANGES IN AFDC STANDARDS AND PAYMENTS METHODS FROM [1] JULY 1970 THROUGH SEPTEMBER 1971

1. *Alabama*—As of June 1971, Alabama changed method for determining the amount of the assistance payment.

Prior to June 1971 and After June 1971

State Standard, $230—No Change.

Maximum=$50 1st eligible child; $30 each additional eligible child to a maximum of $170; $110 maximum for a family of four—No Change.

Agency payment was 35% of the budget Agency applied 35% reduction to the deficit [2] standard.

Example:

(a) Assume no income:	
Standard	$230
Countable income	0
Budget deficit	230
35%	81
Payment	81
(b) Assume $100 countable income:	
Standard	$230
Countable incon.e	100
Budget deficit	130
35%	46
Payment	46

Example:

(a) Assume no income:	
Standard	$230
Reduced standard	81
Countable income	0
Budget deficit	81
Payment	81
(b) Assume $100 countable income:	
Standard	$230
Reduced standard	81
Countable income	100
Budget deficit	0
Payment	0

Result: Most families with income either received decreases in payments or were ineligible. Families without income were unaffected. Reduced the number of families eligible for AFDC.

2. *Alaska*—Effective September 1, 1970, agency revised and increased maximums on payments. Most families probably received increases in payments.

3. *Arkansas*—As of May 5, 1971, State agency increased standard of need and State agency maximums on requirements.

Result: All families (with or without income) received increases of about $2 per person.

4. *California*—As of June 1971, in accordance with Section 402(a)(23) of the Social Security Act, California increased maximums on payments. For a family of four the maximum payment increased from $221 to $261. California Welfare Reform Act of 1971, Chapter 578 of Senate Bill 796, approved by the Governor August 13, 1971, includes new maximums and revised Statewide standards of assistance. Revised standard for a family of four is $314; the revised maximum is $280. The Act provides for income to be applied to the maximum.

Prior to 1971 Act

(a) Assume no income:	
Standard for LA	$328
Income	0
Deficit	328
Maximum Payment	261
(b) Assume $100 countable income:	
Standard for LA	$328
Countable income	100
Deficit	228
Payment	228

If Reform Act of 1971 is implemented

(a) Assume no income:	
State-wide maximum	$280
Income	0
Deficit	280
Maximum Payment	280
(b) Assume $100 countable income:	
State-wide maximum	$280
Countable income	100
Deficit	180
Payment	180

Result: If California Welfare Act is implemented: Most families with income will receive decreased payments. All families without income will receive increases in payments. The number of families eligible for AFDC will be reduced.

5. *Colorado*—Effective 7/1/70, agency increased payments to 100% of standard; removing a 75.52% reduction.

Prior to July 1, 1970

(a) Assume no income:	
State standard	$235
Reduced to	198
Income	0
Deficit	198
Payment	198
(b) Assume $100 countable income:	
State standard	$235
Reduced to	198
Income	100
Deficit	98
Payment	98

After July 1, 1970

(a) Assume no income:	
State standard	$235
Income	0
Deficit	235
Payment	235
(b) Assume $100 countable income:	
State standard	$235
Income	100
Deficit	135
Payment	135

Result: All families received an increased payment. More families eligible for AFDC.

6. *Connecticut*—Effective 9/2/71, implemented partial flat grant, averaging some special needs into the basic standard.

7. *Delaware*—Effective June 1971, agency removed maximums on payments and ratable to standard, and implemented a 60% ratable to the budget deficit.

Prior to June 1971

(a) Assume no income:	
State standard	$287
Reduced standard	237
Income	0
Deficit	237
Maximum	149
(b) Assume $100 countable income:	
State standard	$287
Reduced standard	237
Income	100
Deficit	137
Payment	137

[1] All calculations based on AFDC Family of Four (1 Adult + 3 Children).

[2] Budget deficit refers to the difference between income and full standard or income and maximum or reduced standard as identified.

After June 1971

(a) Assume no income:	
State standard	$287
Income	0
Deficit	287
60%	172
Payment	172
(b) Assume $100 countable income:	
State standard	$287
Income	100
Deficit	187
60%	112
Payment	112

Result: Families without income received increased payments. Families with income could receive decreases in payments. Probably increased number of persons eligible for AFDC.

8. *District of Columbia*—Effective August 1, 1970, agency changed percentage reduction from 85% to 75%. Most families received decreases. Probably decreased eligibility.

9. *Georgia*—Effective June 1, 1971, agency changed payment method. Increased standards and maximums and applied a percentage reduction to the standard.

Prior to June 1, 1971

(a) Assume no income:	
State standard	$208
Income	0
Deficit	208
Maximum	133
Payment	133
(b) Assume $100 countable income:	
State standard	$208
Income	100
Deficit	108
Payment	108

After June 1, 1971

(a) Assume no income:	
State standard	$226
Reduced standard	164
Income	0
Deficit	164
Maximum	149
Payment	149
(b) Assume $100 countable income:	
State standard	$226
Reduced standard	164
Income	100
Deficit	64
Payment	64

Result: Families without income received increased payments; families with income received a decreased payment. Increased eligibility for families without income; decreased eligibilty for families with income.

10. *Hawaii*—Effective July 1971, agency increased standards. Families with and without income received increased payments; probably increased number of persons eligible for AFDC.

11. *Indiana*—Effective April 1971, agency imposed maximums were increased.

Prior to Apr. 1, 1971

(a) Assume no income:	
Standard	$355
Income	0
Deficit	355
Payment (maximum)	150
(b) Assume $100 countable income:	
Standard	$355
Income	100
Deficit	255
Payment (maximum)	150

After Apr. 1, 1971

(a) Assume no income:	
Standard	$355
Income	0
Deficit	355
Payment (maximum)	175
(b) Assume $100 countable income:	
Standard	$355
Income	100
Deficit	255
Payment (maximum)	175

Result: All families without income and some families with income received increased payments; probably increased number of persons eligible for AFDC.

12. *Illinois*—Effective August 1970, agency increased standards and maximum for shelter. Most families received some increase in payments. Probably increased number of persons eligible for AFDC.

13. *Kansas*—Effective September 1, 1971, the State agency applied a further reduction to the standard, from 94% to 70%.

Prior to Sept. 1, 1971

(a) Assume no income:	
Standard	$282
Reduced standard	268
Income	0
Deficit	268
Payment	268
(b) Assume $100 countable income:	
Standard	$282
Reduced standard	268
Income	100
Deficit	168
Payment	168

As of Sept. 1, 1971

(a) Assume no income:	
Standard	$290
Reduced standard	216
Income	0
Deficit	216
Payment	216
(b) Assume $100 countable income:	
Standard	$290
Reduced standard	216
Income	100
Deficit	116
Payment	116

Result: All families, with and without income, received decreased payments. Reduced the number of families eligible for assistance.

14. *Kentucky*—Effective September 1970, the State agency revised method for determining need. Instead of applying two ratables, one to the standard and one to the deficit, agency applied one ratable of 73.1% to the standard. Urban and rural maximums removed in effect.

Prior to September 1970

(a) Assume no income:	
Full standard	$264
Reduced standard	216
Income	0
Deficit	216
86.5%	187
Payment	187
(b) Assume $100 countable income:	
Full standard	$264
Reduced standard	216
Income	100
Deficit	116
86.5%	100
Payment	100

After September 1970

(a) Assume no income:	
Full standard	$264
Reduced standard	193
Income	0
Deficit	193
Payment	193
(b) Assume $100 countable income:	
Full standard	$264
Reduced standard	193
Income	100
Deficit	93
Payment	93

Result: Families without income received increased payments. Families with income received decreased payments. Probably little effect on eligibility for AFDC.

15. *Louisiana*—Effective January 1, 1971, agency changed budgeting methods; agency applied a 51% ratable reduction to the standard instead of a 51% ratable to the budget deficit.

Prior to Jan. 1, 1971

(a) Assume no income:	
State standard	$204
Income	0
Deficit	204
Fifty-one percent	104
Payment	104
(b) Assume $100 countable income:	
State standard	$204
Income	100
Deficit	104
Fifty-one percent	53
Payment	53

After Jan. 1, 1971

(a) Assume no income:	
State standard	$204
Reduced standard	104
Income	0
Deficit	104
Payment	104
(b) Assume $100 countable income:	
State standard	$204
Reduced standard	104
Income	100
Deficit	4
Payment	4

Result: There was no change in payments for families without income; families with income received decreases in payments; reduced number of families eligible for AFDC.

16. *Maine*—Dropped AFDC UF as of July 1, 1970.

17. *Maryland*—Effective July 1971, agency changed ratable from 59.5% to 60%. All families received an increase of $1 per person.

18. *Mississippi*

Effective June 1971, agency increased percent of deficit met from 30% to 40%. Maximums not changed.

Prior to June 1971

(a) Assume no income:	
Standard	$232
Income	0
Deficit	232
30%	70
Maximum	60
Payment	60
(b) Assume $100 countable income:	
Standard	$232
Income	100
Deficit	132
30%	40
Payment	40

After June 1971

(a) Assume no income:	
Standard	$232
Income	0
Deficit	232
40%	92
Maximum	60
Payment	60
(b) Assume $100 countable income:	
Standard	$232
Income	100
Deficit	132
40%	53
Payment	53

Result: Families with income received increases in payments. There was no change in payments for families without income. May have increased eligibility for some families with income.

19. *Missouri*

Effective December 1970, agency increased standard.

Prior to December 1970

(a) Assume no income:	
Standard	$325
Income	0
Deficit	325
Maximum	130
Payment	130

(b) Assume $100 countable income:	
Standard	$325
Income	100
Deficit	225
Maximum	130
Payment	130

After December 1970

(a) Assume no income:	
Standard	$338
Income	0
Deficit	338
Maximum	130
Payment	130
(b) Assume $100 countable income:	
Standard	$338
Income	100
Deficit	238
Maximum	130
Payment	130

Result: Some families with income received increases in payment. There was no change in payments for families without income. May have increased eligibility for some families with income.

20. *Nebraska*—Effective April 1971, in accordance with Section 402(a)(23) of the Act, maximums increased by $26. Effective September 1971, agency applied a 94% ratable to the standard.

Prior to September 1971

(a) Assume no income:	
Standard	$347
Income	0
Deficit	347
Maximum	226
Prior to April 1971	200
Payment	226
(b) Assume $100 countable income:	
Standard	$347
Income	100
Deficit	247
Maximum	226
Prior to April 1971	200
Payment	226

After September 1971

(a) Assume no income:	
Standard	$347
Reduced standard	326
Income	0
Deficit	326
Maximum	226
Payment	226
(b) Assume $100 countable income:	
Standard	$347
Reduced standard	326
Income	100
Deficit	226
Maximum	226
Payment	226

Result: As of April 1971, all families without income received increased payments and some families with income received increased payments. As of September 1971, some families with income received decreases in payment. There was no change in payments for families without income. Probably reduced the number of families eligible for AFDC.

21. *Nevada*—Effective July 1971, State agency increased standard and changed method for determining need.

Prior to July 1971

(a) Assume no income—detail of method not elaborated because of its complexity:	
State standard	$317
Income	0
Payment	143
(b) Assume $100 countable income:	
Payment	123

After July 1971

(a) Assume no income:	
State standard	$320
55% Reduced standard	176
Income	0
Deficit	176
Payment	176
(b) Assume $100 countable income:	
State standard	$320
Reduced standard	176
Income	100
Deficit	76
Payment	76

Result: Families without income received increased payments. Families with income received decreased payments. Probably increased eligibility for families without income.

22. *New Jersey*—Effective July 1971, agency consolidated standard into flat grant. "Averaged" flat grant could either mean a decrease in payment for some families or an increase in payment for some families. Probably reduced number of families eligible for AFDC. Agency dropped AFDC UF program as of July 1971.

For State AFWP program, agency eliminated the disregard of earned income of the first $30 and ⅓ of the remainder and applied a lower standard than is used in the AFDC program. Prior to this change, the disregard of $30 and ⅓ was applied in the State provided assistance program for all underemployed and unemployed families with children.

23. *New Mexico*—Effective April 1971, agency reduced percentage on budegt deficit from 90% to 88%.

Prior to April 1971

(a) Assume no income:	
Standard	$203
Income	0
Deficit	203
90 percent	183
Payment	183
(b) Assume $100 countable income:	
Standard	$203
Income	100
Deficit	103
90 percent	93
Payment	93

After April 1971

(a) Assume no income:	
Standard	$203
Income	0
Deficit	203
88 percent	179
Payment	179
(b) Assume $100 countable income:	
Standard	$203
Income	100
Deficit	103
88 percent	91
Payment	91

Result: All families with and without income (excepting those who were receiving the maximum) received decreased payments. Probably reduced the number of persons eligible for AFDC.

24. *New York*—Effective May 15, 1971, agency applied a 10% ratable to the basic standard excluding shelter and fuel for heating.

Prior to May 15, 1971

(a) Assume no income:	
Full standard	$336
Income	0
Deficit	336
Payment	336
(b) Assume $100 countable income:	
Full standard	$336
Income	100
Deficit	236
Payment	236

After May 15, 1971

(a) Assume no income:	
Full standard	$336
Reduced standard	313
Income	0
Deficit	313
Payment	313
(b) Assume $100 countable income:	
Full standard	$336
Reduced standard	313
Income	$100
Deficit	213
Payment	213

Result: All AFDC recipients in New York City and metropolitan counties received decreased payments. AFDC recipients in upstate counties may have had an increase. May have reduced the number of families eligible for AFDC.

25. *North Dakota*—Effective August 1970, agency removed an 11% ratable reduction to the standard. Effective July 1971, agency implemented a "flat grant."

Prior to August 1970

(a) Assume no income	
Full standard	$282
Reduced standard	261
Income	0
Deficit	261
Payment	261
(b) Assume $100 countable income:	
Full standard	$282
Reduced standard	261
Income	100
Deficit	161
Payment	161

After July 1971

(a) Assume no income:	
Standard	$300
Income	0
Deficit	300
Payment	300
(b) Assume $100 countable income:	
Standard	$300
Income	100
Deficit	200
Payment	200

Result: All families received increased payments. Eligibility for AFDC probably increased.

26. *South Dakota*—Effective July 1970, agency removed ratable reduction to standard and implemented flat grant. As of April 1971, agency applied an additional 10% reduction.

Prior to July 1970

(a) Assume no income:	
Standard	$310
Reduced standard	276
Income	0
Deficit	276
Payment	276
(b) Assume $100 countable income:	
Standard	$310
Reduced standard	276
Income	100
Deficit	176
Payment	176

As of July 1970

(a) Assume no income:	
Standard	$300
Income	0
Deficit	300
Payment	300
(b) Assume $100 countable income:	
Standard	$300
Income	100
Deficit	200
Payment	200

April 1971

(a) Assume no income:	
Full standard	$300
Reduced standard	270
Income	0
Deficit	270
Payment	270
(b) Assume $100 countable income:	
Full standard	$300
Reduced standard	270
Income	100
Deficit	170
Payment	170

Result: Most families, with or without income, received decreased payments. Number of persons eligible for AFDC probably reduced.

27. *Utah*—Effective October 1970, agency removed maximum and implemented a ratable reduction to the standard.

Prior to October 1970

(a) Assume no income:	
Standard	$239
Maximum	212
Income	0
Deficit	212
Payment	212
(b) Assume $100 countable income:	
Standard	$239
Maximum	212
Countable income	100
Deficit	112
Payment	112

After October 1970

(a) Assume no income:	
Standard	$271
Reduced standard	189
Income	0
Deficit	189
Payment	189
(b) Assume $100 countable income:	
Standard	$271
Reduced standard	189
Countable income	100
Deficit	89
Payment	89

Effect: Decrease in payments to all families. Probably reduced eligibility for AFDC.

28. *Vermont*—Effective September 1, 1971, agency implemented flat grant, adding $2 per person to the State standard.

Result: Increased payments to most families. Effect on eligibility unknown.

29. *Washington*—Effective April 1971, agency redefined standard of need and implemented per person reductions varying by family size.

Prior to Apr. 1, 1971

(a) Assume no income:	
State standard	$321
Income	0
Deficit	321
Payment	321
(b) Assume $100 countable income:	
State standard	$321
Income	100
Deficit	221
Payment	221

After Apr. 1, 1971

(a) Assume no income:	
State standard	$282
Income	0
Deficit	282
Reduced payment	270
(b) Assume $100 countable income:	
State standard	$282
Income	100
Deficit	182
Payment	182

Result: Decrease in payments for all families. Reduced eligibility for AFDC.

30. *Wisconsin*—Effective March 1, 1971, agency adjusted standard and changed ratables.

Prior to Mar. 1, 1971

(a) Assume no income:	
Standard	$248
Reduced standard	198
Income	0
Deficit	198
Payment	198
(b) Assume $100 countable income:	
Standard	$248
Reduced standard	198
Income	100
Deficit	98
Payment	98

After Mar. 1, 1971

(a) Assume no income:	
Standard	$255
Reduced standard	217
Income	0
Deficit	$217
Payment	217
(b) Assume $100 countable income:	
Standard	$255
Reduced standard	217
Income	100
Deficit	117
Payment	117

Result: Most families received an increase in payments. More families probably eligible for AFDC.

31. *Wyoming*.—Effective July 1970, agency adjusted standards, changed ratables and increased maxim.

Prior to July 1970

(a) Assume no income:	
Standard	$312
Reduced standard	268
Income	0
Deficit	268
Maximum	200
Payment	200
(b) Assume $100 countable income:	
Standard	$312
Reduced standard	268
Income	100
Deficit	168
Maximum	200
Payment	168

After July 1970

(a) Assume no income:	
Standard	$283
Reduced standard	260
Income	0
Deficit	260
Maximum	227
Payment	227
(b) Assume $100 countable income:	
Standard	$283
Reduced standard	260
Income	100
Deficit	160
Maximum	227
Payment	160

Result: There was an increase in payments for families without income. Some families with income will have received decreases in payments. Effect on number of families eligible for AFDC probably negligible.

RELATIONS WITH CANADA

Mr. PERCY. Mr. President, the United States and Canada have been such close allies and good neighbors for so long, it is very troubling to note that Canadian-American relations are deteriorating. The Canadian Press, a respected news agency, reports, for example, that "Canada and the United States appear to be heading toward a political collision of crisis proportions."

I ask unanimous consent that two excellent articles bearing on this problem, the first from the Washington Star, by Robert Miller, October 7, 1971, and the second from the Christian Science Monitor, by Bruce Hutchison, October 10, 1971, be printed in the RECORD.

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

FRIENDSHIP FADING—UNITED STATES-CANADA GULF WIDENS

(By Robert L. Miller)

TORONTO.—Canadian-U.S. relations are deteriorating at an accelerating pace, a breathtaking descent on a roller-coaster that already may be out of control.

As suspicion yields to distrust and in some cases is replaced by naked contempt at the inter-government level, it becomes apparent that a real tragedy looms.

The politics of confrontation, being practiced with great vigor both in Ottawa and Washington, has led the two countries into a collision along so broad a front that the damage to bilateral friendship may prove irreparable.

"Things can't get much worse," mutters a Canadian official in Washington, who even as he speaks is on his way to deliver another Ottawa-ordered snub to Uncle Sam: A sarcastic declaration that the U.S.-Canadian energy talks must be suspended indefinitely, because the Canadian negotiators are all "too busy" wrestling with the problems posed by President Nixon's 10-percent surcharge.

INTENSE DISLIKE

Canadian newspapers report without comment that in the Washington corridors outside the International Monetary Fund meeting one of the choice topics of gossip was Nixon's "intense personal dislike" of Prime Minister Pierre Trudeau.

In Ottawa, the president himself is the subject of scores of jokes that, although they may lack the polished delivery of U.S. comedians who say much the same thing on American television, are savage and often quite unfair.

Gov. George Wallace of Alabama tells a New York audience that Trudeau is a "crypto-Communist" whose background is even worse than Castro's, and instead of laughing this off, Canadians become infuriated.

But insults are not the cause of the deterioration of relations; they are the result of it. The two governments are reaping the harvest of bitterness they have sown themselves.

LIST OF DISAGREEMENTS

The list of disagreements is depressingly long.

On the Canadian side there is the harboring of U.S. draft-dodgers and deserters; there is Ottawa's peremptory extension of its offshore sovereignty claims; there is the studied rejection of such U.S. policy cornerstones as NATO and the Organization of American States; there is the holier-than-thou, our-hands-are-clean attitude toward Indochina.

On the U.S. side, there is economic imperialism practiced by multinational corporations which threaten to bleed Canada white; there is a history of taking Canada for granted (an Ohio schoolteacher recently assigned an essay on Canada as part of a series her pupils were doing on "state of the union"); there is a tradition of deafness to protest (the nuclear test still scheduled for Amchitka is a classic instance); and, of course, there is the surcharge.

ONE BRIEF MEETING

What is most disturbing about this litany of international squabbling is that the leaders of neither country seem prepared to do anything about it.

Since 1968, when Trudeau and Nixon won their national elections, they have held one brief meeting and the chief question of interest at that one, both in Ottawa and Washington, was whether Trudeau would slide down a White House bannister or do a headstand at the state dinner Nixon tendered.

Nixon has agreed to visit Ottawa next spring, but it is doubtful that a presidential visit could be brought off under the present circumstances. Furthermore, there is little to suggest that matters will improve during the winter.

For his part, Trudeau has shrugged off all suggestions that he deal directly with Nixon in an effort to iron out some of the most pressing points at issue—notably, the trade problem.

Certainly, the current hostility in North America is unmatched almost since the days of the War of 1812—some 55 years before Canada became a country.

Fortunately, countries today rarely settle squabbles as they once did. Now, they talk instead of shoot. The trouble with talking,

however, is that somebody has to listen before it can do any good.

CANADA AND THE UNITED STATES—A NOTE OF DESPERATION

(By Bruce Hutchison)

A note of desperation has emerged in the debate agitating the United State's largest customer, Canada.

The nonpartisan Canadian Press, serving all newspapers with strictly factual news, reports from Ottawa that "Canada and the United States appear to be heading toward a political collision of crisis proportions. Unless somebody swerves or steps on the brakes soon the crash could drastically transform Canada as nothing has since the North American War of 1812."

If the United States does not relent, the national news service says, "the Canadian Government soon will have the choice either of bowing to U.S. wishes or of fighting back."

Prime Minister Pierre Elliott Trudeau has used no such alarming language. He has said only that he does not think the United States "is deliberately trying to beggar its neighbors," but if it is, then "We'll have to have a fundamental reassessment of our whole economy."

Providing the latest twist to the debate over the effect of U.S. economic policies is Ottawa's sudden cancellation of discussions with Washington on the joint use of North America's energy resources.

Mr. Trudeau has assured Parliament that this move should not be construed as retaliation against the American tariff surcharge. The government, Mr. Trudeau said, was busy with important economic problems and "unable to find the time" for the energy talks scheduled to open this autumn.

But his statement was received skeptically by the opposition. Conservative Party Leader Robert Stanfield said he found it hard to interpret the government's policy as anything but retaliation.

The times called for continued dialogue between the neighboring countries rather than a break in their conversations, Mr. Stanfield added.

Outside Parliament, External Affairs Minister Mitchell Sharp insisted that "we just haven't got time" for the energy negotiations. "Everybody's all tired out." The United States Government, he said, had not indicated that it regarded Canada's decision as retaliatory.

These cryptic parliamentary exchanges left the Canadian people confused and concerned. From coast to coast they are asking what the government really intends to do if, as it has told, the American surcharge threatens a body blow at the national economy.

PROTECTIONISM WORRY

While saying publicly that it has "contingency plans," the government privately is haunted by the old specter of an increasingly protectionist United States which now buys almost 70 percent of Canada's huge exports.

This fear persists despite President Nixon's repeated assurances that his government favors the expansion of world trade once its immediate balance-of-payments problem is solved.

Meanwhile, though the energy talks are postponed indefinitely, Ottawa and Washington continue to discuss their controversial free-trade deal in automotive products.

The United States is seeking modification of those clauses that safeguard Canadian producers and Ottawa has not refused to consider Washington's demands.

Mr. Trudeau told Parliament, however, that revision of the existing arrangements was not a condition to the removal of the American surcharge. The two issues, he said, were not linked in his government's mind.

He also denied press reports that the Cabinet was split on the question of revising the automobile pact.

FREE PRESS HEARINGS TESTIMONY

Mr. ERVIN. Mr. President, I have previously announced my intention to place in the RECORD statements presented by some of the witnesses who have appeared before the Subcommittee on Constitutional Rights in the course of its hearings on freedom of the press.

There has been an especially large public demand for the statements of three witnesses who testified during the first week of these hearings. To provide the widest possible dissemination of the views of these three witnesses, I ask unanimous consent that statements of the following witnesses be printed in the RECORD:

Mr. Harding Bancroft, executive vice president of the New York Times;

Dr Frank Stanton, president, Columbia Broadcasting System; and

Mr. Walter Cronkite, CBS News.

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

STATEMENT OF HARDING F. BANCROFT

Mr. Chairman, members of the Subcommittee: My name is Harding F. Bancroft. I am Executive Vice President of The New York Times Company. Also appearing on behalf of The New York Times is James C. Goodale, Vice President and General Counsel.

We are pleased to have an opportunity to appear before this Subcommittee and present the views of The Times on the important questions which you are considering. Your inquiry comes at a particularly opportune time for the public, and the press and other forms of news media which serve it. The publication of the Pentagon Papers, and the litigation which it occasioned, focused attention in dramatic fashion on the role of a free press in a democratic society.

A hundred years ago this summer, The New York Times was involved in a controversy which has some analagous aspects. In July, 1871, The Times was presented—by a confidential source whom it would not and did not reveal—with documents from the office of the Comptroller of New York City. The charts, vouchers, receipts and other materials which we received were published, and the activities of the notorious Tweed Ring were thereby exposed to the public.

Of course, such dramatic examples of the vital role played by a truly free press and its struggle to remain free from government interference, are rare. There have been less dramatic episodes occurring with increasing frequency in recent years, which show us that the guarantees of the First Amendment must be vigilantly guarded.

We have seen, for example, a substantial increase in subpoenaes directed to newsmen in all forms of information media for the purpose of compelling disclosure of confidential sources and other confidential information secured in the course of their professional duties.

Thus, although Times' reporters received a total of only five subpoenaes or demands for documents in the entire period from 1964 through 1967, three were received in 1968, six in 1969, and twelve in 1970. The accelerating pace at which subpoenaes have been served on The Times has also been the experience of the other media. NBC, CBS, and their wholly-owned affiliates, for example, in the period from 1969 through July 1971 alone, have been served with more than 123 subpoenaes.

The problem has been recognized by the President,[1] and the Attorney General has issued Guidelines designed to restrict the Justice Department's use of such subpoenaes.[2]

Of course, neither the President's remarks nor the Attorney General's Guidelines have the force of law, even within the Federal system, and the problem still remains one of serious proportions.

I do not believe that it is necessary to present evidence to this Subcommittee to demonstrate the absolute necessity for reporters to be able to gather the news free from Governmental interference or inhibition; nor to deny the pernicious chilling effect on newsgathering that such forced disclosure of confidential sources can have.

Once a reporter is compelled to breach confidences, his sources disappear, sources which ensure a truly informative news story rather than one based on official press releases and similar public relations handouts. Indeed, confidential sources are crucial to the profession.

As Arthur Krock has put it:[3]

"Another attribute is peculiarly necessary for this work: a Washington correspondent must keep more rigidly the confidence of news sources, for it is in confidence that much important news is acquired which otherwise would be withheld from the public that has a right to know it. One breach of such faith, and that news source is closed."

When these sources disappear, when they dry up by reason of forced disclosure or the possibility of forced disclosures, the First Amendment has been eroded, if not directly violated. The reporter's access to news is the public's access to news.

His role, to borrow a phrase from Madison, is that of "a sentinel over the public rights."[4]

It must not be constricted in a manner not compatible with our stated "profound national commitment to the principle that debate on public issues should be uninhibited, robust and wide-open."[5]

That commitment, of course, has its roots deeply set in the First Amendment guarantee of Freedom of the Press.

The courts have recently been called upon to fashion rules designed to protect a journalist's confidences to insure that the integrity of his news-gathering and news reporting activities can be preserved. Three such cases involving subpoenaes directed to newsmen will be heard by the United States Supreme Court this year.

United States v. *Earl Caldwell*[6] involves a New York Times reporter whose stories on the Black Panther Party in San Francisco prompted a Federal Grand Jury there to subpoena him and his notes. Caldwell refused to appear and his refusal was upheld—on Constitutional grounds—by the Ninth Circuit Court of Appeals. *Branzburg* v. *Hayes*[7] involves a reporter for the Louisville Courier-Journal who refused to appear before Grand Juries seeking to quiz him on stories he had written about marijuana traffic in Franklin County, Kentucky. The Kentucky Supreme Court affirmed the propriety of the subpoenaes. And in *In Re Paul Pappas*[8] a reporter for WTEV, an ABC affiliate in New Bedford, Massachusetts, refused to tell a Grand Jury about his evening in the Black Panther building in New Bedford. The Massachusetts Supreme Court held that Pappas had to tell all.

The resolution of these cases by the Supreme Court will have an important substantive impact on the news media and their ability to fulfill their First Amendment obligations to the public.

There are, of course, differing views among the news media and students of our Constitutional processes, as to the extent of the newsman's First Amendment privilege. Some argue eloquently for an absolute rule unequivocally barring the Government from obtaining evidence from a newsman by compulsion. Others have urged a firm but not absolute privilege. The argument made by

The New York Times in its amicus brief in the *Caldwell* case, is that a reporter can be compelled to divulge his confidential sources and other confidential information, only if the Government establishes (i) that the reporter has knowledge of a specific crime under investigation; (ii) that there is no alternative source for the information; and (iii) that there is a "compelling and overriding" Government interest in the information. This compelling and overriding interest cannot, in our submission, be established unless, at the very least, a major crime is involved.

The "reporter's privilege" has also been the subject of legislative action by at least 17 States, and the State statutes vary considerably with respect to the scope and absoluteness of the privilege granted. However, because of the national nature of much of the news media and the Constitutional dimensions which the subpoena problem assumes, there is a pressing need for uniformity in the law on the subject. It is to be hoped that the Supreme Court will set forth ground rules that will clarify this important and perplexing question.

We are not convinced, therefore, that Federal legislation at this time is needed. In general, we believe that judicial resolution of difficult Constitutional questions involving the Bill of Rights, is more desirable. There is the danger that legislative attempts to define rights under the First Amendment may raise more problems than are put to rest and thus prevent the courts from making reasoned determinations based on the particular facts and circumstances of the cases before them.

Should protective legislation become necessary, The Times would urge a statute as broad as that enacted last year by the New York Legislature. This law gives the reporter an absolute privilege against disclosing confidential communications as well as the identity of his news source. This, in our view, would be an effective model for federal legislation on the subject.

The extent of and the limitations on a reporter's duty to give evidence in court or before a Grand Jury has been the subject of frequent judicial review and the topic has been widely discussed in books and articles in law reviews and other periodicals. The brief of The New York Times and others as amici curiae in the case of *United States* v. *Earl Caldwell* contains a comprehensive bibliography which may be of some interest to this Subcommittee. We have supplied copies of our brief to the Subcommittee's staff.

I would like now to turn to the problems under the First Amendment raised by the publication of the so-called Pentagon Papers. So much has been said and written on this subject that I will confine myself to certain aspects which seem to us to be of particular concern to the press.

First, in our opinion, the fact that publication was enjoined for 15 days itself thwarted and subverted the Constitutional principle of the freedom of the press.

As The Times stated on its editorial page, the basic reason that impelled The Times to publish the material was that we believed it was in the interest of the people of this country to be informed. Once the material fell into our hands, it was not only in the interest of the American people to publish it, but, even more emphatically, it would have been an abnegation of responsibility and a renunciation of our obligations under the First Amendment not to have published it.

Although the Supreme Court ultimately denied the Government's request for a prior restraint, the hard fact remains that for the first time in the history of our nation, the Government sought and obtained a direct suppression of news. Even though the restraint lasted for only 15 days, an extremely unfortunate precedent, we submit, has been established.

Second, the fact that the Government sought and obtained an injunction leaves us with the prospect—despite the Supreme Court decision—that it may seek similar restraints in the future.

The possibility of future attempts by the Government to suppress the news is not good for the country and is a prospect with which the nation's press cannot easily live. It is of first importance that this threat not result in journalistic timidity or unwarranted self-censorship. What Judge Gurfein called "a cantankerous press, an obstinate press, a ubiquitous press must," in his words, "be suffered by those in authority in order to preserve the even greater values of freedom of expression and the right of the people to know."

But there is the danger that this unfortunate precedent will indeed have a chilling effect on the reporting of sensitive matters and will deter reporters from conducting the kinds of thorough investigations which responsible journalism requires. A reporter who, in the past, routinely checked his facts with Government officials might well think twice before doing so, always fearful that by revealing his knowledge he will put into motion the Government censorship machine.

Third, there are other ways by which the Government can effectively deter publication of facts the public has a right to know. The threat of unjustified criminal prosecution, for example, can be as effective a prior restraint as a pre-publication injunction.

A related issue raised during the Pentagon Papers litigation is the whole problem of the classification of Government documents. There is no doubt that new procedures are needed in order to avoid the unnecessary and arbitrary removal from public scrutiny of so much material that belongs in the public domain. The Pentagon Papers are a valid example of this classification overkill. Nearly all of the contents of the forty-three volumes of papers upon which The Times' series was based have now been declassified and delivered to the public printer. Last July, they were classified top secret and it was the contention of the Government in its application for a temporary restraining order that "irreparable injury to the national defense" would result if The Times were permitted to continue publication.

What makes the system even more arbitrary is the way in which classified information is routinely "leaked" by Government sources. Max Frankel, our Washington Bureau Chief, has described the way it works:

"The Government and its officials regularly and customarily engage in a kind of ad hoc, de facto "declassification" that normally has no bearing whatever on considerations of the national interest. To promote a political, personal, bureaucratic or even commercial interest, incumbent officials and officials who return to civilian life are constantly revealing the secrets entrusted to them. They use them to barter with the Congress or the press, to curry favor with foreign governments and officials from whom they seek information in return. They use them freely, and with a startling record of impunity, in their memoirs and other writings." [10]

Aside from the problem posed by classification and declassification of documents, New York Times reporters have frequently had great difficulty in securing non-sensitive information to which the public is clearly entitled. Actual cases where our reporters have met official resistance have been in respect to such matters as the number of medals awarded to Generals in Vietnam, the identities of contractors who are found to have made excessive profits by the Renegotiation Board, reports of Government tests on consumer products, the intercession of members of Congress in the affairs of administrative and regulatory agencies, and so on.

The Freedom of Information Act was intended to insure that much of this kind of information would be available to the public. The Act was hailed by President Johnson as safeguarding "the people's right to know." Unfortunately, the high purposes of the Act have not in practice been fulfilled. Its passage does not appear to have altered previous notions as to "private" Government property or deterred Government bureaucrats from routinely denying proper informational requests.

Such denials can effectively stymie a reporter's investigation. Ordinarily, there is no time to enter into prolonged negotiations, or litigation, with the agency in question. The initial refusal thus often ends the matter.

We believe that strict and speedy compliance by Government agencies with the Freedom of Information Act is essential in the public interest.

I have tried to touch upon what we consider to be some of the major problems faced by the news media today. Other witnesses—especially those representing the broadcast media—will surely enlarge the list.

The freedom, integrity and independence of the press are facing new challenges, which must be met vigorously. The accretion of executive power in recent decades gives added emphasis to this imperative if the great purposes of the Constitution are to be sustained. The late Mr. Justice Jackson once observed that these purposes "do not depend upon the approval or convenience of those they restrain." [11] Such sentiments cannot be repeated too often, especially at a time when "those they restrain" believe in good faith that they are acting in the public interest. A warning especially pertinent today was articulated years ago by Mr. Justice Brandeis:

"Experience should teach us to be most on our guard to protect liberty when the Government's purposes are beneficent. Men born to freedom are naturally alert to repel invasion of their liberty by evil-minded rulers. The greatest dangers to liberty lurk in invidious encroachment by men of zeal, well-meaning, but without understanding". [12]

FOOTNOTES

[1] President Nixon observed at a press conference on May 1, 1971 with respect to subpoenaing journalists: "When you go to the question of government action which requires the revealing of sources, then I take a very jaundiced view of that kind of action. Unless, unless it is strictly—and this would be a very narrow area—strictly in the area where a major crime had been committed and where the subpoenaing of notes had to do with information dealing directly with the crime." New York Times, 5/2/71, p. 66.

[2] Justice Department Guidelines, 39 U.S.L.W., 211 (1970).

[3] A. Krock, *The Newspaper—Its Making and Its Meaning* 45 (1945).

[4] *The Federalist*, No. 51 (Cooke Ed. 1961, pp. 347, 349).

[5] *The New York Times Company* v. *Sullivan*, 376 U.S. 254 (1964).

[6] 434 F. 2d 1081 (Ninth Cir. 1970) U.S. Supreme Court Docket No. 70–57.

[7] 461 S. W. 2d 345, (Sup. Ct. Kentucky, 1970) Docket No. 70–85.

[8] 266 N.W. 2d 297 (Sup. Ct. Mass., 1970) Docket No. 70–94.

[9] N.Y. Civil Rights Law, Sec. 79-h (McKinney 1970).

[10] Frankel, " 'The State Secrets Myth' " *Columbia Journalism Review*, September/October 1971, p. 24.

[11] *Everson* v. *Bd. of Education* 330 U.S. 1, 28.

[12] *Olmstead* v. *United States*, 277 U.S. 438, 479.

STATEMENT BY FRANK STANTON, PRESIDENT, CBS

I appreciate very much this opportunity to associate myself with the concern that this Subcommittee, by conducting these hearings, has expressed in the effective application of the principles of the First Amendment. In your address to the Association of American Publishers last week, Mr. Chairman, you stated, with clarity and eloquence, that the whole basis and rationale of the First Amendment consist in "an abiding faith that our country has nothing to fear from the exercise of its freedom as long as it leaves truth free to combat error."

I agree wholeheartedly with the sense of urgency implicit in the Subcommittee's announced intention of "seeking to create a better appreciation of the First Amendment's purpose and its crucial importance to a free society." It seems to me essential to the viability of our institutions that the Congress from time to time reassert, through such proceedings as these, the nature and extent of our basic freedoms in order that those freedoms continue to have life and meaning in the face of changes and complexities—whether they be social, economic, technical or political—that might otherwise erode them through public fears or apathy or cynicism. The Congress, of all our three branches of government, is closest to the people and most specifically charged and empowered to declare and illumine, on its own initiative, public policy.

In the case of the provisions for freedom of speech and of the press in the First Amendment, such initiative on the part of the Congress becomes the more essential when new means of communications enlarge the capacity of the people to know, to question and to criticize. When after Gutenberg's contrivance of moveable type, human communications underwent their first great revolution, a major preoccupation of Tudor civil strife was the extension to the press of the same freedom which applied to speech. And it is of pivotal significance that the First Session of the First Congress of the United States incorporated in the language of the First Amendment prohibiting the abridgement of free speech, the words, "or of the press." There is no doubt whatsoever in my mind that in referring to the press those prescient authors of the Bill of Rights intended to describe all means of communicating ideas. For their point, as the Supreme Court has now made clear, was not to protect any specific medium but to assure forever the right of the people to the full and free interchange of information and opinion—and to put that right beyond the power of government to inhibit or hamper.

I am, therefore, greatly heartened, Mr. Chairman, that your Subcommittee recognizes, as the courts have repeatedly declared, the applicability of the First Amendment alike to both the "printed and broadcast press." For the roles of the broadcast and print media are identical: to provide the public with news and information and to stimulate public inquiry and criticism by themselves inquiring and being critical. In carrying out their vital mission, they reach for the same audience, which expects both media to perform independently and vigorously, free from governmental pressures.

In view of the essential purposes shared by the broadcast and press media, their dissimilarities pale into total insignificance. The differences are likely in any case to prove temporary. Many of the physical distinctions between the broadcast press and today's printed press, for example, will diminish when technological advances make possible the transmission of newspapers directly into the home by facsimile printout—through cable or over the air. If the same criterion now applied to the broadcast press—the numerical limitation of channels of distribution—obtains, the printed press, now readily available on every street corner, would be subject to regulation. Would this confer upon the government the power to subject the contents and the methods of such a traditionally free press to official scrutiny? Such a rationale would be wholly repugnant to the spirit of the First Amendment and clearly defiant of its intent.

And yet some contend that, because broadcasting is licensed and print is not, that fact, springing wholly from technological factors, justifies governmental surveillance of broadcast journalism. We reject that view. The true test of government devotion to the First Amendment is the sensitivity with which it exercises its licensing power and declines to take advantage of technical factors to impose controls that would otherwise be clearly against public policy.

Yet today, more than at any time in the history of radio and television, broadcast journalism is jeopardized by attempts to regulate its content or its methods, including unreasonable application of the FCC's fairness doctrine to the coverage of controversial public issues. In the past, CBS has had no difficulty with that doctrine because it reflected our basic journalistic goal—to present public issues fairly. Recently, however, in considering fairness doctrine complaints, the Commission has engaged in microscopic examination of a licensee's coverage of an issue, going to such extremes as counting of lines in a broadcast transcript.

In one instance, to determine whether a broadcast involved a controversial issue, the Commission considered 28 pages of correspondence, over a five-month period, before it was able to affirm CBS's judgment that a nine-minute feature on bullfighting did not constitute a presentation of a controversial issue of public importance and did not justify a request for "equal time." This type of detailed examination by a government body is wholly incompatible with effective broadcast treatment of public issues.

Other instances abound.

In finding a Miami station in violation of the fairness doctrine in its coverage of a proposal for legalization of casino gambling, the Commission actually counted the lines of copy devoted to both sides of the issue and apparently relied on the line count in making its decision that the station should have presented more pro-gambling material.

The practical consequences of official interference in broadcast journalism are well-illustrated by the frustration of CBS's effort to periodically present a series of Loyal Opposition broadcasts. The Loyal Opposition concept was an effort to give to the major party out of power—whether Republican or Democratic—some opportunity for access to balance that so easily achieved by an incumbent President. In July 1970, following a number of Presidential broadcast appearances, CBS made a single broadcast available to the Democratic National Committee to respond to the President. Whatever may be said about our decision, it surely was within the reasonable scope of journalistic judgment. On the complaint of the Republican National Committee, however, the FCC held that the Republicans were entitled to reply to the Democratic broadcast—a reply, in other words, to a reply. Fourteen months later that issue is still in the courts and was argued last Friday before the Court of Appeals here. As a direct result, CBS has not further developed its Loyal Opposition format, and the public is the loser.

As Commission scrutiny over our judgments intensifies, prolonged administrative and judicial proceedings are inevitable, if only to untangle the factual morass which inevitably results from over-close analysis of these highly subjective matters. Although some on the Commission fully agree that deep involvement in day-to-day journalistic practices is an inappropriate function of government, the trend unfortunately continues.

A number of other matters involving the fairness doctrine are now in the courts. Some of the rulings in this area, if they are upheld, will adversely affect broadcasters' ability to provide fair, balanced and meaningful coverage of public issues.

One held that a broadcaster may not have a policy which excludes all "editorial advertisements"—paid spot announcements setting forth partisan viewpoints on public issues—and directed the FCC to develop a regulatory scheme applicable to such "advertisements." Since broadcast time is limited, this decision means at the very least that the FCC, and inevitably the courts, will be arbitrating licensee judgments regarding on what issues and to whom time must be sold to enable partisans to present their views. This constitutes a real threat to a free broadcast press because it empowers a government agency to decide what issues a journalist must cover—whether or not, as a matter of substance, they meet journalistic standards of relevance and urgency.

We recognize that we and other journalists make mistakes, that all news editing involves judgments as to which reasonable men can differ, and that all of us are open to criticism. Nevertheless, self-examination by each of this nation's diverse journalistic enterprises is infinitely preferable to government inquiries, conducted to determine whether a particular news or public affairs broadcast meets government standards.

This leads me to another subject touched on in your letter inviting me to testify. I refer to the increasing tendency of governmental agencies to make print and broadcast journalists *de facto* "investigative arms of the government" through the use of subpoenas—a particularly insidious threat to the ability of newsmen to carry out their responsibilities effectively. Not only is the burden of compliance with such subpoenas extreme and in itself punitive; but compelling journalists to reveal their sources or non-published materials such as notes, films, tapes, has a chilling effect on and obviously seriously impedes their future access to such sources.

Special First Amendment concerns are, of course, presented by subpoenas issued for the purpose of editorial surveillance. CBS, as you know, recently contested the right of a House Subcommittee to subpoena non-broadcast material (outtakes) in order to determine whether a broadcast produced by CBS News complied with the Subcommittee's conception of correct journalistic standards. Our chief concern was the chilling effect that such legislative review would have not only on our own newsmen but on all other broadcast journalists as well. Whether a particular subpoena requires the actual divulging of confidential material or the production of material which the journalist did not choose to broadcast for any number of reasons is beside the point. The gravity of this threat to the free press stems from efforts to subject professional news judgments to government scrutiny. The dark shadow of surveillance can do nothing but inhibit the free flow of information, without which we believe a robust press is an impossibility.

As noted in our *amicus* brief filed in the U.S. Supreme Court in the *Caldwell* case, NBC and CBS alone have received 121 subpoenas in the last 30 months. The cumulative

effect of these subpoenas has placed substantial burdens on personnel, most of whose primary function should be gathering and publishing the news.

More important, however, is the effect of a climate of "subpoenability" on the ability of broadcast newsmen to obtain film interviews. Apropos is the following excerpt from an affidavit of CBS News Correspondent David Culhane, recently filed in a New York court which quashed a subpoena for outtakes on First Amendment and other grounds:

"If those consulted or interviewed by me in my news gathering efforts had reasons to believe, or even suspect, that all of what they disclosed would be subject to subpoena, it is my firm belief that gathering significant news on film would be, at best, much more difficult and less effective, and at worst, nearly impossible."

The U.S. Supreme Court will soon be hearing oral argument in the *Caldwell* case and two other related cases, and it is our hope that the Court will recognize a First Amendment newsman's right on the facts of these cases. Regardless of their outcome, however, legislation clearly defining a newsman's rights is, we believe, necessary to provide generally applicable guidance in the area.

We support S. 1311, introduced by Senator Pearson, which goes a long way toward the kind of definition of a newsman's rights which we believe would insure his ability to function effectively. We do have some suggestions for improvement of the bill, which include a revision that would protect not just that which is explicitly "confidential" but all information which has not been broadcast or published. Our lawyers are prepared to provide suggested language to the Subcommittee's staff.

In conclusion, Mr. Chairman, I would like to commend this Subcommittee for taking up this vital matter at a time when all our institutions are under great stress.

As William Allen White wisely noted some years ago in a Pulitzer Prize-winning editorial:

"You say that freedom of utterance is not for time of stress, and I reply with the sad truth that only in time of stress is freedom of utterance in danger. No one questions it in calm days because it is not needed. And the reverse is true also; only when free utterance is suppressed is it needed, and when it is needed, it is most vital to justice."

The fact that the responsibility of the press to report events without fear or favor—reports that often sear official sensibilities—has never been carried out to everyone's satisfaction is perhaps the strongest guarantee that it has at least maintained its independence. Thus, while Thomas Jefferson could not in 1803 attribute the shortcomings of the press to the "Eastern Establishment" he could write:

"Indeed the abuses of the freedom of the press here have been carried to a length never before known or borne by any civilized nation."

Yet he went on to write:

"But it is so difficult to draw a clear line of separation between the abuse and the wholesome use of the press, that as yet we have found it better to trust the public judgment, rather than the magistrate, with the discrimination between truth and falsehood. And hitherto the public judgment has performed that office with wonderful correctness."

I would like to think that it is our mutual confidence in the public rather than the magistrate that has brought us together here this morning.

STATEMENT OF WALTER CRONKITE, CBS NEWS CORRESPONDENT

I am Walter Cronkite. For 21 years I have been a correspondent for the news division of the Columbia Broadcasting System. Before joining the network in 1950, I was the Washington correspondent for a group of Middle Western radio stations, and before that for 14 years was a reporter, editor, war and foreign correspondent for newspapers and the United Press. My association with CBS News is that of contract talent—a euphemism—and the testimony I give here today is completely my own. It has not been approved by CBS and, while I would assume the executives thereof would agree with much of what I have to say, I am not at all certain that they would agree with all of it.

I would like to express my appreciation to this committee for going into this subject with the view to drawing up whatever corrective legislation it finds necessary to bring up to date our guarantees of free press and free speech. Since this is a matter that should transcend partisan interest, it is to be hoped that all political persuasions join in the effort to assure that no clique or creed shall be able through imprecise law or governmental control to block the people's right to know.

Most of us in journalism are deeply concerned over such issues as right of access to news sources, government secrecy, harassment by subpoena and the protection of news sources. These are concerns common to all communications media—daily press, magazines, press services, radio and television news. You already have, and you will continue to hear, much of these issues. I would like to restrict my presentation, if I may, to the special problems inhibiting freedom of *broadcast* journalism.

It is assumed, of course, that we do *want* a free press. Such is synonomous with democracy. There are few who would argue otherwise. However, I dare say there is scarcely a public figure anywhere who has not at one time or another, and perhaps more frequently than not, railed at his treatment by the press (I shall use "press" here as a generic term to include all media, print and broadcast). We are from time to time, and not always without reason, considered untrustworthy, disloyal, unkind, disobedient, sullen, cowardly, dirty and irreverent. This is as it should be. To be trustworthy in one man's eyes, may be not to warrant trust in another's. While individual reporters or journals may at one time or another place their loyalty at the feet or one man or ideology, it is the very strength of a free press that not all reporters and journals will so do. In this diversity is the strength of the free press, and since the nation's founding it has been so perceived by those who love democracy.

The free press provides as can no other system that communication between government and the people so essential to a democracy's functioning. Not to be overlooked, although too frequently it is, is the press' role in providing intra-government communication. We hardly need to belabor the point in this forum that our system surely would fail if Congress' knowledge of the workings of the Executive Branch were limited to that which the Executive wished it to know. And vice versa. What is true of the federal government also is true on the level of state and local governments.

Down through our history, particularly at times of national stress, there have been calls for bringing the press to heel. From time to time, sometimes with the press participating, searches have been mounted to find means of imposing "responsibility" on the press. There have been suggestions for government panels, bodies of concerned citizens, councils of self-judges from the press itself. There are some distinguished journalists who believe that a press council of some kind might work, and, if it did, would be desirable. But all of these suggestions, whether from within or without the press, have, with the rarest of exceptions, one thing in common: They stress the *voluntary*, non-enforceable nature of any such moderator. Almost universally the belief is sustained that nothing should inhibit the basic freedom of press as guaranteed by the Constitution's First Amendment.

Much has been made in recent months and years of the alleged prejudice and bias of newsmen, particularly those of us in this powerful new medium of television. These charges are not unique, however, to television.

So strident did they become back following the 1952 election that there were congressional demands then for investigations of newspaper bias. As late as the forties and fifties there were demands for licensing of journalists. This was before television drew the attention of those who feel threatened by freedom of expression.

We newsmen are biased and we are prejudiced. We are human beings.

There is not a man who can truthfully say that he does not harbor in his breast strong sentiments pro and con on some if not all the issues of the day.

Yet, if there is any single hallmark of the professionalism we claim—indeed, that distinguishing characteristic that makes us professionals and not mere craftsmen—is that we have learned, in our journalism schools and in practice to recognize the symptoms of personal opinion and to seek to avoid them in reporting the day's news. None of us succeeds in this difficult task in all instances, but we know the assignment and the pitfalls and, I submit, we succeed far, far more often than we fail or that our critics would acknowledge.

We are far from perfect. There is a fair portion of what we do that is not done well. There are things we are not doing which we ought to do. There are challenges we have not fully met. Oh, we are a long way from perfection.

But that is not the point. How could we be improved by outside monitors without destroying the independence which is so essential to a free press?

Vice President Agnew was right in asserting that a handful of us determine what will be on the evening news broadcasts, or, for that matter, in the *New York Times*, or *Chicago Tribune* or *Christian Science Monitor* or *Wall Street Journal*.

Indeed, it is a handful of us with this awesome power—power that not one of us underestimates or takes lightly. It is a strongly editorial power. With each item we report we can and do seek factual honesty, fairness and balance. But we must decide *which* news items out of hundreds available we are going to expose that day. And those available to us already have been culled and re-culled by persons far outside our control. The local newspaper, let us say the *Kansas City Star*, decides each day which of the events of its area it will cover. The local press service representative, AP, or UP, decides which of those items will go onto his wire. A regional relay editor decides which of the items on the regional wire shall go on to New York, or Washington or Los Angeles. And we decide which of those items remaining are to go on the air. In the case of television, the decision frequently involves which items will be illustrated by film—which we freely acknowledge gives the item far greater impact than the paragraph recited by the broadcaster. And film choice, in a sense, also may be taken out of our hands by technical considerations—fogged films, unintelligible sound track, a dozen things can go wrong.

Many factors go into the decisions we make, so many and so complex that it would be hopeless to attempt to detail them here.

With the difficulty of proving a negative, I cannot in any way produce evidence to support the next statement. I can only give you my personal assurance—and what that is worth is only as much as you judge my veracity—I assure you that I have never heard nor guessed nor felt that the news judg-

ment in making any one of those decisions was based on a political or ideological consideration. Not one! I believe, I trust, that my colleagues at the other networks can say the same.

Now let me repeat, since I am not entirely naive I do know that, like an insidious, tasteless, odorless gas, prejudice and bias can sneak in and poison the decision-making process. But like a fireman in a smoke-filled room, a deep-sea diver with the first symptoms of narcosis, a surgeon with a second-sense that the patient is failing under his hands, we *feel* the creeping danger and most of the time—not always because we are not perfect—we react and we bend over backwards to regain balance in the report.

Yes, only a handful of professional journalists make these significant judgments on the news of the day, and it is a lot of power for a few men. But what would be the alternative. We would never get on the air or go to press if we attempted to submit each judgment to a committee of Congressmen, bureaucrats, sociologists, teachers, policemen, union leaders, women liberationists. Nor can we go to a plebiscite for each decision.

No one is suggesting, as far as I know, that ludicrous thought. There are those, however, who propose ex post facto examination of the journalists' judgment. This, on the surface, may seem innocuous enough. Far from it! It would be as effective a clamp on press freedom as direct censorship.

Any government panel that presumes to call a news organization to account for its actions must be presumed to be hostile. It scarcely would seek to investigate reporting with which it agreed.

To place the licensed broadcast medium under the threat of such investigation is to place it permanently under the fear of accountability to unfriendly antagonists wielding the power of legal restraint.

The effect would be more than chilling on broadcast reporting. It would put journalistic enterprise in the deep freeze, with the rigidity and the heart and compassion of a block of ice.

Rare, indeed, would be the station or network management willing to commit unlimited resources of its legal and executive staff to defend a documentary or daily reportage when it would be far more comfortable simply to forgo mention of the item or the subject.

Impossible would be the position of the journalist working under such understandably timid management. For each piece of potentially controversial reporting (and there is scarcely any topic, including the weather, that is *not* controversial) he would presumably have to go to management for approval to broadcast.

Or, since this would be impractical, he would ignore the item and fill his broadcast with something less likely to involve his company and himself in lengthy review by non-professional and frequently politically-biased critics.

There is no question here of whether the reporters and editors perform well or poorly, with accuracy or inaccuracy, or even, with objectivity or with bias. The question is whether those who are elected to public office on partisan platforms, who represent, properly, the special interests of their region, who by their political nature properly hold strong views on the issues of the day, should be vested with the right to say whether broadcast journalism is performing in the people's interests. They certainly are qualified to define these interests in *their* lights, but it clearly would be unjust and fatal to press freedom for them to sit in judgment on the men and women who are reporting the manner in which *they* discharge their public responsibilities.

It is not as if there were no monitor on our performance in broadcast journalism. The newspapers have served this function well. They have proved to be, and will continue to be, severe critics of the broadcast medium. There is adequate check and balance here between competing media to assure sound performance without the interference of government.

To deny the free play of these forces by putting one of them under the surveillance of government would be to deny the people a balance between media that can assure a free press.

News gathering and dissemination cannot be accomplished without fear or favor, the only way it counts, if the reporter or editor constantly must be looking over his shoulder for those who would have his product reflect *their* standards of right and wrong, of fairness and bias.

If broadcast journalism is brought to that state by the courts, or Congress or anybody else exercising a right to question the judgment of its practitioners, then it ceases to be a virile seeker of the truth and becomes a pallid conduit for that propaganda which is palatable to the majority of the people, or the Congress, or the administration of the moment.

Now despite the law's promise of a legally-unrestrained press there are certain limitations to press freedom, at least as applies to the general-circulation organs if not to the journals of opinion and special appeal.

When a medium depends upon advertising revenue, there may develop a certain tendency to not unnecessarily offend the paying customer. The larger the medium and the more diverse its sources of advertising revenue, however, the less likely it is to be subject to such pressures. Hence, a television network or a major city newspaper is not likely to be as vulnerable to such limitations on freedom as a small town paper or broadcasting station.

Another limitation on press freedom may stem from the profit-making nature of most media. The owners of profit-making enterprises are likely to be members, also, of the economic and social elite—the establishment. This is a complaint heard today by minority groups and there is some validity to it.

Again on the human side, there is a weakness in the fabric of freedom that is part of the make-up of the newsmen themselves, and their editors and publishers.

It takes courage in this business—raw physical courage at times, but more often the courage to face social ostracism for reporting the unpleasant and disagreeable, for reporting the world as it is, rather than the way one's peer group might believe it to be. Freedom of press and speech is meaningless unless it is exercised, even when bravery is required to do so.

Other limitations on press freedom are imposed by government itself despite the very clear wording of the First Amendment that there shall be "no law abridging the freedom of speech or of the press."

The government limits freedom of information through secrecy, the almost uncontrolled use of the document classification privilege.

It limits freedom also by limiting access to news sources. We have the means now through television to let all the people go where the Constitution and law and tradition have said they should be able to go to watch their government and their representatives at work—into the courts and the legislative halls. Yet old-fashioned rules are keeping out the people, that is, television—except for that tiny proportion who can make it on their own two legs and can gain admission to limited audience facilities.

The government limits freedom when it, as the courts have from time to time, forces revelation of a reporter's sources, a process which can cut off valuable, perhaps unique, springs of information.

These government limitations are the matters on which I know that others have testified and will testify. As to the economic and social limitations I mentioned earlier, these are not matters on which you can legislate. They are inherent in the system. But they are mitigated by the same force that creates them—the laissez faire spirit of competition. As long as there is competition between news media and the men who report for them it is unlikely that any one published or broadcaster could forever suppress the news.

And that brings me to what I consider the greatest threat to freedom of information: the government licensing of broadcasting.

Broadcast news today is not free. Because it is operated by an industry that is beholden to the government for its right to exist, its freedom has been curtailed by fiat, by assumption, and by intimidation and harassment.

By fiat through the Supreme Court. It has stated that as long as we are licensed by the government, we are not as free as the printed press and therefore not eligible in the same manner for the First Amendment guarantees.

The father of all such restrictive rulings is the Supreme Court's *NBC vs. US 319 US 190 (1942)* decision: "Freedom of utterance is abridged to any who wish to use the limited facilities of radio. Unlike other modes of expression, radio inherently is not available to all. That is its unique characteristic and that is why unlike other modes of expression, it is subject to government regulation."

The Supreme Court's *Red Lion Decision of June 9, 1969*, which upheld the "personal attack rule" held: "Where there are substantially more individuals who want to broadcast than there are frequencies to allocate, it is idle to posit an unabridgeable First Amendment right to broadcast comparable to the right of every individual to speak, write or publish."

Before his elevation to the Supreme Court, Justice Burger, while on the bench of the District of Columbia Circuit Court of Appeals, expressed similar sentiments in writing the decision for *Office of Communications of the United Church of Christ vs. Federal Communications Commission (1966)*: "A broadcaster has much in common with a newspaper publisher but he is not in the same category in terms of public obligations imposed by law. A broadcaster seeks and is granted the free exclusive use of a limited and valuable part of the public domain, when he accepts that franchise, it is burdened by enforceable public obligations. A newspaper can be operated at the whim or caprice of its owners; a broadcast station cannot. After nearly five decades of operation, the broadcast industry does not seem to have grasped the simple fact that a broadcast license is a public trust subject to termination for breach of duty."

Stripped of this constitutional protection, broadcast news stands naked before those in power, now or in the future, who, for whatever motive, would like to see its freedom restrained. Some do this by assumption—assuming that a government-licensed industry is fair game for legislative inquiry. The House Interstate Commerce Committee's attempt to investigate the CBS News Broadcast, Selling of the Pentagon, is the most recent case in point, and a perfect one.

Whatever the gentlemen of that committee thought of the broadcast, none alleged that any crime had been committed in the reporting, editing or broadcasting of it. What they were examining was a matter of news judgment. The stated purpose of the investigation was "to see if the existing laws were adequate and if the FCC is doing its job properly."

In the debate over the contempt action against CBS President Stanton that ensued, several members of the House expressed the belief that there was a need for legislation to control broadcast news.

We do not know how many of those who voted against the Stanton contempt action did so to support the principle of broadcast freedom. But we can assume that there were some, perhaps many, who had other motives and who would not shy at bringing controls over broadcast news.

We do know that there have been bills introduced in this session of Congress to "provide for more responsible news and public affairs programming" and "prohibit the broadcasting of deceptive news and public affairs programs."

Besides the restrictions that would be imposed by this assumption of power over broadcast news by Congress, our freedoms also are curtailed or endangered by intimidation and harassment.

There are the pressures exerted by high government officials who suggest that if we don't put our own house in order (that is, report the news the way they would like it reported) then "perhaps it is time that the networks were made more responsive to the views of the nation and more responsive to the people they serve."

The speaker might, indeed, disclaim any intention of censoring broadcast journalists but when the speaker is a high official of the administration that appoints the commission that holds life-or-death power over the broadcast industry, a broadcast journalist and his employer might be excused for thinking that it *sounds* like a threat. A timid broadcaster might very well feel constrained to avoid offending an administration whose spokesman openly carries such a club, whether he disclaims intention to use it or not.

This sort of Executive Department pressure inspires ancillary pressure—the stone in the pond and the ripples therefrom. Government bureaucrats, friends of the administration, Congressmen, and the general public pick up the cue and threaten local stations with Federal Communications Commission complaints if they do not make their news conform.

The FCC has a procedure to handle such complaints, and it, in itself, provides a legal channel for harassment of broadcast journalism.

As you know, if the FCC thinks any complaint to it is worthy of answer, it can request an explanation from the station or network within 20, sometimes 10, days. If dissatisfied with the answer, the FCC may charge the network or station with violating the fairness doctrine and court action can ensue.

Any influential person or group can with the most capricious complaint inspire a 20-day letter. To answer it stations must strain their limited reserves of executive talent and time. Newsmen are diverted from their jobs to provide documentation to support the station's answer. It is only natural that station management should become timid, and newsmen should sidestep controversial subjects rather than face the annoyance of such harassment.

The ultimate intimidation is to attempt, or even threaten to attempt, through the licensing procedure, to take a station away from its owners.

Minority groups have used the tactic to try to force broadcasters to pay greater attention to their aspirations. And when, shortly after Vice President Agnew's attack on the *Washington Post*, among others, that newspaper's recent acquisition of a station in Miami was challenged, *Broadcasting Magazine* felt it important to note that "several persons importantly involved" in the competing application were "friends, supporters or former business associates of President Nixon."

We certainly would not want to impugn the motives of any such group, but the *Post* management might have had some cause to wonder whether this action constituted a subtle warning. In any case one would not expect such tactics to influence the editorial position of so powerful and financially substantial a paper as *The Washington Post* and its television station managers. But can we be sure? And what about a station placed in a similar position without the resources, or for that matter, the tradition of independence of *The Washington Post?* And, even on the *Post*, might there not be a *tendency*—just a tendency, ephemeral, unspoken—to "avoid offending" until this thing blows over?

I have been speaking here of pressures against the broadcast *stations* because they are licensed by government. One might ask how the broadcast *networks* are affected, since they are not directly licensed. Aside from the fact that they do own licensed stations which contribute substantially to their profits and provide key support for their news operations, the networks are affected in larger or smaller degree by anything which affects the stations which take its programming. Stations fearful of government reprisals grow faint-hearted regarding the network news offerings. Even as a station can be harassed by the FCC's 20-day letters, so can a network news executive be harassed by the complaints of affiliate managers. Here, again, executive time and reportorial talent frequently are diverted to satisfy the inquiry of timorous stations which, themselves, may have been brought under fire by influential politicians or advertisers.

Over news broadcasting then hangs perpetually this cloud of government license.

Licensing came about because, in the early days of radio, and then, again in the first days of television, there were only a few frequencies or channels available and clearly some authority had to assign them.

But even in the conception of the Federal Communications Act there was recognized the need to protect the freedom of broadcasting. The law specifically forbade censorship by the regulating agency. The law only gave the new authority the right to determine that the licensee operated in "the public interest, convenience and necessity."

The FCC has interpreted that right to examine a station's programming, to require a certain portion of time to be allotted to so-called public affairs programming, to provide rebuttal under the fairness and equal time doctrines.

Tribute should be paid to the wisdom of Federal Communications Commission members, past and present, that the regulatory body has not gone further. But the power to make us conform is too great to forever lie dormant. The axe lies there temptingly for the use of any enraged administration—Republican, Democrat, Wallacite or McCarthyite. We are at the mercy of the whim of politicians and bureaucrats and whether they choose to chop us down or not, the mere existence of their power is an intimidating and constraining threat in being.

And yet the situation that caused this power to be vested in government largely has been dissipated by technological progress. Since the law's inception the ultra-high frequencies in television and frequency modulation (FM) band in radio have been developed and scores of additional channels have become available.

A little recognized fact is that, today, in most cases, it is not the availability of channels but the capability of economic survival that limits the number of radio and television stations.

Let me repeat: In most cities today there are unused radio frequencies and television channels and the number of broadcasting stations is not limited by this technical consideration but by a market that will support only a maximum number of stations, the same rule of the market place that determines the number of newspapers in a community.

Putting it more simply: The doctrine that the air belongs to the people because broadcast channels are a rare natural resource is today largely myth.

The myth is further exploded by the advent of cable television. The wired cities of tomorrow (there are, of course, some today)—not using the "people's air" at all—will have an almost unlimited number of channels available.

In passing may I note that one might be excused a certain sadness in observing the hope with which special-interest groups seek access to the airwaves. They somehow have deluded themselves into believing that access *to* an audience *assures* an audience. Nothing, obviously, could be further from the truth. If these groups were given a half hour in the middle of a network's evening prime time broadcast schedule, there is nothing to assure that a single viewer would still be with them at the end. The same is true whether they owned their own station or had unlimited access to a cable television channel. The fight to get on the air may seem like a great and heroic battle against insurmountable odds to those who so desperately seek and *need* a voice, but mere access could prove to be a tragically hollow victory for them.

But already without the cable and without the maximum use of all the available radio frequencies and television channels, there is *no* monopoly in broadcasting. That myth, too, should be exposed.

Already there are more radio and television stations than there are daily newspapers in the United States. There are 1,766 daily newspapers, but there are 6,976 radio stations and 892 television stations.

It is the rare city today that is not served by more television stations and radio stations than by newspapers.

There are more television networks serving radio and television stations than there are general news agencies serving the newspapers.

Unfortunately, the monopoly today is in publishing, not broadcasting. Broadcasting has brought this about, so splitting the advertising dollar that only one newspaper can exist in most American cities.

Unfortunately, too, broadcast news is not an adequate substitute for the newspapers it has driven out of business. I happen to believe that we do what we do rather well, but our time limitations and the transient nature of what we do will forever prevent us from taking fully the place of the printed page with its greater bulk of news and its permanent, timeless accessibility. We cannot supply the wealth of detail that the informed citizen needs to judge the performance of his city, county, state or nation.

If we do our jobs thoroughly, however, we can be a superb monitor—perhaps the only one—on the monopoly newspaper to assure that it does not by plot, caprice, conspiracy or inadvertence miss a significant story.

We *can* be, that is, if we are left alone to perform that essential journalistic function. The trouble is, of course, that we are not free, we are government licensed.

So we have on one side a monopoly press that may or may not choose to present views other than those of the dominant majority. On the other side, a vigorously competitive but federally-regulated broadcast industry beholden to the favor of the powerful for its existence.

This scarcely could be called a healthy situation. There is a real danger that the free flow of ideas, that the vitality of minority views, that even the dissent of recognized authorities, could be stifled in such an atmosphere.

The untrammeled, uncontrolled flow of information between our people, and our people and our government and the essential confidence of the people that they have access to the truth could reach a parlous

state in this nation if broadcasting is not set free, as free as the printed word.

The least that must be done, and really it is only a minimal remedy, is to legislate assurances that no restrictive laws or government decrees interfere with broadcast journalism's full exercise of those freedoms of press and speech guaranteed by the First Amendment.

That would be a restraining influence on those who would control us, even as it has proved to be the unbreachable barrier protecting the printed press.

Even this easiest and smallest step is flawed. For even with such legal assurances, the law cannot protect a licensed broadcast station against oblique pressure from the politically powerful who may take offense at the station's news reporting. Motivation is difficult to prove, and as long as broadcasting is under government license, harassment is possible through many means that ostensibly would have no direct relation to news operations.

The cleanest and perfect solution—clearly much harder to obtain than the First Amendment guarantee—would be to eliminate *all* government control of broadcasting. Clearly a federal authority would have to assign channels and monitor the station's technical performance to assure that it remained on its frequency with the proper power. But, as I have suggested here before, the time is past when there can be any legal justification for controlling broadcasting's program content. There is no monopoly today. The open competition of the market place, the laissez faire economy in which we are supposed to believe, *does* pertain in broadcasting. There is *no* reason to believe that broadcasters, set free, would not act with the same variety of motives, principles and performance that have worked pretty well in publishing. There would be horrid stations and good, even as there are today under license. There would be some that rendered excellent journalistic service, and some that belied the trust in them—even as there are newspapers with such marks today.

As for the "fairness doctrine", and "equal time" and the people's access to the people's air—the nation has done rather well without imposing these artificial standards on the newspapers.

The differences between publishing and broadcasting today are mostly myth. They are perpetuated by a set of endless reflections in opposing mirrors. "Broadcasting is different because it is government licensed." "Broadcasting needs to be licensed because it is different." If there is any chain of reason that binds this theory together it has rusted through time and technological development and today its weaker links have the strength of wet tissue paper. It exists because no one of authority, until perhaps now, has dared to undertake close examination of it.

This may not be the proper body to do that. But I would urge you to give the matter *some* consideration as you ponder means of protecting our freedoms of press and speech. It may prove an ultimate solution. Meanwhile, the most immediate need and the strongest interim measure would be to grant us broadcast journalists, imperfect as we may be but as eager and dedicated as we are, the protection of the First Amendment as surely the Founding Fathers would have intended. To fail to do so would be to deny the people a powerful tool in their attempt to exercise their right to know and to perpetuate a system that cannot assure the freedoms fundamental to the maintenance of our democratic form of life.

INEFFICIENCY IN MEDICAL PRACTICE

Mr. DOMINICK. Mr. President, those of my colleagues who are concerned with finding ways to improve our health care delivery system may be interested in a recent analysis in Group Practice magazine. This article, entitled "Areas of Inefficiency in Medical Practice" was written by W. Grayburn Davis, M.D., medical director of the Denver Clinic, in Denver, Colo.

He outlines the potential, as well as the limitations, of group practice in reducing inefficiencies. He points out that prepaid group practice is not necessarily the best method of delivering medical care to all population groups, and that fee for service practitioners are better equipped to deal with certain inefficiencies. He also suggests that a substantial portion of medical costs is not controllable by individual physicians, whether practicing individually or in groups. He is critical of Government regulations, particularly with regard to medicare, which have contributed to inefficiency and high costs.

I think Dr. Davis' views are imaginative, balanced, and particularly valuable because of his extensive experience in the actual practice of group practice medicine.

I ask unanimous consent that his article be printed in the RECORD.

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

AREAS OF INEFFICIENCY IN MEDICAL PRACTICE

(By W. Grayburn Davis, M.D.)

Although the very idea of group practice tends to reduce the inefficiencies of health care delivery, let us admit there is plenty of room for improvement.

I shall not be so parochial as to suggest that group practice is a complete answer. We in group practice have solved some of the problems, perhaps better than the sole practitioner. On the other hand, the solo man may better solve some of the inefficiencies of medical practice.

In general, however, a group practice can reduce inefficiencies and improve the delivery of health care through these inherent strengths:

Management of cost effectiveness;
Provision for continuous peer review;
Promotion of preventive medicine;
Control of hospital use; and
Reduction of patient cost through good central management.

Before getting into specifics, let me clarify a basic point: You cannot significantly change physician efficiency by speeding up his rate of production. Instead, you increase his efficiency by freeing him of non-medical problems so that he has more time to see patients.

SUBJECT TO SOME CONTROL

Some areas of inefficiency can be influenced positively without radically changing the basis of health care delivery.

First in mind would be the increased use of medical support personnel—central appointment clerks, insurance billing clerks, medical records librarians, and physician assistants—including the surgical and orthopedic assistant and the pediatric practitioner. These functions are certainly not unique to group practice. But perhaps they are somewhat more highly developed in groups.

In addition, an efficient medical records system and a single record for each patient make consultation available at lower cost than if such records are duplicated and scattered among a number of specialists and institutions in the community.

Another method of reducing inefficiency entails effective peer review. When well controlled, this function enhances outpatient diagnosis through increased efficiency and reduced costs. Parenthetically, the American Association of Medical Clinics, through its accreditation program, is using its peer review mechanism to convince third parties, such as the Blues, Medicare, and private carriers, to recognize the increased efficiency and resultant lower cost of well-controlled outpatient diagnostic work.

This same peer review mechanism in the group practice accreditation program has an effect on hospital use. Figures from a large private hospital in Denver indicate that hospital utilization is lower for staff members engaged in group practice than for comparable solo specialists in the same geographical area.

On the other hand, physicians engaged daily in fee-for-service or prepayment practices agree that these two types of group practice cannot be compared on a hospital utilization basis because they treat entirely different medical populations.

LITTLE OR NO CONTROL

Some areas of inefficient medical practice are subject to little or no control by the practicing physician.

Quite obvious is labor cost. In Denver, we compete for employees with many federal agencies—most of them on a five-day week with elaborate fringe benefits. Private practitioners in general lack the means to match these.

Another area over which we have little control is the mountain of paperwork. Insurance claims for patient medical services must be moved regularly by practicing physicians. Throughout the years, the burden of handling the growing number of claim forms has fallen on the physician or his staff and the cost of this service is reflected in higher medical fees.

In my opinion this cost is the responsibility of the insurance carrier. At least, the carrier should help the physician lower his cost.

A new system in Colorado involves a number of clinics who rely on a sophisticated medical computer service to provide the patient with a computerized bill listing individual services, relative value codes, ICDA diagnosis, diagnostic code and fee. This hard copy bill provides all the information any carrier needs to reimburse the patient.

This system works successfully with Medicare and most private insurance carriers. But our own Blue Shield plan in Colorado so far has been unable to adjust its claims system to pass the savings to all member-physicians and subscribers. By the way, private capital entirely financed development of this program.

GOVERNMENT INSENSITIVITY

One major area of inefficiency over which the physician has little or no control is the growing volume of federal regulations. This shows up in many variations. But the common thread is the regulation dictated largely by authorities who know little about the daily practice of medicine or who little appreciate the effect the regulation may have on patients.

For example, recent regulations published in the Federal Register indicate the intention of the Social Security Administration to provide Part A Medicare reimbursement for outpatient diagnostic procedures when performed in a hospital outpatient department. This, in effect, shoves the practice of medicine under the hospital roof. It is a threat to all group practice, but particularly the prepayment groups—and these folks are the darlings of HEW.

Another example of unfortunate federal regulation involves the payment of reasonable and customary fees by Medicare carriers under Part B reimbursement. Although the Medicare carrier raises the cost of medical care through required increased paperwork and through the handling of claims on an in-

dividual basis, the Medicare carrier at the same time arbitrarily pays less than 100 percent of what it established as a reasonable and customary fee. Experience indicates that this altered fee then becomes a new and phony standard for a given physician, creating a growing deficit position which can only be made up from non-Medicare patients if the practice is to remain solvent.

Still another area of inefficiency might be labeled "oppressive regulations from the Food and Drug Administration." The FDA has set back the practice of medicine in this country via its regulations associated with the Kefauver-Harris amendments. Physicians find themselves capriciously interrupted by the FDA after investing considerable sums in time, equipment and material. FDA policy, which translates into "today you can, tomorrow you cannot," can only be expensive and frustrating.

Finally, government policy toward health care in general is far from logical. HEW induces the public to seek comprehensive care by group practice, favoring prepaid inhospital plans. At the same time, HEW spawns regulations destructive to group practices and to prepayment groups in particular.

This is in the face of general agreement among group practices that prepayment of health care delivery is not necessarily the best for all population groups. It would make sense for some of the HEW grants, which study various aspects of group practice, to be awarded to practicing groups or to their representatives, rather than almost entirely to university community health planning departments, sociologists, economists and the like.

SOME IDEAS

Lest I leave you with the idea that I am hypercritical and, at the same time, nonconstructive, a few suggestions follow.

Group practice conceived, tested and produced the working model of multiphasic health screening. With the help of consumer groups and available capital, private medical foundations or clinic groups could make such services available to many people in rural and inner city areas who are deprived of adequate health care—all at reduced cost.

This is a difficult situation because private physicians, whether group or solo, cannot realistically provide physical relief for their brother physicians in rural or inner city areas. They can provide a type of backup, however.

For example, the Denver Clinic, in cooperation with St. Joseph Hospital, is developing a straight-line relationship among four rural communities, the Denver Clinic and the hospital. The rural physician becomes a member of the hospital staff, permitted to admit patients directly to the hospital on the clinic service. This means the patient has only one record—free from duplicate tests and charges from three different examinations when one is adequate. The hospital and Denver Clinic also consult administratively and medically with the rural community in strengthening this relationship.

Another positive approach to reducing inefficiencies of health care delivery suggests increased use of social service where someone other than a physician is equally effective. The Denver Clinic has had a social service department for more than two years, providing ancillary medical services without exhausting the valuable time of physicians.

One fire-breathing dragon which directly affects the efficiency of medical practice is the malpractice suit and the insurance rates. For those who can get insurance, rate increases of more than 100 percent in a single year cause the efficiency and cost effectiveness of any practice to suffer. A continuing threat from the opportunistic patient or attorney induces many physicians to engage in excessive procedures as an attempt to head off that dark day in court. Hope for legal reform is not promising since our legislatures are heavily populated by attorneys. But some effort to reduce exorbitant premiums is underway from the insurance industry itself, in cooperation with the medical profession.

ONE BASIC SOLUTION

One final area of inefficiency, about which something is being done but subject to considerably more effort, involves the education of medical students and house officers. A proper approach might well be the single, most significant activity possible, to ameliorate inefficiencies and high costs!

It is my judgment that medical students are almost totally oriented toward caring for patients lying in a bed. They don't know how to approach, much less handle, patients who are walking about and who may not be entirely certain that they are ill.

If the Federal Government is seriously interested in developing more physicians for private and group practices, it should recognize a golden opportunity to support programs for inducing group practices or even solo physicians to provide preceptorship training in private practice settings. In this way, medical students and house officers might discover what the practice of medicine is truly about.

Many group practices with associated education foundations are both qualified and eager to provide such experiences if some funds are made available. Large amounts of private capital already finance such programs at certain large clinics, but this is a drop in the bucket compared with what the government can and should be doing.

CONCLUSION

Every thriving group practice represents a successful effort in identifying and dealing with many of the inefficiencies in the delivery system in its own Trusteeship for Health. Thus each is unique to the patient population it serves. Each can testify to the *real* needs in its own trusteeship and the *real* obstacles to its growth and economic survival. Is there anyone in the government with the willingness to listen, or the ability to comprehend?

INFANT MORTALITY

Mr. DOMINICK. Mr. President, I would like to share with my colleagues an article from the June issue of Pediatrics, entitled "Improved Infant Mortality Rates in a Population Served by a Comprehensive Neighborhood Health Program." Its author is André Chabot, a Denver physician.

He discusses the Denver neighborhood health program and the almost phenomenal impact it has had on infant mortality rates. The infant mortality rate for the nonwhite population in Denver decreased 39.8 percent during the period 1964–68, compared with 18.5 percent for the United States as a whole.

The article points out that where patients have a medical home, there is a dramatic drop in the utilization of services at hospital outpatient departments and emergency rooms. The Denver neighborhood health program is also making significant use of the pediatric nurse practitioners trained at the University of Colorado School of Nursing.

I think the Denver Department of Health and Hospitals, which administers the neighborhood health program, should be commended for its initiative in putting together a comprehensive program for the low-income population of Denver.

I ask unanimous consent that Dr. Chabot's article be printed in the RECORD.

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

IMPROVED INFANT MORTALITY RATES IN A POPULATION SERVED BY A COMPREHENSIVE NEIGHBORHOOD HEALTH PROGRAM

(By André Chabot, M.D., M.P.H)

(NOTE.—Figures referred to not printed in the RECORD.)

(ABSTRACT.—The Denver Department of Health and Hospitals developed from multiple federal grants (M and I, C and Y, OEO, PHS, and Family Planning) a comprehensive community health program for the low income population of Denver. To measure the impact of this program, infant mortality rates were reviewed in the low income and nonwhite populations. Infant mortality in 25 selected low income census tracts in Denver was 34.2 per thousand live births in 1964. This decreased to 24.5 by 1968. Infant mortality of nonwhites in Denver was 41.9 in 1964 and decreased to 25.2 by 1968. This decrease in infant mortality rates in both of these populations compares very favorably with such data from other cities. *Pediatrics,* 47: 989, 1971, Infant Mortality, Youth Projects, Community Pediatrics, Comprehensive Health Care, Community Health Programs.)

Since 1964 a number of health programs have been funded by the federal government which affect the health care of children. Maternity and Infant Care Projects (MIC) provide prenatal care and care for high risk infants up until 1 year of age. Children and Youth Projects (C and Y) provide comprehensive pediatric care from birth to 21 years of age.[1] OEO Comprehensive Health Care Projects provide family-centered comprehensive care to all age groups, and so do Comprehensive Community Health Service Projects funded by Public Health Service. To evaluate the impact of these projects on the health status of the community is very difficult because most of the projects cover only a small segment of the population and also because of their fragmentation among several agencies in a community. For instance, a health department may provide prenatal care with MIC funds, while other institutions—hospitals or medical schools—may provide pediatric care with C and Y funds.

Denver Department of Health and Hospitals (DDHH) successfully overcame these problems and has succeeded in developing a comprehensive family-centered program for about 130,000 needy people of Denver. In 1964 the DDHH started to develop this ambitious health care program. The agency applied successfully for a number of health care grants from the federal government and currently is funded for a Maternity and Infant Care Project, a Children and Youth Project, a Family Planning Project, an OEO Comprehensive Health Care Project, Public Health Service Comprehensive Community Health Service Project, and Mental Health grants. These funds have been amalgamated to develop a single comprehensive family-centered program providing all necessary services to all members of the family.[2-4]

TABLE I.—DENVER INFANT MORTALITY RATES

Geographic area	1964	1968	Percent change
25 lower socioeconomic census tracts	[1] 34.2	[2] 24.5	−28.4
75 other census tracts	[1] 23.5	[2] 19.2	−18.3
Denver, total 100 census tracts	27.0	20.8	−22.9

[1] The difference is statistically significant, P value <0.05.
[2] The difference is not statistically significant, P value >0.05.

Footnotes at end of article.

This plan has provided for two Neighborhood Health Centers and 12 satellite Health Stations in the city's more needy areas. The implementation of this plan began in 1964 after the funding of the Maternity and Infant Care Project. Health Stations and Centers were opened successively; and the program became operational at the present level with the opening of the second Neighborhood Health Center in May, 1968. Figure 1 shows the location of the existing and planned health facilities.

The two Neighborhood Health Centers operate as large group-practice facilities, with 10 to 15 physicians backed by public health nurses, social workers, nutritionists, neighborhood aides, appropriate clerical staff, X-ray and laboratory, and selected subspeciality support. The Neighborhood Health Centers have their respective departments of pediatrics, adult medicine, obstetrics and gynecology, mental health, and dentistry. Each of them is staffed to care for a patient population of 15,000 to 20,000 people.

The satellite Health Stations are smaller units. The services performed are those usually available in a private doctor's office. The stations are staffed by a physician for the adult services, a part-time obstetrician, a pediatrician, and pediatric nurse practitioners. Additional staff consists of public health nurses, social workers, nutritionists, and community health workers. They care for patient populations of 3,000 to 7,000 each.

These 10 existing community-based facilities make ambulatory medical care easily accessible and available to all family members since the facilities are located in their own neighborhoods. Satellite Health Stations are open 5 days a week from 9:00 A.M. to 5.30 P.M., while the Neighborhood Health Centers are open from 8:00 A.M. to 10:00 P.M., Monday through Saturday, and have an 8-hour shift on Sunday. At all other hours emergency care is available at the agency's hospital, Denver General Hospital (DGH), which also provides hospitalization and subspecialty consultation to the Neighborhood Health Program when needed.

Of the estimated eligible target population of 130,000, there were 66,000 patients—40% of these children—receiving care in Neighborhood Health Program in 1969. In addition, large numbers of eligible patients received ambulatory health care in the outpatient department and emergency room at Denver General Hospital.

The pediatric department of the Neighborhood Health Program has the equivalent of 21 full-time pediatricians, 14 of whom are actually on full-time status. In addition to the pediatricians there are some family physicians who take care of children, and we are utilizing 10 to 12 full-time pediatric nurse practitioners trained at the University of Colorado School of Nursing.

Figure 2 illustrates the utilization rates for the traditional pediatric services, showing that the Pediatric OPD visits at Denver General Hospital have been practically halved since 1964; emergency room visits have also decreased. There has been a marked decrease in the visits to the Child Health Conferences, largely due to the fact that, as the comprehensive health care facilities were opened, the Child Health Conferences in these neighborhoods were eliminated.

Figure 3 shows the number of pediatric visits to the Neighborhood Health Program and the increase in total pediatric utilization of services. The number of pediatric visits from the traditional services and the Neighborhood Health Program increased nearly threefold, from about 45,000 to about 115,000. There has been a similar increase in the utilization of obstetrical services for prenatal care and in prenatal visits.

The availability of good quality, accessible pediatric care close to where the patients live might be expected to have resulted in:

1. Increased utilization by patients who were previously using the services of the city hospital for episodic care;

2. Reaching a population which was not previously receiving health care, and

3. Utilization by patients who previously received crisis care only, from private physicians.

We have very few adequate tools available to measure the health status of a community. One of the acceptable indicators is the infant mortality rate. To measure the impact of this community health program we investigated the changes in infant mortality rates in Denver's low-income census tracts. Figure 1 shows the city of Denver and the location of the 25 lower socioeconomic census tracts as compared with the 75 other census tracts. In 1968, the 25 lower socioeconomic census tracts had a population of about 120,000 people, and the 75 other census tracts a population of 405,000. Our selection of lower socioeconomic census tracts was based on the 1960 census data, considering income, type of housing, and education. These data have been modified to take into consideration Head Start and welfare statistics.

Table I shows that the infant mortality rate for the 25 lower socioeconomic census tracts in Denver in 1964 was 34.2. In the 75 other census tracts this rate was 23.5. The infant mortality rate in 1968 for the 25 lower socioeconomic census tracts decreased to 24.5. In the other 75 census tracts it decreased to 19.2. The difference in rates in 1964 was statistically significant, P value less than 0.05, while in 1968 it was not statistically significant, P value greater than 0.05. Thus, the infant mortality rate of Denver's low-income population improved markedly, nearing the level of the main-stream of its population.

Figure 4 shows the steady decrease of the infant mortality rates in Denver, and the narrowing of the gap between those for the populations of the lower socioeconomic census tracts and the other census tracts.

There were no apparent significant changes in the demographic, socioeconomic, or educational status in the 25 census tracts. Available data show that the number of Aid to Dependent Children cases in this area increased from 2,800 to 3,800 in this period of time.

Because similar data from other comparable U.S. cities were not readily available, we also reviewed infant mortality data from the nonwhite population in Denver to compare with such data from northern and western cities in the 400,000 to 1,000,000 population range, according to the 1970 census data. The nonwhite population of Denver consists of mostly Negroes, with a small proportion of Orientals and Indians. The majority of the Negro population lives in the 25 lower socioeconomic tracts. Table II shows that infant mortality rate for the nonwhite population in Denver decreased by 39.8% compared to the decrease of 18.5% for the United States as a whole.[5-7] Also, among the selected cities, Denver had the highest percentage decrease in infant mortality.

Since the early 1960's, there has been great concern in this country about our infant mortality rates.[8-12] This concern arose for several reasons.

In the first place, this country has a much higher infant mortality rate than a number of other countries, and was in the fourteenth position in 1967, among countries with over 2.5 million population in 1965.[7]

Secondly, although infant mortality rates had steadily declined since 1900, this decrease leveled off in the 1 950's.[14]

Also, there has always been a wide gap in infant mortality rates between the white and nonwhite populations, but this gap started to widen in the 1950's.[15]

In addition, there was an increase in infant mortality rates in seven of the ten largest cities in this country in the late 1950's.[16]

The results in Denver show not only that this trend can be reversed, but that significant advances can be made in improving infant mortality rates in the low-income and nonwhite populations.

If the development of the Neighborhood Health Program did have an influence on our decreased infant mortality rates, then Denver's approach to solving the health problems of its low-income population could point the way toward solution of the same problems in other urban areas.

SUMMARY

The Denver Department of Health and Hospitals developed, from multiple federal funds, a comprehensive community health program for the low-income population of Denver. To measure the impact of this program, infant mortality rates were reviewed in the low-income and nonwhite population. There has been a marked decrease in infant mortality rates in both of these populations, which compares very favorably with such data from other cities.

TABLE II.—INFANT MORTALITY RATES AND NUMBER OF LIVE BIRTHS[5-7] FOR NONWHITES IN U.S. CITIES OF 400,000 TO 1,000,000 POPULATION

Cities	Number of live births		Infant mortality rates		Percent change
	1964	1968	1964	1968	
United States			40.6	33.1	−18.5
Denver, Colo	1,240	1,228	41.9	25.2	−39.8
Baltimore, Md	10,930	9,364	35.5	35.5	0
Boston, Mass	2,612	3,018	30.6	36.1	+18.0
Buffalo, N.Y	2,454	2,164	34.2	43.4	+26.9
Cincinnati, Ohio	3,442	3,086	33.1	27.9	−15.7
Cleveland, Ohio	6,956	6,242	40.5	31.1	−23.2
Columbus, Ohio	2,350	2,402	28.1	27.5	−2.1
District of Columbia	14,384	12,516	38.0	27.7	−27.1
Indianapolis, Ind	3,302	2,986	37.6	37.2	−1.1
Kansas City, Mo	3,058	2,612	42.5	33.3	−21.6
Milwaukee, Wis	2,342	3,134	41.4	30.6	−26.1
Minneapolis, Minn	708	728	35.3	31.6	−10.5
Phoenix, Ariz	1,078	1,072	25.0	29.9	+19.6
Pittsburgh, Pa	2,836	2,212	38.1	49.2	+29.4
St. Louis, Mo	7,188	6,332	41.2	34.6	−16.0
San Diego, Calif	1,852	2,298	28.1	22.6	−19.6
San Francisco, Calif	4,164	4,154	24.3	18.3	−24.7
Seattle, Wash	1,370	1,500	24.1	31.4	+30.3

FOOTNOTES

[1] Lesser, A. J.: The federal government in child health care. Pediat. Clin. N. Amer., 16:891, 1969.

[2] Warner, A.L.: Problems in delivering comprehensive health care to the inner-city. Arch. Environ. Health, 17:383, 1968.

[3] Cowen, D. L.: Denver's neighborhood health program. Public Health Rep., 84:1027, 1969.

[4] Cowen, D. L.: Denver's preventive health program for school age children. Amer. J. Public Health, 60:515, 1970.

[5] Vital Health Statistics, Vol. I, II, 1964.

[6] Zugzda, M. J.: National center for health statistics. Private communication.

[7] Wegman, M. E.: Annual summary of vital statistics, 1968. PEDIATRICS, 44:1031, 1969.

[8] Moriyama, I. M.: Recent change in infant mortality trend. Public Health Rep., 75:391, 1970.

[9] Hunt, E. P., and Chenoweth, A. D.: Recent trends in infant mortality in the United States. Amer. J. Public Health, 51:190, 1961.

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[11] Moriyama, I. M.: Present status of infant mortality problem in the United States. Amer. J. Public Health, 56:623, 1966.

[12] Shapiro, S., Schlesinger, E. R., and Nesbitt, R. E. L., Jr.: Infant, Perinatal, Maternal, and Childhood Mortality in the United States. Cambridge: Harvard University Press,

[13] Proceedings, AMA National Conference on Infant Mortality, American Medical Association, San Francisco, August 12–13, 1966. 1968.

[14] Hunt, E. P.: Recent demographic trends and their effects on maternal and child health needs and services. U.S. Department of Health, Education and Welfare, Welfare Administration, Children's Bureau, p. 7, 1966.

[15] Wegman, M. E.: Annual summary of vital statistics, 1966. PEDIATRICS, 40:1035, 1967.

[16] Lesser, A. J.: Closing the gaps in the nation's health services for mothers and children. Bull, N.Y. Acad. Med., Second Series, 41:1248, 1965.

ACKNOWLEDGMENT

I wish to thank Mr. Gary Knapp, Director of Research, Denver Department of Health and Hospitals, and his staff, for their cooperation in providing the statistical evaluation and some of the data.

HEALTH CARE IN AMERICA

Mr. DOMINICK. Mr. President, a recent Saturday Review article entitled "Health Care in America: A Heretical Diagnosis," by Harry Schwartz of the New York Times, merits our attention.

The article represents a refreshing analysis of the so-called health care crisis in America. The author questions some of the heretofore unscrutinized assumptions underlying the cliches which are in vogue with many politicians and the media these days. He asserts that health care in this country is not nearly as bad as many would have us believe, and supports it with statistics showing substantial improvements in several categories over the last two decades.

He makes the point that while the group practice concept has merit, total elimination of fee for service practice would never be accepted by the medical profession and would break down the delivery system by flooding it with patients who are not really sick. He recognizes that there is much inefficiency and duplication in our present health care system, but suggests that replacing it with a Federal bureaucracy likely to result in higher total cost and lower quality of care is not the answer.

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:

HEALTH CARE IN AMERICA: A HERETICAL DIAGNOSIS

(By Harry Schwartz)

"If the revolutionary proposals for transforming medicine are adopted, medical care in this country will cost more while providing less satisfaction and poorer treatment for millions."

The conventional practice of medicine and the physicians engaged in it are under attack in the United States as never before. Ranged behind a banner reading HEALTH CARE CRISIS, a large and vociferous group of critics claims that the nation's medical system is woefully deficient in so many major respects that it must be radically reorganized—and quickly. On this essential diagnosis and prescription, the Nixon administration stands shoulder to shoulder with Senators Edward Kennedy and Edmund Muskie, among others, as well as with numerous trade union leaders.

Many patients are vocally dissatisfied with the high cost of medical care and, increasingly, with the outcome—this latter fact attested to by an epidemic of malpractice suits. The past few years have seen a barrage of articles, books, television programs, and other investigations of the weaknesses and inadequacies of the medical system. "Don't get sick in America," the nation has been told, as though there were some place where it was good to have cancer or multiple sclerosis or schizophrenia. Alarmed by this atmosphere, the American Medical Association has begun to run scared, offering programs for improved financing and delivery of health care, and seeking to upgrade its public image by sponsoring advertisements to show that doctors do care about the health of their patients, the quality of the environment, and the like.

In their righteous wrath, many of today's critics seem to feel that limits of truth, balance, or plain good sense just don't apply to their holy cause. Thus, one national magazine recently blazoned its front cover with why you can't get a doctor, though the editors surely know that every week millions of Americans see and are treated by physicians. And in another national magazine, a television critic who signs himself "Cyclops" assured his readers that Medicare had enriched the doctors in much the same fashion that the oil depletion allowance had served the oil industry. One wonders if in an earlier era Cyclops denounced "faceless and nameless accusers" who presented no evidence but simply accused broad categories of people. More generally, the critics have often focused on the worst areas in this field and trumpeted their findings as though they were typical. With that technique of course, every aspect of American life can be indicted since all—like medicine—have weaknesses and deficiencies.

Even unfair criticism can be useful in keeping an individual, an institution, or a section of society on its toes and helping prevent complacency. Vice President Agnew's attack on the media can be defended from this point of view. But in the case of medical care, many of the critics have "solutions" they want to offer. Having told us what incompetent, greedy monsters dominate the medical profession, the critics assure us that if we will only adopt their pet nostrum all will be well in the best of all medical worlds. The fact that for many years to come most of the physicians treating sick Americans will be the same men and women with M.D. degrees who are being denounced now doesn't seem to shake the faith of these true believers in simplistic solutions. Nor does it seem to occur to many of these would-be reformers that there could be heavy costs in the transition to some new health-care mechanism and there could even turn out to be serious new problems with the proposed "solutions." Such complications tend to be ignored as the fighters against medical evil use the undoubted weaknesses of what now exists for their propaganda while assuming that their proposals would introduce a utopia. Only a few cynics seem to realize that all human arrangements have faults and that present difficulties need to be compared with probable future difficulties.

A staple argument advanced by those who profess to see a health care crisis is that the nation's health is well below what it might be because of the inadequacies of the present medical mechanism. To buttress this argument, the critics virtually always trot out international statistics purporting to show that the United States is way down on the list of the world's nations ranked by such indicators as infant mortality and expectancy.

In part, this argument is based upon simple naivete in statistical matters. It assumes that it is meaningful to compare small, homogeneous nations concentrated on relatively tiny territories—Sweden and Holland, for example—with the United States, whose population is roughly twenty times as large, incredibility heterogeneous, and spread across a whole continent. Moreover, those who triumphantly cite these statistics usually ignore the problems of statistical definition that make such comparisons even more suspect. And they almost never point out that if comparisons are made between the two most nearly comparable large countries for which data are available—the Soviet Union and the United States—the Soviet Union turns out to have a much higher infant mortality rate than the United States and approximately the same life expectancy level. Why doesn't anyone talk about a Soviet health care crisis?

But this argument has an even more fundamental fallacy, which is the assumption that in a highly developed, modern urban society medical care is somehow the decisive element in such matters as infant mortality and life expectancy. This, of course, ignores all the complex social forces at work. Whatever its sins, the American medical establishment is not responsible for hunger in this country, for the automobiles that kill 50,000 or more people here annually, for the drug overdoses that claim thousands of young lives, or for the millions of Americans who court heart disease and lung cancer by overeating, exercising little or not at all, and smoking a pack or more of cigarettes daily. If a person chooses to eat or smoke his way to death despite his doctor's warning, why blame the doctor?

Finally, it is curious that those who rush to use statistics to indict American medicine are so quiet about data that point in the opposite direction. Why is so little said, for example, about the dramatic decline in American infant mortality in recent years—a drop of more than 20 per cent just between 1965 and 1970? Last year, for the first time in American history, the infant mortality rate went below twenty deaths per thousand live births. Nor are we often reminded that, when allowance is made for the changing age distribution of the population, the death rate in this country has been dropping significantly. In 1967, the last year for which data are available, the age-adjusted death rate in this country was 7.3 per thousand population. Twenty years earlier, the corresponding figure, 9.0 per thousand, was almost 25 per cent higher.

I do not mean to suggest that there is no room for further improvement. But if critics want to be honest with the American people, they ought to present the whole picture—including the undeniable evidence of substantial and continuing improvement, in some cases very rapid improvement—*and not* merely carefully selected international comparisons, the relevance or validity of which is dubious. It should be added, moreover, that the gains, i.e., the reductions, in American infant mortality and overall mortality rates have been shared by whites and non-whites of both sexes.

A second frequent complaint is about shortages of doctors, sometimes more generally of all health manpower and womanpower. Along with this grievance often goes the more or less explicit charge that the American Medical Association has been choking off the supply of doctors, presumably to increase its members' monopolistic power.

Nobody can deny that there are shortages of doctors in some places and that the worst problems are encountered in urban slums and remote rural communities. But the United States as a whole has one of the highest ratios of physicians to population in the entire world. Between 1950 and 1970 the number of M.D.s in this country increased almost 50 per cent or substantially more than the roughly one-third population increase in the same period. Moreover, the country's rates of physician production is mounting rapidly as old medical schools expand enrollments, new medical schools begin operating, and some medical schools cut the period for M.D. training from four to three, or even two, years. In

September 1971, according to an estimate by the Association of American Medical Colleges, 12,500 new medical students will begin their studies, about 40 per cent more than the number of freshmen enrolled as recently as 1965.

The net increase of between 35,000 and 40,000 doctors in this country just since 1965 makes a mockery of the charge that the AMA or any other organization is attempting to preserve some sort of monopoly. The real problems are different, and they have at least three roots. One is the trend toward specialist care and away from general practice, a trend born both of the economic advantages of being a specialist and of the increasing volume and complexity of medical knowledge. A second factor is the understandable desire of many physicians to live and practice where it is most advantageous and pleasant for them to do so, rather than in surroundings of poverty or of professional isolation; physicians are abundant on Manhattan's fashionable East Side and in affluent Westchester County, but very scarce in Bedford-Stuyvesant and the East Bronx. Finally, there has been a tremendous upsurge in the demand for physicians' services born of the Medicare and Medicaid revolutions of the mid-1960s, which lowered the economic barriers to medical care for millions without immediately doing anything to compensate for the provision of this care.

Nevertheless, there can be little doubt that in recent years more Americans have been receiving more—and usually better—medical care than ever before in the nation's history. But this is hardly the situation that the term "health care crisis" brings to mind or is intended to bring to mind.

A third complaint is the rapid rise in the nation's total medical bill. Here is the way the Nixon administration's recent White Paper on medical care put the indictment:

"In fiscal year 1970, the nation spent $67 billion on health, nearly three-fifths again as much as had been spent only four years earlier. While undoubtedly there were improvements in the quality of care for at least some of the population, more than 75 per cent of the increase in expenditures for hospital care and nearly 70 per cent of the increase for physician services were the consequence of inflation."

Put this way, of course, there is a strong implication of gouging, of conscienceless profiteering at the expense of the sick. But every American knows that the last four or five years have been a period of rapid *general* inflation, of substantial rises in prices and wages throughout the economy. Between 1967 and 1970, for example, the consumer price index shows that physicians' fees rose an average of 21.4 per cent, or almost exactly the same percentage by which average hourly earnings of workers on private non-agricultural payrolls increased over the same period. Between 1967 and 1970, the consumer price index reports, the average price of a semi-private hospital room rose 45.4 per cent. Hospitals, of course, are very labor-intensive institutions, and before Medicare and Medicaid many of their personnel—interns, residents, and housekeeping workers, many of the last being from minority groups—received very low wages. These last mentioned groups have particularly benefited from above-average wage raises in recent years, a circumstance that hardly makes such formerly disadvantaged workers economic criminals.

There should be no illusions in this area. Proper care of the sick—particularly of the elderly, who make up such a disproportionately high percentage of the seriously ill—is and always will be a very expensive proposition. There are, of course, inefficiencies in the existing medical-care mechanism that add to costs, but it is a delusion to think that the physically ill or the emotionally disturbed can be handled satisfactorily and humanely in ways that will compare in efficiency and cost effectiveness with the assembly-line techniques Detroit uses to build automobiles. Certainly the nation does not want the high percentage of error and neglect in its health care that car buyers find in their new vehicles.

Yet, it is essentially assembly-line medicine provided by collectivized physicians that the critics suggest to meet the "health care crisis." The road to medical utopia, many voices now tell us, is to be found by general acceptance of prepaid group practice arrangements ("health maintenance organizations," in Nixon administration jargon) on the model of the Kaiser-Permanente groups along the West Coast. Such prescriptions are natural if one believes this country is now in a health care crisis, which derives from the clichés the critics employ to describe present American medicine. They hold that it is "a cottage industry" consisting of "solo practitioners" working on a "fee-for-service basis" in a "non-system." Simply inverting these terms produces the notion that what is needed is a mass-production medical industry staffed by teams of doctors working independently of payment in a highly organized system.

This description of the present situation is grossly oversimplified. American medicine today is highly pluralistic. Millions of Americans have completely socialized medicine; for example, those in the armed forces and in Veterans Administration hospitals. Several million others belong to prepaid group practice organizations, and additional millions look to hospital emergency rooms, outpatient clinics, and the like for their primary medical care. Medicare, Medicaid, and private medical insurance, including Blue Cross, have revolutionized the economics of medical care in recent years. In short, the stereotype of the sick American going to the isolated physician and digging into his pocket for the $10 or $15 fee covers only a portion of the reality. And, except in remote areas, no physician is really isolated since any good doctor is part of an informal system that includes him, the specialists he refers patients to when specialists are needed, and the hospital or hospitals he sends his patients to when necessary. And it is a strange cottage industry indeed that includes such institutions as New York City's Presbyterian Hospital, Boston's Massachusetts General Hospital, and similar large hospitals all over the country.

The existing pluralistic system provides choices for both physicians and patients. In such large communities as New York City, San Francisco, and Denver there is competition between private physicians and group practice organizations, as well as, of course, among the private physicians themselves. And where one uses private practitioners, the fact that the doctor collects a fee gives him an economic interest in satisfying the patient—not a bad motive however much the idealists might wish that doctors, unlike all other human beings, had no sense of self-interest. And the fee acts as a partial barrier to excessive calls on the doctor's service, a restraint against running for help for every vague pain. Moreover, a system in which the doctor's income is proportionate to how many patients he sees encourages physicians to work hard. Many doctors today work sixty or more hours weekly.

Of course, insofar as American medicine is still a cottage industry based on a one-to-one relation between a family doctor and a patient, it has much to recommend it. Since most ailments are self-limiting, they can be handled adequately even by a "solo practitioner," especially if, as is normal, he has access to laboratory and X-ray facilities. A family doctor—and there are still many of them around—gets to know his patients as human beings and is able to provide what is probably the most frequent positive outcome of the patient-physician encounter: reassurance and psychological support. A large fraction of people who go to doctors have no objectively detectable illness and really want psychiatric aid, which comes more effectively from a man or woman the patient knows than from some impersonal stranger. And for many frightened persons, reassurance is far more effective if it comes from a full-fledged M.D. than from a physician's assistant, a nurse, or some other person with less training than a physician has.

Private medicine also has flaws, of course, and is sometimes abused, as any human arrangement tends to be. Unscrupulous doctors can keep a patient coming back more times than necessary in order to collect more fees. But the fact that most doctors are busy probably minimizes this type of abuse. Some observers have charged that there is a fair amount of unnecessary surgery in some areas, a possibility that cannot be dismissed. Some surgeons have complained that general practitioners often perform surgery they are really not qualified to undertake sometimes with terrible and even fatal results. A growing problem in private office and hospital practice is the plague of malpractice suits, which is adding substantially to the cost of medical care. Physicians, increasingly fearful they may be sued, are practicing "defensive medicine," prescribing more laboratory tests, more X-rays, and more specialist consultations than are often necessary in order to be sure they have an adequate defense if a disgruntled patient sues. But the same problem will exist with any type of medical system until the whole malpractice situation is radically changed.

There could be no quarrel with advocates of prepaid group practice systems if these advocates simply urged the elimination of existing legal barriers to such arrangements and limited public subsidy to help meet initial costs of setting up such groups. Kaiser-Permanente and similar organizations have shown that group practice is one feasible way to organize medical care, with attractions for some physicians and for some consumers. Physicians get reasonable salaries, freedom from the entrepreneurial and other woes of private practices, regular hours, and the aid of other physicians and ancillary medical workers. Patients have a fixed or semi-fixed medical cost, for which they can budget in advance, and a source of medical care available at any hour and on any day. Competing with private physicians, group practices can put economic curbs on private doctors' fees and force the private practitioners to make their own informal or formal arrangements to ensure that patients can get a doctor at 3 a.m. on a Fourth of July and on other occasions when most people are sleeping or on holiday.

But the zealous advocates of revolutionary change in American medical care go far beyond such modest and realistic claims. They see group practice or health maintenance organizations as wonder-working systems that can provide better care for lower costs while simultaneously ensuring that the population enjoys better health than ever before. It is these expectations that explain the intensity of the more extreme propagandists for universal health insurance and compulsory group practice.

However, the evidence presented for these claims is very thin, particularly since group practice in the United States has historically been limited to special groups, while what is advocated by the extremists is extension of this mode of health care delivery to the entire population.

How, for example, can group practice improve the nation's health if medical science knows so little about the causes of the degenerative and hereditary diseases that cause so much illness? And what is there about group practice that will enable it to stop smoking, overeating, lack of exercise, reckless driving, heroin addiction, alcoholism, poverty, inheritance of genetic defects, and other individual or social causes of sickness and death?

Some people argue that the end of direct financial cost for medical care will encourage people to go to doctors earlier than they might otherwise and thus catch diseases at a stage where they can be dealt with more effectively. This may be true in some cases, but the change to prepaid medical care has more complex consequences.

The end of fee-for-service removes the individual physician's economic interest in his patient, while, for the group as a whole, it is economically advantageous to do as little as possible for the patient. For the subscriber to such a group, however, the removal of additional out-of-pocket cost for a visit to the doctor creates the temptation to overuse the group's resources. Thus, a tension is automatically set up between the group physicians and their patients.

One result of this situation has been well described by Dr. Sidney Garfield, the founder of the Kaiser-Permanente groups. Last year Dr. Garfield wrote in the *Scientific American:*

"Elimination of the fee has always been a must in our thinking, since it is a barrier to early entry into sick care. Early entry is essential for early treatment and for preventing serious illness and complications. Only after years of costly experience did we discover that the elimination of the fee is practically as much of a barrier to early sick care as the fee itself. The reason is that when we removed the fee, we removed the regulator of flow into the system and put nothing in its place. The result is an uncontrolled flood of well, worried-well, early-sick, and sick-people into our point of entry—the doctor's appointment—on a first-come first-served basis that has little relation to priority of need. The impact of this demand overloads the system, and, since the well and worried-well people are a considerable proportion of our entry mix, the usurping of available doctors' time by the healthy people actually interferes with the care of the sick."

Dr. Garfield is attempting to meet this problem by experimenting with the use of computerized, automated, multiphasic screening techniques. A battery of tests—by machines and physician's assistants—is hardly the kind of warm, humane, intimate medical care most people want. On the contrary, the impersonality of such care, the lack of any long-term continued contact with one physician, is likely to repel many people. Moreover, the possibilities that a national system of prepaid group practice will turn into a bureaucratic monster are enormous.

It is strange that the enthusiasts for more "system" in medicine have not learned anything from the debacle of the nation's public school system. In every community, public school education is free to the recipients; yet, everywhere—or almost everywhere—there is bitter complaint of the failure of this system to teach effectively or to satisfy the psychological needs of our young people. Strikes by schoolteachers are now no longer novelties. Are they any guarantees that a national medical system will not follow the same path, and that someday we will not have strikes by doctors? Will some future Ivan Illich have to appear to demand the liberation of sick Americans from the medical bureaucrats as Mr. Illich now calls for the liberation of young Americans from the educational bureaucrats?

In an era when people are again referring respectfully to the one-room schoolhouse as a "daring experiment," should we lightly scrap the cottage industry aspects of medicine where they permit intimate, long-term, and humane contacts between physicians and patients? A human being is not a machine that can be fixed by any garage mechanic when something goes wrong. Yet, that philosophy is the implicit premise of much current discussion of medical reorganization.

The nation's real problems of medical care can best be met by measures that focus on particular trouble areas, rather than by a violent transformation of the entire complex medical system that would affect equally all parts, those working well and those working poorly.

Of course, the ghettoes and small towns need more doctors and medical facilities. But the government already has authority to recruit physicians and other medical personnel to meet these needs. And if young physicians are idealistically anxious to go into these deficient areas, why shouldn't the state help them do so?

The family of moderate means struck by catastrophic illness can be bankrupted by heavy medical bills. That problem could be solved by government-organized, compulsory major medical insurance whose cost on a national per capita basis would be relatively small.

In the present period of galloping inflation, it is probably utopian to suppose that the inflation of medical costs can be curbed, short of a general wage-price freeze for the entire economy. But it is not unrealistic to suppose that the upward rocketing of hospital costs might be slowed down by a variety of measures. One important need is for revision of the formulas used to reimburse hospitals under Medicare, Medicaid, Blue Cross, and other insurance schemes. These formulas—which in the past have often stressed cost reimbursement without pressures for economy—need to be altered so that hospital administrators will be more economy-minded in the future than in the past. The needless proliferation of duplicative hospital facilities needs to be stopped and replaced by systems of hospital cooperation so that patients at several hospitals in a locality have shared access to a particularly scarce or expensive facility. The escalation of medical costs could also be usefully countered by effective action on the malpractice front so as to curb present excesses and abuses that add significantly to the costs patients, insurance firms, and the government must pay.

There are many other ways in which the present medical system can be intelligently and humanely improved. But these needed and useful improvements can be made within the context of a continued pluralistic system. Different people have different tastes and different needs. Those who want to use prepaid groups should be permitted to do so; those who want to go to a physician and pay him each time should be free to do so, too. The result may not seem to be as neat on an organization chart as a uniform national system, and it may have seeming inefficiencies and duplications. But the right of choice for doctors and patients alike is worth such costs—at least in a really humane society.

In an era of increasing and justified disenchantment with big government, it is astonishing that so many well-meaning and intelligent reformers essentially want to nationalize and bureaucratize American medicine, either explicitly as in Britain or implicitly as in some of the legislation before Congress. One would have thought that the postal and public school systems would have taught them long ago that nationalization does not mean efficiency, and that the telephone system would have taught them that even a private integrated system can develop serious flaws. Based on the record of the past, we have every reason to suspect that if the revolutionary proposals for transforming American medicine are adopted and implemented, medical care in this country will cost more while providing less satisfaction and poorer treatment for millions.

ERTS—A NEW MARVEL FOR MAN

Mr. HUMPHREY. Mr. President, some time in March of next year, the world will be introduced to an entirely new look at itself, a look that will be provided from 500 miles out in space, a look that will unveil information about much of the earth that has been locked up *since* the origins of the earth itself.

Next year NASA will launch its earth resources technical satellite—ERTS—which will contain remoting sensing devices such as infrared scanners, scatterometers, side-looking radar, and laser profilers all of which will give man his first opportunity to take complete inventory of what is happening on earth, both in terms of the earth's natural resources and what impact man is having on those resources. It will eventually permit man to maintain a perpetual inventory and monitor the condition of world crops, forests and pollution levels. It will help countries with great unexplored interiors explore the resources of such regions. It will help our world's great cities better understand how to control land use and traffic movements.

Mr. President, Claire Sterling wrote a most interesting column on this technological marvel which was published in the Washington Post of October 12. 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:

[From the Washington Post, Oct. 12, 1971]

SEEING THE WHOLE WORLD—REMOTE SENSING AT 492 MILES UP

(By Claire Sterling)

ROME.—By next March a satellite called Erts-A will be able to tell us how fast the Sahara is advancing northward and southward along a 4,000-mile front, where underground water is rising toward the surface beneath half a million square miles of Libyan desert, whether to expect shortfalls or bumper crops of grain in the northern or southern hemisphere, where prospectors ought to look for oil or molybdenum, whether potato blight is about to break out in Maine or coconut wilt in Kerala, who is dumping how much mercury into some Yugoslav river or the Gulf of Mexico, which Antarctic icebergs might be towed to California to cool hot water from atomic power plants.

Alas, Erts-A will not be able to take the temperature of plants coming down with a fever. But Erts-B will, a year later.

The procedure is known as remote sensing, which it literally is. The sensing will be done from orbit 492 miles above the earth, with a battery of scatterometers, infra-red scanners, laser profilers, side-looking radar, anti-lurch, shudder and yaw installations, antennae to communicate with earth sensors sending up ground truth, multi-spectral camera windows and Haselblad cameras.

You don't really need all this to sense remotely. Any bush pilot can do it if he can fly a straight line in a Cessna two-seater, with infra-red Ektachrome film and filters he could buy anywhere. Armies do quite a bit of it too, with more expensive lines of equipment (the U–2 senses very well remotely) and astronauts have inevitably done some in the course of doing other things.

But there has never been anything like the earth mission satellite Erts-A, which is going to sense every corner of the world every 18 days—10,000 square miles in a single instant of time—for a year, with such stunning accuracy that it can learn more than a farmer knows about his own 10-acre field within a 1 per cent margin of error.

This will give the human race its first chance to take an inventory of the planet: what exactly is on it in the way of plants, animals, forests, land, water, minerals, people; what stresses nature, and we, are putting on it.

The project is NASA's and with it the credit for putting Erts-A's singular talents at the world's disposal. Everybody was invited to submit projects in a dozen fields—forestry, geology, hydrology, geography, cartography, meteorology, climatology, oceanography, demography, environmental quality—for its 350-odd experiments. Thirty-two countries did, and even those who didn't will be free to buy prints of any 10,000 square-mile picture for about $6.

It is not so much the versatility of this satellite as the harmony of the world it will explore that makes so many simultaneous and often revolutionary experiments possible. All objects on earth with temperatures above absolute zero (—372 C) radiate electromagnetic energy, and receive radiation from their surroundings. All of this shows up somewhere on the electromagnetic spectrum, and can be sensed at enormous distances by laser or radar, or infra-red and panchromatic film.

On an Indian coconut plantation in Kerala, for instance, the crowns of healthy coconut palms show up red on infra-red false color film, jacktrees a brighter red, cashews pink, and some trees that look perfectly all right to the naked eye turn pale on film, meaning they have a virus. There is hardly a limit to what Erts-A will be able to "see" like this: vigorous and ailing crops anywhere on the globe, moisture in soil, overgrazed land, lost or uncounted people, geological faults or folds suggesting, respectively mineral and fuel deposits, oil slicks on the sea, smoke plumes in the air, pollutants in lakes or rivers. It can even see which rivers can survive pollution better than others; and what it doesn't see it will hear, by radio, from the earth sensors.

If it did nothing but tell countries what they are actually doing with their own land, Erts-A would be a godsend. No country really knows, though all of them really must. The United States, for instance, simply cannot keep track of changing land use tending, among other things, to form megapoli such as Bosnywash (Boston, New York, Washington) which will soon be needing three billion gallons of water daily. Yet for all the Americans' technological ingenuity, the federal government took 10 years to prepare a detailed land use map selling for $100 and hopelessly out of date on publication. Even the U–2, sensing remotely, would need to take a million pictures to do the American job. Erts-A can do it with 550.

For poor countries who often don't know not only what they're doing, but what they're not doing with their land—what rich soil may lie unused or timber uncut, what water may be waiting underground to be tapped, what dazzling natural wealth they may be sitting on—Erts-A is a pearl beyond price.

They are evidently aware of it, too, since they are willing to pay, NASA, which has invested $100 million in Erts-A and B, is not giving its product away for nothing. The data will be free, but all 32 countries taking part will have to pay for the interpreting, which costs an arm, and make the findings available to NASA. Nobody seems to mind, not even indigent Mali, which hopes to develop the Niger Basin's water resources with Erts-A's help. Furthermore, when an international workshop was held at Ann Arbor last summer to teach people how to interpret Erts data, 400 showed up from 53 countries, at their own expense.

Still, there's a limit to how much they can spend. Interpreting is nearly everything where remote sensing is concerned, an art as much as a science. Scientists and managers can be oriented in use of the data in only five weeks, at the University of California. But it takes a year and a lot more money to train a really good interpreter. Scholarships are reportedly on the way, which the FAO hopes to administer and certainly ought to, if only to avoid giving the whole enterprise a too-sticky American label.

BEM ON PAKISTAN WAR

Mr. CHURCH. Mr. President, earlier this month, one of our Nation's most effective peace groups, Business Executives Move for Vietnam Peace and New National Priorities, focused its attention on another Asian war, this one in Pakistan, in which American military materials are being used to kill the local populace. The calamity here, besides the incredible devastation and dislocation, is that the only misdeed of the Bengali people was the fact that they won an open and fair democratic election. The BEM National Council issued a statement concerning U.S. involvement in this crisis. I invite the attention of Senators to the statement.

I ask unanimous consent that the statement on the war in Pakistan be printed in the RECORD.

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

BEM NATIONAL COUNCIL STATEMENT ON EAST PAKISTAN, OCTOBER 1, 1971

The situation in East Pakistan, where over eight million Bengali refugees have fled to India, and millions more languish in the interior of the country, terrorized by the West Pakistan Army, may soon result in the greatest tragedy in human history.

We are deeply concerned as Americans and businessmen that American arms, bombers, and tanks continue to be used to thwart the results of the first freely held elections in Pakistan's history, and that the administration continues to supply replacement parts and supplies in the mistaken notion that somehow this contributes to U.S. security.

As in South Viet Nam, we find ourselves supporting a dictator in his efforts to prevent self-determination through free elections. As in Viet Nam, newspapers have been closed, political opponents, in both East and West Pakistan, have been jailed, and U.S. built aircraft drop their lethal loads on Asian peasants.

We demand that our government place an immediate embargo on any further U.S. shipments of arms or military supplies, as well as the transhipment of such arms and supplies through intermediary countries to Pakistan on the grounds that any contractual arrangements between Pakistan and U.S. citizens and/or the U.S. government are null and void since the legal National Assembly has not been permitted to convene, that the continuation of such shipments serves to make our country a party to the crime of genocide now being perpetrated.

We also call upon the Congress of the United States to immediately enact the bills pending in both houses calling for the withholding of all military and economic assistance and sales of military supplies until the distribution of food and other relief measures, supervised by international agencies, take place on a regular basis throughout East Pakistan and a majority of the refugees are repatriated. (Senate amendment No. 159 and House Resolution 9160.) We further demand that the proviso excepting expenditures from previously appropriated funds be stricken from the legislation.

We must begin now to act on humanitarian principles and with common sense, or expect further erosion of respect for the U.S. by our own citizens and by those of other countries.

NATIONAL HEALTH INSURANCE SURVEY—PART III

Mr. HANSEN. Mr. President, during the past several days, I have placed in the RECORD questions on national health insurance asked by Opinion Research Corp. in a nationwide survey.

The first questions pertained to general attitudes toward national health insurance and whether new Federal health insurance programs are needed. Today's question is:

What do you think a nationwide Federal health insurance program should cover?

As the introductory material from Opinion Research Corp. states:

The American people do not want fully socialized medicine at the present time.

As the material below will indicate, there is support for Federal health insurance for the needy, the aged, veterans and their families. That is the only category that received a majority vote and only 54 percent of the blacks and 51 percent of the whites even favored Federal health insurance for the needy, the aged, veterans and their families. All other groups and all other programs received less than 50 percent approval.

Quoting from the conclusions drawn by Opinion Research Corp.:

The all-inclusive health insurance program sponsored by Senator Edward Kennedy appeals to only about one out of six Americans (17 per cent of the total public).

I call attention to that fact: only one in six Americans favors the all-inclusive proposal sponsored by Senator KENNEDY.

The survey showed there is relatively little difference between Democrats, Republicans and independents concerning the various questions which were asked. Indeed, only 21 percent of the Democrats favored Senator KENNEDY's program—only one in five—while just 17 percent of the independents and only 13 percent of the Republicans favor "full coverage for everyone."

It is well to remember that even Senator KENNEDY's bill does not provide "full coverage for everyone." As a spokesman for the AFL–CIO, chief sponsor of Senator KENNEDY's bill has said, the Kennedy bill would cover only about two-thirds of the average family's medical bills.

The all-inclusive health insurance program sponsored by Senator KENNEDY appeals to only about one out of six Americans—17 percent of the total public. In contrast, a majority—54 percent support Federal coverage for the needy, the aged, veterans and their families.

President Nixon's proposals to: First, increase the supply of doctors, second,

insure against the effects of catastrophic illness, and third, assist in the formation of health maintenance organizations, all receive fairly widespread public support.

As to the question "What do you think a nationwide Federal health insurance program should cover?" 54 percent of the surveyed white population agreed that the needy, the aged, and veterans and their families should be covered, while 51 percent of the blacks concurred.

In medical training categories, 41 percent of the whites, compared to 38 percent of the blacks, favored covering the expenses for the training of doctors, nurses, and health technicians.

Payment for serious illness, not presently covered by private health insurance plans for everybody, was favored by 33 percent of the whites and 46 percent of the blacks.

A total of 32 percent of the whites and 41 percent of the blacks questioned agreed that the program should also entail support for health clinics where people can pay to belong and get treatment at no extra cost.

As to basic medical coverage for everybody, to replace private plans such as Blue Cross/Blue Shield, 26 percent of the whites and 33 percent of the blacks were in agreement that this should be done.

The results showed 18 percent of the whites and 17 percent of the blacks favoring the program covering all medical expenses of every resident.

Only 7 percent of the whites and 1 percent of the blacks surveyed were against any program with 10 percent of the whites having no opinion compared to 18 percent of the blacks.

There is a surprising agreement among Democrats, Republicans, and independents about various Federal health insurance proposals.

For example, Federal health insurance proposals that would cover the needy, aged, and veterans, training of doctors and nurses, and catastrophic illness is supported at equivalent levels, regardless of party preference.

Republicans tend to be somewhat less enthusiastic about health maintenance organizations, replacing private plans, and full coverage for everyone.

As to voter preferences for Federal health insurance proposals, the question was asked, "What—as shown on this list—do you think nationwide Federal health insurance program should cover?"

A total of 55 percent of the Democrats, 54 percent of the Republicans, and 36 percent of the independents thought it should cover the needy, aged, and veterans.

A total of 43 percent of the Democrats, 40 percent of the Republicans, and 44 percent of the independents thought the program should cover the training of doctors and nurses.

As for coverage of catastrophic illness, 38 percent of the Democrats surveyed, 33 percent of the Republicans, and 35 percent of the independents thought Federal health insurance should cover this kind of a program.

As to health maintenance organizations, 35 percent of the Democrats, 25 percent of the Republicans and 38 percent of the independents were in favor of its inclusion.

Thirty-three percent of the Democrats, 19 percent of the Republicans, and 28 percent of the independents surveyed thought private plans should be replaced by Federal health insurance proposals.

Full coverage for everyone was preferred by 21 percent of the Democrats, 13 percent of the Republicans and 17 percent of the independents who were surveyed.

NEW TOWNS—A CURE FOR URBAN ILLS?

Mr. HUMPHREY. Mr. President, as a concept for solving the urban problems, new towns hold much excitement and promise. Or do they?

Essentially, this is the question posed by a recent article in the Christian Science Monitor. Fran P. Hosken has examined the building of new towns in France, Sweden, England, and Finland and has concluded that—

> Yes . . . totally planned and financed by public and private means, new towns are intended to solve present problems, fill future needs, and complement the environment.

The article points out that private business has found new town development highly profitable in France and Britain, while in Sweden and other parts of Scandinavia private industry builds all the housing.

I am firmly convinced that the United States must take advantage of the new town concept. We badly need planning; we badly need new patterns of settlement; we badly need urban areas that reflect the best our living has to offer rather than skyrocketing taxes and the collapse of services.

New towns provide a model—not the only model for urban development—but one which deserves sympathetic consideration by the highest levels of government.

On June 18, 1971, I submitted Senate Resolution 141, resolving that it was the sense of the Senate that the executive branch ought to make available to public new community developers all of the financial assistance authorized under title VII of the Housing and Urban Development Act of 1970.

So far, there has been little or no response by the administration to this resolution. And I am informed that the Office of Management and Budget still refuses to pay the interest differential for public developers of new communities.

Mr. President, I do hope that the attitude of the administration will change. I do hope that they will see fit to follow the intent of Congress by funding new community developers.

I ask unanimous consent that Fran P. Hosken's article be printed in the RECORD.

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

[From the Christian Science Monitor, Sept. 17, 1971]

ARE NEW TOWNS A CURE FOR URBAN ILLS?

(By Fran P. Hosken)

Never before has greater Paris seen so much building. Looking down over the city from Montmartre's Sacré Coeur church or driving in any direction out of town, one can see hundreds of construction sites, punctuated by gigantic building cranes.

A whole new city of high-rise office buildings is going up at "La Défense" on the edge of the city. While this new office center will help to relieve downtown congestion, La Défense is also far enough outside the historic city that it will not interfere with the magnificent monuments and buildings of the traditional Paris skyline.

An excellent new subway connects La Défense with the main station at the Etoile, located under the square of the Arc de Triomphe. This new line eventually will extend outside Paris to provide a rapid train service to some of the newly planned towns which are beginning to surround the old capital.

EXTENSIVE PLANNING

At present, of all the world's cities, Paris has the most extensive, comprehensive, and far-reaching building plans. To be sure, planning, especially for the new towns, has been going for 10 years. Now new construction is sprouting everywhere—highways, subways, a new major international airport, and innumerable homes and office buildings. In addition, renovations and cleanups of historic buildings are continuing all over Paris, under a program that was started some years ago by the Ministry of Cultural Affairs.

The explanation given for this truly extraordinary activity is that Paris has had to catch up with other European cities. The government and the whole public sector are deeply involved in the planning and building of a whole new environment.

Building activity in the private sector has already produced countless new office and housing developments all over the outskirts of Paris. Scattered between quaint, old two-story houses, some with small gardens, this haphazard growth is uneconomical, ugly, and creates transportation problems for everyone. Therefore the Paris region has been making plans that coordinate with France's national development. Now, after years of planning, the French are reaping the rewards of hard effort.

VIEW FROM THE TOP: THE NATIONAL PICTURE

A new national office with ministerial power, L'Aménagement du Territoire (the Office for Land Management), was established in 1963. A national plan was developed which divided France into eight economic and geographic areas, plus the Paris region. Each of these regions has several existing cities. These cities are to be strengthened by decentralizing certain service functions from Paris. Industry- and job-creating business development is publicly supported in these urban centers.

Varying degrees of public support, depending on the regional development policy, are given to industries and enterprises moving into the designed locations. Outright payments for each job created, tax incentives of all kinds, and low cost of land are a few examples.

Depending on the demographic, economic, and social studies undertaken by the new regional development-management offices and subject to approval by the central office in Paris, each region offers different financial incentives. The Paris region offers no tax incentives at all. In fact, the thrust of national planning is to create balanced development throughout France. Without control and proper planning, Paris and its surroundings would fall victim to extreme pollution

and probably be strangled by people and traffic.

EIGHT-REGION CONCEPT

Whole new towns are planned for the eight different regions of France to strengthen this decentralization plan. The only thing these new towns have in common is that they are all quite different in concept, in design, and in approach to the problems caused by different localities.

The plan for the new towns is not a land-use development plan, but rather a plan for establishing development priorities and growth poles. New centers of activity are designed to flexibly guide rather than physically fix growth.

All services—roads, schools, and social centers—of the towns are not only planned concomitantly with the housing, but they are publicly financed and built to be ready when the first inhabitants move in. Furthermore, most of the housing is subsidized in one form or another. Private developers are encouraged to participate on every level. A great effort is made to attract business and industry to relocate, making the towns economically independent by creating jobs.

It is debatable where a satellite development ends and a "new town" starts. Professionals use different definitions. Le Mirail outside Toulouse and Herouville outside Caen are well under way and are considered by many to be in the process of becoming new towns. There are more and larger ones in various stages of planning outside many older cities, including whole new vacation towns in the south of France.

But without doubt the most interesting new-town project is the one at Vaudreuil outside of Rouen. Vaudreuil is an experimental town in every sense of the word. A whole new approach to planning is being used whereby the town may grow in many different ways instead of along predetermined lines as has been the traditional method.

To start with, a "seed" town for about 15,000 will be built. This seed town is to the developed city what the child is to the man. Experiments of all kinds will be initiated, carefully studied in terms of the larger town and town building in the rest of France and other countries as well. Vaudreuil is trying to evolve planning and development methods that are adaptable to the rapid changes of our times.

Innovations are planned in site development, traffic control and transportation, industrial development, and housing. For a start, 4,000 housing units will be built.

The ministry in charge is working with a group of developers and industrialists who are interested in experimenting. They want to try out new ideas in every area of town building to study the economic viability of new methods and experiments.

POLLUTION FREE

But the guiding and most innovative factor for the development is to create a pollution-free environment from the start. Or stating it realistically, an environment that will minimize water, noise, and environmental pollution of every kind by building in safeguards and recycling methods in all services, industries, and permanent installations.

Each decision as to what is built in the new town, where and how, will be considered from the point of view of how does it affect the quality of the environment, what are its sociological and psychological effects, and what are the costs? Feedback mechanisms are built in, and the effects of the new experiments on the environment and people will be carefully studied.

The United States Department of Housing and Urban Development is working with the French Government on some joint experimental programs in Vaudreuil, in the area of pollution control. Vaudreuil is the only planned new town taking this experimental approach and trying to make it into an economically viable reality with the cooperation of business and industry.

THE PARIS REGION

The Paris region, which is much larger than a U.S. metropolitan area, has been growing more rapidly than any other area of France. To control and organize this growth, new towns have been established.

Demographers predict that the Paris region will grow from 8 million to 14 million people in the next 30 years. The same experts say this kind of growth must be organized and channeled into viable urban centers or it will severely impair the economic development of France, ruin Paris as a city, and spoil by pollution the most densely populated area of France.

According to France's national decentralization plan, new industry locating in the Paris region gets no subsidies or tax advantages—on the contrary, they face higher costs and higher taxes. But for business that still wishes or has to locate in the area, new urban centers have been set aside. These new towns are built near or in conjunction with older settlements, thus using existing transportation routes which are modernized and strengthened.

The towns or areas going ahead most rapidly with vigorous government support are Cergy-Pontoise, Evry, Trappes, Vallée de la Marne (an urban region that as yet has no named center), and Melun-Sénart. The double names connote old existing towns on the outskirts of which the new planned town will grow, eventually to form a whole.

These towns, or centers for concentrated urban development, follow a grand plan of a parallel-growth axis north and south of Paris which follows the direction of the Seine but safeguards and keeps out of development the river basin itself. The growth axis is supported by a transportation network (including new trains which are in the process of being built) coordinated with existing routes, parts of which are already in use.

Creg-Pontoise and Evry which are the two towns furthest along in their development carry out the mandate of open-ended, staged, flexible development; they don't follow a fixed plan. Both towns have already completed new "Prefecture" buildings, or regional administrative centers, which attract many people and businesses to the new towns.

The syndicate, or town-development corporations, of Cergy-Pontoise is in the process of building the first and smaller center of the newly planned regional development. This center is scheduled to be finished in five years—an incredibly short time.

The second, much larger center, which will be closer to the existing old town of Pontoise, won't be started until the first center is completed. The whole new town, including the existing old towns, will have a population of some 300,000 people by the year 2000.

Evry, a short distance beyond the airport of Orly, announced in mid-May an international competition for 7,000 housing units, including all the infrastructure, schools, and other service facilities. The first stage of the proposal is due in October. This suggests a magnitude and speed of development and building that is quite unmatched anywhere else.

Cergy-Pontoise and Evry are discussed in more detail on the Real Estate page of this issue.

NEW CITIES AND TOWNS: A COMPARISON

The new towns of France certainly are quite different in approach, conception and design from the first generation new towns in Britain which mostly are limited to a population of 100,000 or less. Even in Britain it is felt today that this is too small. The second generation new towns, for instance, Milton-Keynes and the yet unnamed new "area of intense urbanization" planned for Lancashire (near Manchester), will not only have many more people, but they follow a vastly different approach.

While a British new-town corporation owns the land and most of the buildings in the first generation new towns (such as Stevenage, Basildon, and numerous others around London, as well as Cumbernauld and other Scottish new towns), the new approach in Milton-Keynes is to bring in private developers from the start. The older new towns after 20 years have amortized their investment and are financially stable and could therefore expand—but they were planned for a maximum size.

The French towns work with private developers from the start. Their syndicate or town corporation has to get its money back in a hurry. The government loan period in Cregy-Pontoise, for instance, is only six years. As a result, while the French towns will get the capital back rapidly, the long-term profit from land development will go to the private investor and developer instead of to the town or public sector. That is, the vast public investments in terms of roads, infrastructure and all services will never be repaid.

STOCKHOLM'S SUBURBIA

Stockholm's first and now classic town-building program in its metropolitan area consisted of the city buying the land surrounding the city center, holding it and thus keeping it out of speculative development. Years later when it was needed, the city built new suburban communities on the land they had bought at a reasonable price. The two best-known satellites, Farsta and Vallingby, have become models for community planning around the world.

Similar planned developments have been built around Copenhagen and Oslo, all on government-owned land and with strict controls as to what can be built and how. All these towns contain large numbers of inexpensive subsidized apartments and houses and were built for economically mixed income groups.

Tapiola, the delightful privately developed town outside Helsinki, is for only 15,000 people and very much more dispersed than most other new towns. But even here subsidized housing is provided to accommodate different socio-economic groups.

All the new city and town planning and building abroad, in fact all new planned urban development, has taken quite the opposite route from what is happening in the U.S. Certainly the U.S. metropolitan areas are growing every bit as fast as any European ones. But they are growing without any planning, without any guidelines, and in many cases not even public investments are coordinated. Furthermore, zoning is used to keep out subsidized housing and in many cases also middle-income development, which effectively creates racial and economic segregation.

In the U.S. there is a noose of white, rich, segregated suburbs surrounding black, deteriorating cities. Abroad, many middle- and low-income people have and are moving into the suburbs and into the new towns, which are subsidized.

UNCONTROLLED U.S. SPRAWL

Regional development, let alone national planning, as in France, is still considered "coercive" or "un-American" by much of the U.S. public. But it is that same public which spends countless hours in traffic jams; and which lives in the ugliest, most polluted, and most expensive urban areas of the entire developed world.

Many U.S. cities are full of old speculatively built housing that is rapidly falling apart. The older suburbs now are beginning to show the same symptoms of deterioration, pollution, congestion that its inhabitants thought they left behind when they moved from the city.

Reston, Va., and Columbia, Md., are the only real-estate developments on the U.S. eastern seaboard that could be called planned new towns. Together, both accommodate fewer than 200,000 people or a third less than one new town in the Paris region. Reston's original owner had to sell out as he could not find house buyers fast enough. Columbia has been building for many years, and still its town center is not yet finished; its scattered "villages" make anything but a real town.

Both projects testify to the fact that a private developer faces big problems when building new towns, because it is not profitable and requires too much capital over too long a time. Besides, any privately built new town has the same defect as most U.S. suburban development: It is completely segregated economically and as a result, racially as well.

MEGALOPOLISES PUSH

In the meantime, Bos-Wash (Boston-Washington), San-San (San Francisco-San Diego), and Chipitts (Chicago-Pittsburgh), the three megalopolitan regional developments, are pushing a wave of people before them. The Eastern seaboard alone will grow by 15 million people in the next 10 years. Metropolitan New York threatens to double its present size by the year 2000.

The price the public pays for lack of planning and controls rises geometrically with the influx of more and more people into the metropolitan areas, while taxes skyrocket and services collapse.

The contrast between European capitals and American cities has never been as evident as now. London has managed, with steady effort over 10 years, to clear up its appalling air pollution. The planning of more and larger new towns and regional urban development, as well as the complete reorganization of London's administration by enlarging the area of the city and changing the London Council into the Greater London Council—all this positively contributed to creating a better environment and a decent urban life for the majority. Thamesmead, a new town for 60,000, is being built by the Greater London Council right within greater London, and this is just one of many new developments.

Everywhere except the U.S. it is the responsibility of the government to plan, design, and create a decent new environment for all citizens: because it is too important, too big and too expensive a job for private developers to do alone.

PROFITABLE BUSINESS

Private business has found new-town development highly profitable in France and Britain, where it has received substantial government support. In Scandinavia, a large private building industry builds all the housing and does not have to worry about sales: because every last unit is instantly taken over and filled by the government.

The U.S. can develop its own formulas for private business participation. Considering the growing housing shortage, the increasing population, and the failing metropolitan areas a properly organized new-town planning-and-building program based on national economic development priorities is bound to be successful, especially for private enterprise. It also could provide the economy with the badly needed incentives for growth if undertaken on the needed scale.

REDUCE U.S. FORCES IN PANAMA

Mr. CHURCH. Mr. President, the time has come to follow the advice of Brig. Gen. Omar Torrijos, of Panama. He wants fewer Americans, both civilian and military, in Panama, and so do I, including the much-vaunted "Southern Command."

I ask unanimous consent that an article on the subject, published in the Washington Post of October 17, be printed in the RECORD.

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

[From the Washington Post, Oct. 17, 1971]

PANAMANIAN LEADER ASKS REDUCTION IN U.S. FORCES

(By Marlise Simons)

PANAMA CITY.—Panamanian strongman Omar Torrijos has made it clear that he wants not only jurisdiction over the U.S. controlled Canal Zone, but also a reduction in the size of the U.S. military contingent in the area.

According to Brig. Gen. Torrijos, the American idea of defending the canal has led to too many unacceptable situations, one of them the "exaggerated presence of U.S. troops in Panama."

He wants a new defense treaty with the United States in which not only "the Americans decide" about the number of U.S. military stationed in Panama. Of the 50,000 people living in the Canal Zone, close to 10,000 are military men, according to one estimate. The Southern Command consists of 11 military bases.

In an interview at Paitilla Airport, just before leaving on one of his frequent trips to the interior of the country, the general was not willing to say what he believed to be a reasonable size for U.S. military bases. He insisted, however, that there was "no need for them to be so many" to operate and defend a canal. He added that there was no need for so many combat forces or for having a government within a government.

"What are the Americans defending themselves against," he said, "the Panamanians or the enemies of the United States?"

As Panamanians have in the past, the general also objected to the presence of the U.S. Army and Air Force schools from which hundreds of Latin Americans graduate each year. These training camps, the general said "have nothing to do with defending the canal."

For the officers who teach at these schools, Gen. Torrijos' disapproval of their presence must be puzzling. Most of the National Guard who act both as police and army in Panama and are Torrijos' power base, are trained at Southern Command schools, which a high official recently described as "the only place in this hemisphere where the future leaders of Latin America get together."

The Inter-American Air Force Academy this year has 349 students, the largest figure in its history, and the U.S. Army School of the Americas is giving courses to 1,525 officers, cadets and enlisted men from 17 Latin American countries.

At the U.S. Army school, one of the best received courses is one on urban warfare that has had such illustrious students as the chief of the riot police in Cordoba, Argentina; the public relations chief of the Guatemalan armed forces, and the entire intelligence staff of Ecuador. The course is just over a year old.

In four weeks, students learn to deal with plane hijackers, political rioters and urban guerrillas. In answer to a question, one officer insisted that the United States does not teach "torture as a means of interrogation."

Gen. Torrijos who has worn a uniform for 20 out of his 42 years, has himself taken special courses offered by the Southern Command. One department head testified that the Panamanian leader is one of his latest students, and "in the guerrilla warfare course he came out number one of the class."

Most political observers here agree that Panama's strongman has been using tough language against the United States in his public speeches to strengthen his own position in the country and Panama's position at the current canal negotiations in Washington.

In private the general admits his good relations with the U.S. armed forces but he still believes there are too many U.S. military men in his country.

He insists that "there is no enmity between the United States and Panama" but he does not want a list anymore of who should be his friends and his enemies.

"We have nothing against the Soviet Union," he says. "The day it suits the country we will establish relations." The same applied to China and all other nations he added.

LABOR AND THE DEVELOPING WORLD

Mr. JACKSON. Mr. President, we all know of the great contribution of American labor unions—in conjunction with the free trade unions of Europe—to the reconstruction of Western Europe after World War II. Less well known, however, is the outstanding role American labor is playing in the developing world of today. The positive programs of American unions—and the encouraging cooperation from their counterparts in Africa, Asia, and Latin America—are a truly heartening development. This work has allowed the developing nations to approach the task of social development with new confidence.

I therefore invite the attention of the Senate to a paper prepared by Irving Brown. Mr. Brown was for many years an international representative of the AFL–CIO in Europe. He is now the executive director of the African-American Labor Center. His paper, entitled "Labor and the Developing World," is one of a number of studies distributed by the international labor program of Georgetown University in Washington, D.C. Mr. Brown's report provides valuable insights into the continuing efforts of the American labor movement to help to build a prosperous and democratic world.

Mr. President, I ask unanimous consent that the paper be printed in the Record.

There being no objection, the paper was ordered to be printed in the Record, as follows:

LABOR AND THE DEVELOPING WORLD

(By Irving Brown)

TRADE UNIONS IN BOTSWANA

"First let me say that I consider that a free trade union movement has a vital part to play in applying those important principles which guide the progress of independent Botswana. Let me recall the words of the Botswana Democratic Party's Manifesto, "An important element in any democratic society is well-organized and truly representative trade unions. It is essential that workers should have responsible spokesmen who can look after their needs and negotiate on their behalf with employers" . . .

"Free trade unions are an essential instrument of participatory democracy. It is through such unions that the workers can not only defend their interests but also make a positive contribution to national development. And if this contribution is to be effective trade unions must be free. They will not be an effective instrument of participa-

tory democracy if they are manipulated by government, or by a political party or by any external agency. A trade union movement must seek to maintain the confidence of all its members irrespective of party affiliation. It must not become the agent of a political party. We in Botswana have given trade unions freedom to represent their members' interests and to guide the aspirations of our workers so that they make a productive contribution to national growth. We have not given them freedom to promote the interests of political parties or external powers.

Ever since the end of World War II, organized labor has played a major role in the Third World's drive for political self-determination and economic independence. In all of the nationalist movements involving struggles for both political and economic independence, the trade unions have played a leading role in the basic demand for recognition, status and participation in fundamental political and economic decision-making.

During the colonial period the trade unionists in the developing world, especially Asia and Africa, like the majority of the population, were excluded from the process of economic decision-making. In the case of Latin America, this still continued even though Spanish and Portuguese colonialism disappeared long ago.

While most of the developing countries have much in common and are confronted with similar problems, there are certain important differences, especially as related to their historical, national and political evolution. In Africa, the labor movements are integrally involved in the struggle for national independence, which continues in Southern and Portuguese Africa, nation-building and the striving for Pan-African goals. In Latin America, national independence has existed for many years and the unions' struggles were similar to the African scene only as they had to contend with the indigenous dictatorial and feudalistic regimes and their exploitation by foreign economic interests. In addition there is the complicating factor of the split between the great masses of Indian origin (peasants mostly) and the urban masses. In Asia, there is much that parallels the African fight against colonialism for national independence but primarily Asia is influenced by the quest for a special neutralist position (the Ghandi concept) in the world and concern over relationships with a militant, aggressive Communist China.

In the colonial period, overseas economies in the developing areas were subservient to the needs of a foreign economy. They were linked in many cases to the political power and control of the colonizing country. Thus the unions, along with the rest of society, especially in Asia and Africa, were completely excluded from economic and political influence and power. Also, human values were, on the whole, neglected during this long period of colonization and it is only in recent times that the independent unions emerged to assert the importance of the needs of the indigenous population in the development of the economy. For as one African political leader has said, the purpose of development must always be to help each individual "be the best that he can be to give the best that he can give to the community". The final aim of all development programs should be the man, the human being not production. This is why international aid programs lose their lasting value unless investment is related to the strengthening of the internal democratic and human institutions. This is how the trade unions can play their most meaningful role and at the same time reinforce the efforts of governments to achieve greater economic growth and expansion of the standards of living.

The unions that developed during the colonial period were modeled after and influenced by the unions of the colonizing country. The differences between unions in French and English speaking countries remain, especially in structure, organization and orientation. Even former colonial legislative codes for labor remain the same in many countries. As might be expected, these differences have resulted in a host of political and economic consequences. Although this is primarily true in Africa, it also applies to Asia and in a historical sense to Latin America. In the latter case, however, it is seen more in the political relationships between the trade unions and the revolutionary movements that were directed primarily against so-called "economic imperialism" and the remnants of feudalism.

After World War II, as the desire for independence grew throughout the colonized world, the trade unions began to take a major part in the independence struggle. While the campaign for political independence was underway, the normal, economic concerns of trade unionists took a secondary place. Collective bargaining had begun but remained subservient to political objectives. There were economic as well as political reasons for trade union involvement in this cause. Any trade unionist could see the need for political independence as an end to economic discrimination, as an end to outside control over economic decisions. It was an economic necessity for trade unionists to commit themselves to the struggle for political independence, so that the struggle for economic independence, which is still not completed, could begin. In fact, real collective bargaining between management and labor was hampered by the political considerations on both sides of the colonial conflict.

In spite of these difficulties and frustrations, the trade unions have grown in these areas and constitute a significant numerical force. The membership of trade unions in the developing world is very difficult to determine, particularly actual dues paying membership. However, as an approximation based on a very rough calculation, membership in the three major continents can be broken down as follows:

Africa, over 6,000,000.

Asia, over 21,000,000 (excluding Australia. New Zealand, and communist controlled countries of N. Korea, N. Vietnam and China).

Latin America, over 13,000,000 (excluding Cuba).

Total, 40,000,000.

The above figures reflect a small percentage of the total population of the three continents, which are primarily agricultural with a large peasant population. However, the trade unions are strategically located in the vital economic centers of their respective countries. In most cases they constitute the only broad-based mass organization in countries where the tradition of political parties is relatively weak. In a sense, the trade unions constitute the major institution for democratic training and practice.

The Vietnamese Confederation of Labor (CVT), representing over 400,000 workers and peasants in South Vietnam, is the best example of this strategic nature of a well-organized trade union movement in a predominantly agricultural country. Under the leadership of a remarkable man, Tran Quoc Buu, its President, the CVT has become, over a period of twenty years, practically the only real mass organization cutting across all religious and sect lines; anti-colonialist, anti-Vietcong in principle and practice, and anti-communist in the best democratic tradition. It is engaged in vocational training and cooperatives, organized in almost every region and locality of South Vietnam with ties to many trade unionists in the North who are unable to function openly in that totalitarian area. If South Vietnam is to have a stable democratic future, it will depend in large measure on how any present or future government will cooperate with this trade union movement. One of the outstanding weaknesses of South Vietnamese regimes past and present was that this organization has not been permitted to operate in such a way as to confront and contest the Vietcong organization in the political arena. In fact, much of the hope for successful land reform depends on the degree to which the CVT, through their peasant organization and cooperatives, will be allowed to play a major role in the distribution of funds and reallocation of the land. Otherwise the past will be repeated with the corrupt officials and the communists reaping the benefits.

Another significant result of the independence struggle was the establishment of strong links between trade unions dedicated to political independence and those unions of the industrialized relationship, trade unions and their nationalist allies secured a world forum to voice their call for self-determination. The international free trade union movement contributed greatly to that cause as did the American trade union movement. In many countries of Africa, when political leaders were jailed or exiled, the trade unions remained the only active, organized national movement. Tom Mboya (Kenya), Sekou Touré (Guinea), Kawawa (Tanzania), Adoula (Congo) and many others came out of the trade union movement into national political life and later became leaders or high officials of their respective governments. This has also been true in Asian countries, such as South Vietnam, India, Indonesia, Malaysia and Singapore.

After struggles which varied in length and severity, independence came to most of the colonized world, bringing a new set of political and economic situations. The struggle for economic independence now took on primary importance. The trade union movements, like all other indigenous organizations, were faced with the challenge of reorganizing basic power relationships, although many of the forms and procedures had not changed since the colonial period.

Certain requirements for economic independence and development rapidly became clear. The newly independent nations began their search for political stability, for the fundamental continuity of government which would allow development to proceed at a regular pace without being inhibited or stalled by political turbulence. At this point it should be emphasized that despite complaints from certain quarters about union demands and strikes acting as impediments to capital investment, political and governmental instability is a far greater inhibiting factor. Industrial relations are only one important factor in the entire complex, although improved systems of industrial relations are indispensable to the attainment of a more stable society. Investment is certainly not encouraged by the absence of peaceful industrial relationships.

The labor movements of the Third World are faced with this same problem of stability. In some countries, particularly in French speaking Africa, the old colonial trade union patterns prevail, sometimes in an aggravated form. There are still unions in French speaking Africa that reflect the communist, the socialist and free trade unions, or the Christian trade unions of the metropolitan area. Influences of a similar nature, though naturally taking local forms, can be seen in Asia and Latin America. In some countries, there exist several national centers, and, in addition, there are some professional unions which reject national affiliations, making a still more confusing trade union movement.

In their search for national identity, many governments have assumed a suspicious, hostile attitude toward trade unions, and have tended to increase rather than reduce legal restrictions on the labor movements. Some African governments are beginning to change

and recognize that an active trade union movement can greatly contribute to economic growth. In Asia, this recognition is best illustrated by the following statement of the Singapore Minister of Foreign Affairs and Labor, Mr. S. Rajaratnam:

"The trade unions have a vital role to play in this [economic development] task. Trade unions should not just be fighting machines. They should become spearheads in the exacting battle for economic development. They should pay more attention to studying and examining, in depth, questions of development . . . Government, trade unions and entrepreneurs have, in recent years, moved slowly but steadily towards the idea of cooperation to tackle the problem of rapid economic development."

Governments have also seen that more strikes and labor agitation often follow the imposition of tight trade union controls. Even such tightly controlled societies as Senegal and the Ivory Coast have witnessed in the past large scale labor reactions and strikes which have resulted in significant concessions to the trade union organizations. The repressive trends are still at work, however, as can be seen in the complete takeover and near dissolution of the Algerian trade unions by the government.

This goes hand in hand with a national economic policy that threatens the future development of the Algerian economy and the possibility of increasing capital investment.

These repressive and hostile government attitudes have been flagrantly demonstrated in Latin America where from time to time legitimate demands on the part of the unions have been met with severe repressive measures.

Naturally, trade unions also have important responsibilities toward their societies. The new governments often ask for a positive attitude on the part of the unions in their countries, and this is as it should be. This should, and in fact, often is regarded by the trade unions as an invitation to them to participate in nation-building. A positive attitude on the part of government and employer is a prerequisite if trade union responsibility is to be achieved. Above all, the resort to compulsion is no automatic solution, as witness the ineffectiveness of the compulsory arbitration system in Nigeria, especially in the public sector, even during the civil war which ended several years ago. Nation-building is the theme song of all developing areas, particularly Africa. It must of necessity be a primary concern of trade unions if they are to grow in an expanding economy and especially in economies with little margin for large wage increases through the normal processes of collective bargaining.

To overcome the vestiges of colonialism and secure stability, the new independent states must first become unified nations. This contrasts with the history of Europe where nationalism and national homogeneity preceded, in most cases, the attainment of independent, state sovereignty. In achieving this homogeneity, labor plays a decisive role since trade unions, by the very nature of their organization, structure and goals, cut across all local, regional and tribal lines. Their basic concern with economic and social problems and values permits their leaders, more than the leaders from some other sectors of the society, to accept this responsibility.

While participating in the broad processes of nation-building, unions cannot ignore their own internal problems and the need to put their own houses in order. Union leaders cannot forget their power base. This means building internal strength, increasing membership, perfecting collective bargaining processes and creating trade unions which can participate on a more equal footing with government and the private sector. Organization must not be neglected for nation-building, because, in a broad sense, trade union participation in the latter depends on how well it has done in the former. Just as the new nations strive to achieve political and financial stability, so must the trade unions. Above all, the trade unions must secure a steady income from dues collections and have a sound system of financial accounting. This still remains the overwhelming weakness of the trade unions in the developing world.

The role trade unions can play in national, sub-regional, regional and continental development takes a variety of forms. In many French speaking developing countries, legislation creating economic and social councils having tripartite representation from management, labor and government as well as other sectors, has been retained after independence. These councils give trade unionists the opportunity to make themselves heard at the planning level. While these bodies have no legislative power, if their recommendations are intelligent and practical, they can eventually influence governmental decisions and policies. This means the need for increased training of trade unionists in the new fields of planning, trade and development and in the whole area of economic and social studies.

In Ethiopia, industrial relations conferences of a tripartite nature have been organized to bring together the various segments of the economy for amicable discussions. This has become a regular institutional procedure in Ethiopia and some other countries. Other methods are used in other countries, but the essential thing is that the avenues of contact are growing. They are neither panaceas nor overall solutions. But though they are small in the beginning, these coordinative bodies will grow in use as the organizations they bring together grow and develop. After all, modern industrial relations have only come to Ethiopia, in many respects still a semi-feudal country, in the last six years, when the trade unions first came into existence.

Multi-national cooperation among trade unionists, as among governments, is in a more formative stage. The African-American Labor Center has brought together trade unionists from various African countries for meetings in Geneva, Addis Ababa, Monrovia, Cotonou, Accra, Ouagadougou and New York within the last year and will sponsor more such meetings in the future. This has been done in Latin America through the AFL–CIO institute, the American Institute for Free Labor Development (AIFLD), and will soon be done in Asia through the Asian-American Free Labor Institute. This too must be regarded as only a first step toward true cooperation. For these are not mere meetings with no follow-up. The major goal of these conferences on economic problems is to lay the basis for permanent research and training centers for trade unionists in English and French speaking African countries. In Latin America such activity is much more extensive and the AIFLD has trained hundreds of trade unionists in the field of economics. This has permitted the Latin American trade unions to play an important role in the whole movement for Latin American economic integration.

In addition, many trade union organizations are already members of the International Confederation of Free Trade Unions (ICFTU), the World Confederation of Labor (the former Christian trade union international), and/or international trade secretariats, where they can work to influence policies that effect their membership. Much is being done through the United Nations Conference on Trade and Development (UNCTAD), the ILO, and other similar bodies. Support on policies significant to Africa and Latin America, such as foreign assistance, continues to be forthcoming from the trade unions of the industrialized world which have supported the drive for independence. This was demonstrated by the support given by the trade unions of the industrial world to the demands of the developing countries in the UNCTAD Conferences for trade liberalization and preferences. The problems of wider economic integration have become a major concern for unions in these continents and there have been many conferences on regional economic integration leading to formal trade union organization in this field. This is true in Latin America and especially in East Africa. This is somewhat similar to the action of the six European trade unions whose leaders have formed a secretariat to participate as a consultative body in the functioning of the Common Market.

Just as there is a great drive for national unity, so must the trade unions unify or face continual harassment. Unification and expansion for governments and labor unions in the developing nations are life and death questions. The proliferation of unions in some countries—three, four and five national centers, plus autonomous bodies—contributes neither to the strengthening of the unions nor to the stability of industrial and political relations. The greater the trade union unification in a developing country, the better the chances for achieving industrial and political stability (as in the Congo, for instance). As George Meany, President of the AFL–CIO, has said, "The free labor movement should welcome and support the efforts of organized cooperation by all bona fide African free trade union forces—for the purpose of promoting the broadest African free labor unity."

The concept of labor unity has gone beyond national boundaries on the African continent to the idea of a single all-inclusive Panafrican trade union federation. All African trade unionists accept this concept but there is an absence of agreement on ways and means to achieve such unity. In spite of many years of agitation for a Federation and the existence of two competing Panafrican organizations, the African Trade Union Confederation (ATUC) and the All-African Trade Union Federation (AATUF), neither have any significant concrete achievements to show. There are however, certain African governments and trade union leaders (Algeria, Guinea, Egypt, Tanzania) actively pursue such a Panafrican goal in order to achieve certain political and possibly "revolutionary" or subversive goals. In most African countries, there is far less interest and enthusiasm for Panafricanism, and more concern with first the building of national institutions. In any event, the recent Algerian conference of the OAU Ministers of Labor adopted a resolution calling for the creation of such a Panafrican labor organization. It was expected that a conference would eventually have been convened in February 1970 to establish such a unified body to replace the two existing tribal Panafrican labor bodies. This has not come about and the 1971 Conference of the African Ministers of Labors in Geneva has practically eliminated the possibility of such an OAU-sponsored conference in the foreseeable future.

This drive for Panafrican labor unity n many cases is motivated by a desire to break any existing relationships between African trade unions and international trade union bodies like the International Confederation of Free Trade Unions (ICTFU). This is why in the case of AATUF (mainly Algeria, Guinea, Egypt and Tanzania) there is an absolute demand that a Panafrican trade union body shall be created with the express stipulation that there cannot be any affiliation to any other international trade union body.

Supporting this drive for disaffiliation and Panafrican trade unionism is the Soviets and their allies in Africa. Their motivation is quite clear. Since their instrument, the

World Federation of Trade Unions (WFTU) has been declining in membership for many years, their first objective is to get rid of other international bodies like the ICTFU, in order to eventually win over these disaffiliated organizations. This explains the 1969 Conakry conference organized jointly by the WFTU and AATUF in order to discuss cooperation in the so-called fight against "Western imperialism", "monopolies", etc., etc. The two main thrusts of the WFTU–AATUF concluding statement, however, were attacks on Israel and the Vietnam war. The Conference revealed the close alliance between the so-called "neutralist" AATUF and the Soviet controlled WFTU—which some delegates cited as the main significance of the conference. Furthermore, the demand for disaffiliation from international trade union organizations on the part of AATUF has become somewhat hypocritical in view of this collaboration and the recent reaffiliation of certain AATUF members (Nigeria, Dahomey) to the WFTU.

This tactic of continental insularity is not only confined to Africa but is seen also in Asia and Latin America. On the latter continent, the WFTU and certain "left" Christian trade union forces (the so-called CLASC organization) have raised the slogan of a pure Latin American trade union body with no ties or organizational relationships with the North American trade unions.

This is directed against the regional organization of the ICFTU which includes some U.S. and Canadian unions, and of course is part of the propaganda of many extremist elements who regard the active presence and cooperation of the North American unions as a barrier to their own efforts to take over the Latin American unions and thus weaken the democratic trade unionists of Latin America who still require the help and assistance of the stronger North American unions. These unions need the outside assistance and training just as much as their respective governments need and clamor for more capital investment and the liberalization of trade to enable Latin America to improve their balance of trade.

The same general approach can be found on the Asian continent where the communists and their allies pursue what in a way is similar to the pre-war Japanese drive for a co-prosperity sphere in Asia. Exploiting the Vietnam situation and the whole anti-American tactic, the WFTU and many of their fellow-travelers are seeking ways and means to duplicate the Panafrican tactic in Asia. And just as the fall of Nkrumah was a big blow to such efforts in Africa so the defeat and crushing of the communists in Indonesia has set back the communist-Soviet drive. In order to counter their losses and retrieve ground, the Soviet tactic has pushed for an Afro-Asian tie-up which would cover up their weaknesses and at the same time make a basic appeal to the color and racial sentiment of the masses within this area. At the same time, the new line is to try to woo the peoples of all the developing areas of the world to form a "united front" irrespective of international affiliation in order to break all relationships with the free unions of the Americas as part of the general struggle against so-called American imperialist influence.

In confronting these political and social problems, both internally and externally, labor unions seek not only outside support but strive to make their own, unique contribution to what is essentially a problem of development. Just as the governments seek outside capital investment, so have the trade unions of the developing world sought aid and assistance from their counterparts in the industralized countries. American trade unions have reacted positively and dynamically to these requests. Free trade unions everywhere and especially in the USA have been responsive to the need to support the newly developing trade unions in their quest for both political and economic independence.

There are several primary areas where American labor in relation with national unions, especially in the developing areas, is focusing its efforts.

First, in trade union education, much needs to be done and is being done in educating union members and non-union workers to better understand what the unions can do for them. The broad field of workers' education includes training middle and lower echelon union leadership to better perform their task of representing their members. In addition to trade union training, literacy training geared to functional goals for the rank-and-file, is badly needed and is underway in a number of countries. In many countries, the trade unions represent one of the few genuine, popularly-based organizations; such as, they have a special obligation in the educational field. And above all, training of trade union leaders is now directed towards emphasizing the economic and social responsibilities of the trade unions in the building and growth of their respective national economies, along with the need for achieving industrial stability without sacrificing the humanitarian criterion in the modernization process.

A second major area of trade union focus is, of course, vocational training. The real crisis in developing countries is the lack of skilled manpower. Economic independence will not be achieved without a trained indigenous working class. Investment from within or without the country must not get out of line with the capacity of a country to absorb capital available. This means that the essential economic problem is not capital goods but human capital. Trade unionists on the whole recognize that an increasing, skilled labor force not only stimulates economic growth, but also contributes well-trained, well-payed trade union members to the labor movement. So vocational training remains a prime area of concern, and a major priority.

Thirdly, the cooperative movement, historically regarded as one of the principal hope for accelerated development, is getting more attention from trade unionists. As with workers' education and vocational training, cooperatives have been a prime area of American labor's concern in overseas areas. For example, a recent conference in Cotonou, Dahomey, brought together government representatives, cooperative officials and trade unionists from eleven West-African countries to discuss proposals for a cooperative training center.

At the opening session, the Dahomian Minister of Rural Development refuted the arguments of numerous theorists on cooperatives who contend that the kind of community life led by most Africans can act as a force in the creation of lasting cooperatives. Experience shows that this is not quite the case; if community living can contribute to the operation of cooperatives, that contribution is minimal. More than a simple association or regrouping, a cooperative must, above all, be considered as an economic venture. Cooperatives—or other forms of economic cooperation—may be the Third World's answer to the sterile, unproductive "capitalism versus socialism" debate. Based on the concept of an economic venture, one can readily see that neither inclination nor strong faith are enough. As in every commercial or industrial enterprise, the men called upon to establish and run cooperatives must possess, in addition to the humane qualities required, sound technical know-how. Not until cooperatives become the business of well-trained managers will the cooperative movement make significant strides. The need for education in this field is enormous. Only when there are well-trained, financially competent cooperative leaders can the developing nations overcome a situation which has caused Africa to be described by one African Minister as "a cemetery of cooperatives".

A regional training center for cooperative administrators has been opened in Cotonou, Dahomey, under trade union and government auspices. More than 12 African countries will be sending students to be trained in this center which will be a residential college. The direction of the center will be tripartite. Representatives of Labor (African and American), Government (African), and Cooperatives (African) constitute a virtual board of directors.

A fourth area of trade union concern is the need to establish closer liaison between urban and rural workers in all developing nations. Most of the developing countries in the world are fundamentally agricultural and seem likely to remain so for the foreseeable future. Labor unions are too often concentrated in urban areas, although they are beginning to realize that efforts in the countryside are also needed. There is much to be done, particularly in conjunction with the cooperative movement. I think it is not too much to say that the role of unions will play in Africa, Latin American and Asia will, in the long run, depend on their success in organizing or establishing links with rural workers.

This is why AFILD in Latin America is concentrating on its "campesino" program, training peasant and farm leaders in such countries as Brazil in order to develop both the cooperative and trade union movements. This is, of course, linked to the role labor can play in assisting the economic development of the agricultural sector.

American labor through its international institutes has long recognized that support for rural cooperatives in economies based upon agricultural production strikes at the most fundamental needs of the developing nations. For example, in cooperation with the National Union of Credit and Cooperatives in Niger, the AALC provided the means to finance a series of rural-based training courses in cooperative and credit association techniques for 2,400 village leaders who were the elected cooperative officials of their own village. These seminars were the training base for extending cooperative principles into formerly inaccessible areas. Similar and even more extensive efforts have been undertaken in many Latin American countries, especially through the AIFLD.

There is a fifth area of concentration for trade unions which I believe to be of crucial significance. Trade unionists, especially those having successfully participated in the independence struggle, now recognize that the problems they confront in the search for economic independence are of quite a different nature. In order to participate as equals in national and international consultative bodies, in collective bargaining with large business enterprises, and in nation-building in general, trade union leaders must be able to deal effectively with complex economic and social questions. This means training and research.

The problems are being tackled. In September 1967 the AALC sponsored a Conference in Addis Ababa which brought together trade unionists from eleven English speaking African countries to discuss modern economic problems and their effect on the growth and success of their organizations. This led to a series of national seminars and finally a conference for French speaking African nations in March 1969 in Ouagadougou, Upper Volta. The successful results of these meetings has led to the demand to create several research centers in Africa, serving the dual purpose of training and problem-solving. It would enable union leaders to deal intelligently with the problems of the economy and industry by contributing

to a more rational and stable labor-management relationship.

In dealing with some aspects of the history of trade unionism abroad and the sources of outside support that are available to the newly developing unions, I would like to add one final word of caution. It is all too easy for us in the industrialized world to criticize, to joke about instability, violence, and the alleged lack of progress in foreign lands but it would be well to remember, as C. E. Black has stated in his "The Dynamics of Modernization":

"...the transition from traditional to modern leadership has generally been violent. Between the 17th and 19th century Great Britain, France, the U.S., Germany and Italy were all wracked by major revolutions and internal wars, and there is little reason to believe that the states modernizing later will be able to avoid violence."

The new nations are in a position of having to do everything at once. The trade unions in the Western world, along with other social institutions, have had fifty, sixty, seventy years or more to develop their organizational structures. The developing countries have had no time for experimentation, no time to make mistakes. Everything must be done quickly and in full view of an oft often unsympathetic news media. They do not have the luxury of time. This is too often forgotten. History has sort of passed them by. We should all—management included—join in a common effort to help them in catching up with history. In this way we can contribute to the guaranteeing that there will be a future history, with some hope for stability and democracy.

AMERICAN INDIAN DILEMMA

Mr. HUMPHREY. Mr. President, what continues to happen in this country to our American Indian populations is nothing short of a national disgrace. What we as a nation have done over the last 150 years to these once proud and self-reliant people is too shameful for words. Even today, following the many exposures of this national shame we still seem incapable as a nation of effectively dealing with this tragic situation that we have created for ourselves. We must somehow soon develop ways and means of helping these people regain their dignity and self-confidence, that we, through the establishment of the reservation system and the white man's Bureau of Indian Affairs, have all but destroyed.

Unlike most of our other minority groups in this country, the Indian finds himself almost totally without political representation of any kind at practicable levels of government. As a result, his future is still determined for the most part by the white man. The agencies of Government that serve him on the reservation are still mostly run and staffed by the white man.

Although well intended, most Government assistance programs for Indians on a reservation today fail to prepare him for life off the reservation. Even the Bureau of Indian Affairs employment assistance program fails to effectively provide any kind of meaningful transition from reservation to urban living. The delivery of social services off an Indian reservation is totally different from what it is on an Indian reservation. On the reservation almost everything is provided free, for merely the asking, without filling out reams of paperwork or subjecting oneself to lengthy interviews and the like. However, off the reservation an Indian must seek out whatever help he requires. He must pay for it, and if he cannot, he must submit to all the usual requirements stipulated by the agency providing the service. In that most reservation Indians receive no training, or have had no experience regarding the requirements of the "white man's" world in this regard, something must be done to better prepare those who wish to leave the reservation to meet the requirements of their new living environment.

How this could be accomplished without further sacrifice to the Indian culture, I am not certain, but both Indian leaders and the "white men" who still rule much of their lives must resolve this dilemma soon before additional generations of Indian children are brought up on one standard only to be required to live by another.

Mr. President, Mr. Hal Lancaster wrote an excellent article for the Wall Street Journal of October 13 about the many difficulties that Indians in this country are faced with today. 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:

RESTLESS RESERVATION: PROBLEMS OF THE NAVAJO REFLECT THE DILEMMA OF AMERICAN INDIANS—HOW CAN THEY EASE POVERTY WITHOUT LOSING CULTURE? TRYING A MIDDLE COURSE; MEDICINE MEN AND TOURISTS

(By Hal Lancaster)

TUBA CITY, ARIZ.—Frank Goldtooth is a gnarled, 84-year-old Navajo, whose white hair is encircled by a headband. Squinting into the burning blue sky of the Arizona desert, he complains, through an interpreter, that his peoples' old ways are being destroyed.

"The young and even some adults do not respect the medicine man anymore," he says. "They come to the ceremonies drinking. If the tribe does not return to the old ways, I do not know what will happen to the Navajo."

Graham Holmes is a blunt, cigar-chomping career man with the Bureau of Indian Affairs. A white, he believes it is impossible for the Navajo to return to the old ways and to stay out of the great American melting pot. "I think it's inevitable they join up," he says. "I don't see how one racial group can preserve what it has under our theory of government. Especially if it is being supported by the dominant race."

The views of Mr. Goldtooth and Mr. Holmes say much about the plight of the nation's 140,000 Navajos, America's largest and most important tribe. For the Navajos, like the nation's 530,000 other Indians, are faced with the troublesome choice of embracing the material good that "progress" can bring or of clinging fast to their old ways. The former could mean cultural destruction. The latter would surely mean continuing, grinding poverty.

CHANGING THE BIA

Many think the eventual answer lies in a compromise culture, as symbolized by the Native American Church, which incorporates traditional Navajo values into a Christian religion. The church encourages wage-earning and education, something traditional Navajos do not. It also encourages retaining traditional values, as well as the Navajo language and history.

But before the Navajo can deal with his cultural crisis, he must resolve his governmental crisis, and that means reaching a détente with an old nemesis, the BIA, the Interior Department agency which, under the Nixon administration, has made some basic changes aimed at making it an Indian vessel. The bureau's traditional function has been that of trustee for Indian lands and administrator of federal Indian programs.

In the past, the BIA, run largely by whites, has also served as a ruling body—imposing program after program upon the tribes, which typically accepted them without question. The hope now is to make the BIA more responsive to Indian needs by changing it into a true Indian agency: About 56% of the BIA's full-time national staff of 14,500—including Commissioner Louis Bruce—are Indians. That's up from 51% five years ago. And although that isn't a very sizable advance, there has been a dramatic increase in the percentage of Indians in high-ranking, administrative jobs. On the 24,000-square mile Navajo reservation, Indians now hold most key administrative BIA posts, including the important office of area director. These jobs were previously held by whites.

It is much too early to tell if the experiment will succeed. But it is clear the task will be a massive one here. Unemployment is estimated at roughly 50%, and there are few new job opportunities opening up on the reservation. Between 25% and 40% of the Navajo are illiterate. Average annual income for a Navajo family is about $300, and the typical family of five or six people lives in a single-room dwelling, often a half-dome hut made of wood and earth known as a hogan.

Health problems are staggering. Dr. George E. Bock, chief of the U.S. Public Health Service operation on the reservation, says that the infant-mortality rate, 42.3 per 1,000 births, is twice the national average and that tuberculosis and hepatitis rates are at least 10 times the U.S. average. Malnutrition is common. So are suicide and alcoholism, which newly elected Tribal Chairman Peter MacDonald calls "our greatest problem." Though the sale of liquor is forbidden on the reservation, it is a rule as often honored in the breach as in the observance.

IMMENSE RESERVATION

These are problems common to many tribes, but the Navajos have another—the immense size of the reservation, which creates not only a communications gap but contributes to a cultural fragmentation. The reservation, in northeast Arizona, northwest New Mexico and southern Utah, is the biggest in the country, outranking eight states in size.

There are only 800 miles of paved road. (The state of West Virginia, which is about the same size as the Navajo reservation, has 25,991 miles of paved road.) Public transport is non-existent, and ill Navajos in the outback are often unable to get to a hospital because they have no way of traveling. Communications are further hampered by the Navajo's long history of sheepherding and the life style that arose from it: Instead of living together in towns, as Pueblo Indians do, a large percentage of Navajos live in widely scattered shacks and hogans near forage for their herds.

In remote sections like the far north, overlooked by the sacred peak of Navajo Mountain, the tribesman today often lives as he always has—speaking no English, worshipping the old gods, living on mutton stew and having only infrequent and superficial contact with the outside world. He is leagues away geographically and culturally from the Navajo of Window Rock, Ariz., the seat of tribal government. Here many Indians are English-speaking Christians who put in a day at the office or plant, live in conventional houses, and yearn for the inflow of jobs and money that development would spur.

In between are the great mass of Navajo, caught in the midstream of acculturation

and unsure of which shore to swim to. This uncertainty is reflected in the operations of the Navajo tribal government, an overblown organism full of overlapping divisions and departments that devours $8 million in annual salaries—about half the entire tribal budget.

The representative body is the Navajo Tribal Council, an unwieldly group of 74 members who come from all parts of the reservation. Many of its members are totally unschooled in any form of public affairs, and the council's critics charge that the body has historically been a rubber stamp for the BIA.

The council is continually torn over the issue of economic development. In the early 1950s, the Navajos got $100 million in bonus money from oil firms, and, beyond that, royalties on actual production that have topped $10 million a year. But the royalties, which account for almost all of total annual tribal revenues, are shrinking at a rate of about $1 million a year as production declines. Because of the huge outlays for salaries and other administrative expenses, the tribe regularly runs budget deficits (last year the deficit was $4 million), and the difference is made up by dipping into the bonus money. There is less than $50 million of that left. And there is no apparent interest on the part of oil firms in widening exploration and development drilling.

The few commercial facilities on the reservation are mostly white-run, though Navajos find some employment in them. White traders still are dominant in remote sections, and sometimes they brutally exploit the Navajo, who is almost totally dependent on them for goods. According to a study prepared by students at Navajo Community College, traders who double as postmasters in remote areas often hold an Indian's welfare check until the Indian has rolled up credit purchases equal to the check's amount. They then force the Indian to sign the check over to them, the study said.

Sam Day, the enthusiastic assistant director of the tribal resources division, sees one way out of the tribe's pinch—tourism. The Navajo country has an almost surreal beauty, with the land rolling out into vistas of 50 miles or more, broken only by reaches of mesa that glow red in the twilight. The tribe runs five-day bus trips around the reservation, but this brings in only $58,000 a year, not counting money earned from the sale of rugs and silver craft items.

BIG TOURISM DEVELOPMENT UNLIKELY

Mr. Day has designated several areas as prime tourist spots, and he figures it would cost the tribe $10 million to $15 million to develop these. He asserts it would be worth it. "As long as you have these traps," he says, "tourists would step into them. If it wasn't for tourism, Florida would still be a pile of white sand." But the Tribal Council is unlikely to come across with the money.

One reason is the tribesman's distrust of the white man and his almost mystical attachment to the land, which he considers a supreme gift of his gods. "Our people do not like all these tourists coming around," says a senior member of the Tribal Council.

If not tourism, what about agriculture? The grandly conceived Navajo Irrigation Project, planned to water 110,000 Navajo acres by 1975, has not yet been fully funded by Congress, and no one is sure when or if it will be completed. In any case, it would be many years before the land could be producing at capacity even if the project were finished next week. Also, the pastoral Navajo have not farmed extensively for decades.

WHITE MAN SPEAK WITH . . .

That leaves industrial development, one of the areas where the division between the progressives and the traditionalists has been deepest. Navajo Forest Products Industries and the Navajo Utility Authority are the only significant tribally owned enterprises, providing a total of only a little over 600 jobs. The only sizable outside employers are two electronics plants, which employ about 1,000 Indians, mostly women. Other, smaller plants have come and gone, some of them marginal operations whose departure has left the Navajo bitter. "There has been too much exploitation by people who have come and gone and talked from the corners of their mouths," says George Schmidt, the tribe's director of economic development.

The Black Mesa strip mine of Peabody Coal Co. employs some Navajo now and will eventually have jobs for a few hundred when it's in full operation several years from now. Part of the coal will go to a Navajo power plant being built on the reservation. But the mine is an object of bitter controversy. A group of Navajo and Hopi (who occupy a small, fan-shaped reservation surrounded by Navajo lands and lands for joint use of both tribes) consider the mine a desecration and have joined in legal action to halt its operation.

Progressives want mining to go on, though they would like higher royalties. "If the Navajo shut down Black Mesa," says Mr. Schmidt, "What are they going to do with all that coal? Eat it?"

Cultural fragmentation continues as well, evidenced by a decline of one of the most important facts of Navajo life—the traditional religion, an intricate structure based on "walking in harmony" with nature and the spirits that inhabit the land. Key ceremonies—and the religion itself—are being slowly killed by the death of old medicine men, and there are few young men willing to go into the profession—in part because it takes up to 10 years to learn just one of the 36 different ceremonies.

THE NATIVE AMERICAN CHURCH

There are some attempts under way to preserve Navajo traditions and at the same time better train the Indians to cope with the modern world. The Native American Church, a Christian church that exists in semi-secrecy (its total membership is impossible to gauge), incorporates traditional Navajo mysticism into its Christian ritual.

Both Navajo Community College and Rough Rock Demonstration School, an elementary and high school, teach the Navajo language and traditions along with conventional subjects. This is in sharp contrast to the old BIA-operated boarding schools, where Indian youngsters once were punished for speaking their native tongue.

But many Navajo believe it is possible to retain the best of both worlds. One is Peterson Zah, assistant director of the tribal legal services organization, and somewhat of a militant in a traditionally unmilitant tribe. (When activist actress Jane Fonda recently visited the reservation, she had trouble gathering a crowd and left shaking her head in dismay.)

SKEPTICISM REMAINS

"My grandfather taught me our religion, our culture, our language," says Mr. Zah. "These three things keep you strong. Give me these and you can throw me into the mainstream. I will float. I will never drown." Frankie Paul, tribal operations officer for the BIA, says: "We will always have our mutton stew and our color, and we will always think Indian."

Tribal Chairman MacDonald knows that his success or failure hinges largely on how effectively he can work with the BIA. Like most tribesmen, he is still skeptical about the bureau, despite its Indianization and its professed new approach.

But he knows that the alternative to working with the BIA—going it alone without the tax-exempt trust status that federally administered reservations have—is hardly viable. The word for this process is termination, a grotesquely apt label. In the early 1960s, the Menominee tribe in Wisconsin was terminated. Once fairly well off, the Menominees were immediately hit by property and other taxes. Lacking a strong economic base, unable to pay the taxes and other costs they were once exempted from, the Menominees were plunged into almost immediate poverty and have been forced to sell off some of their lands to survive.

"So no matter how bad this BIA horse turns out to be," says Mr. MacDonald, "we are going to ride it around."

A COLLEGE FOR ALL THE PEOPLE

Mr. PERCY. Mr. President, some of this country's most exciting education action is taking place in Illinois today. Illinois, along with States like California, Texas, Florida, and New York, is trying to bring community colleges within the reach of all its citizens.

The public community college movement in America began in Joliet, Ill., where in 1901 the first 2-year public college opened its doors. Since then, fifty-six 2-year colleges, public and private, have sprung up around the State, placing Illinois near the top of national leadership in the community college movement.

Nationally, community colleges, an often slighted younger child in the family of American higher education, came of age in the fall of 1969 when, for the first time, they enrolled more freshmen than did 4-year institutions. In a decade of phenonmenal growth and expansion, enrollment in community colleges has risen from 600,000 students to about 2½ million, or 30 percent of all American students in higher learning.

The new public community college has demonstrated that it is best equipped to extend and expand educational opportunities in our country. Its "open door" policy, modest tuition and accessibility make it a major mechanism for bringing blacks and other minorities into the mainstream of American society. Its comprehensive curriculums may provide a new direction in urban education as well as offer promise in vocational and technical training and cultural and academic remedial education. As the Carnegie Commission on Higher Education reported:

> Community colleges offer more varied programs for a greater variety of students than any other segment of higher education.

Today, I would like especially to commend Triton College, designated by the Chicago Tribune as Illinois' "model junior college" and by the Pioneer Press newspapers as "a college for all the people." Triton, the first 2-year institution built under the Illinois Junior College Act of 1965, has become the largest junior college in the State with an enrollment of over 12,000. One out of every 10 residents in Triton's district has taken at least one course at the college. Thus, Triton truly exemplifies the spirit of the new public community college, dedicated to community service and geared to local needs. Mr. President, I ask unanimous consent to have printed in the RECORD the Chicago Tribune and Pioneer Press articles giving much deserved praise to Triton College.

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

[From the Pioneer Press, Sept. 15, 1971]

FOR ALL THE PEOPLE

In its first seven years of existence, Triton College has become the largest junior college in the state and one of the most important institutions in the 15 communities in its college district.

Triton has the largest enrollment among Illinois junior colleges, 10,473 students in 1970, and its campus is considered to be the most fully developed community college plant in the state.

The primary reason for the top ranking in size and for the extent of service to its communities is that the Triton School of Career Education is as large as either the School of Continuing Education or the School of University Transfer Studies. In fact, the Triton enrollment is almost equally divided among the three schools, indicating an ideal balance for a community college.

Triton's impact on the west suburbs is reflected in the most incredible statistic of all—one out of 10 residents in Triton district 504 has taken at least one course at the college.

The Elmwood Park High School District voted against a referendum to create the Triton district, but the referendum carried due to pluralities in the Leyden and Proviso high school districts.

Last year, 862 students from Elmwood Park attended Triton. Only Maywood sent more students to the college. Not coincidentally, Elmwood Park ranks second to Maywood in population among the 15 communities. This relationship between Triton enrollment and community population generally carries throughout the district, meaning that the college serves all communities equally.

And Triton is a top provider of such community services as cultural arts programs, workshops, seminars, and lectures by prominent people.

Triton also serves a large number of out-of-district students whose high school districts make payments to the school to parallel the property taxes that District 504 residents pay.

As Triton's President Herbert Zeithin pointed out in a recent interview with the Pioneer Papers, large out-of-district enrollment is a key reason Triton can offer such a wide variety of courses, particularly in the School of Career Education. The district property tax rate has never increased.

"In reviewing our seven years of progress, we realize that we're making it—we are fulfilling the goals set at the beginning," said Jerome Long, Triton director of community services, at a press luncheon last week. "Now we can sit down and plan for the future," he added.

Much planning is already completed. Student enrollment is expected to climb steadily to 20,792 in 1979. The college is working on plans to construct the final four buildings on campus, each of which will result in an even wider variety of course offerings.

Triton officials and district voters cannot plan for future development alone because the junior college district, like elementary and high school districts, is a creature of the state legislature. Forty-two percent of Triton's income comes from the state, and action in Springfield can change the course of expansion or curriculum emphasis.

A bill has been introduced to make it easier for high school districts to annex to a community college district. Despite its already high out-of-district enrollment, Triton's enrollment no doubt would exceed projections.

There is a strong possibility that the state will increase from 15 to 30 the percent of curriculum which must be devoted to career education. Triton meets the 30-percent requirement easily, but this legislation shows how dramatically curriculum emphasis can change.

We hope that Triton will be able to follow its path of progress, which has worked so well for seven years, even if the district boundaries change. Triton has fulfilled the claim of its officials. It is truly "a college for all the people."

[From the Chicago Tribune, Sept. 17, 1971]

TRITON—STATE'S MODEL JUNIOR COLLEGE

(By Kit Dower)

Seven years ago, about the time citizens and politicians were having an unusual tug-of-war over control of Triton College District 504, educational surveys predicted that the college would have as many as 4,300 students in 1971.

Triton opened for 1971–72 Monday with more than 11,000 students and the "wild-spending educators" the politicans were trying to save people from having built the most extensive junior college on a central campus in the state—at less than the allowed maximum building cost and with a balanced budget.

Triton, which officially celebrated its seventh birthday June 30, is the first junior college built under the Illinois Junior College Act of 1965 and is considered by many to be the model for junior colleges thruout the state.

Because it was the first campus built, the college attracted bidders on original construction and equipment at lower costs because contractors were anxious to be associated early with the junior college movement, Triton officials say.

The modern, three-story "steel skin" buildings on the River Grove campus were designed by John Fox, of Fox and Fox, 30 N. La Salle, Chicago. Only four buildings of 14 called for in the district's master plan remain to be built.

But it is not only the physical plant that makes Triton a "model" and a desirable merger partner for high school districts.

Triton advertises itself as a "public community college and technical institute for all the people" and credence is given to the claim by an enrollment breakdown. One-third of the students are adults who take noncredit courses for their own enjoyment; another third are enrolled in career programs; and a third are in university-transferable studies.

One of every 10 district residents has taken a course at Triton and out-of-district students in nearby high school districts choose Triton over other public junior colleges.

In the school of continuing (adult) education, there are 250 classes offered. Courses range from blueprint reading to sewing with classes at the campus, and at in-district industrial plants, businesses, and community centers; and at extension centers in nearby high schools and elementary schools.

In the school of career education, there are 52 programs such as air conditioning and refrigeration, or fire science.

There are 20 departmental units for university transfer studies and the quality of instruction is at least as good as and "perhaps better" than at the state universities because the school does not employ graduate students as instructors, officials say.

The school's 222 full-time teachers have a "contract package envied by most junior colleges in the states," according to Louis Maze, president of the teachers association. "There is no groaning here," he said last week. The faculty has a democratic voice in the operations of the school that would not be allowed at other institutions, he said.

Beginning Triton teachers with a master's degree are paid an annual salary of $9,284.

Triton officials say they have no plans to expand into a four-year college for two reasons—the first is that they depend on state funds for construction and some operation revenue (which they would lose if they ceased to be a two-year junior college), and second because the "educational experience" at Triton, distinctly different than at a four-year school, is what gives the school its identity.

Triton's district, at 43 square miles, is the second smallest in the state, altho it ranks seventh in assessed valuation. It comprises the Leyden, Proviso, and Elmwod Park High School Districts, and residents of those areas approved referendum proposals in 1965 and 1966 that enabled the district to meet its financial obligations.

Altho Triton has operated in the black for seven years, the recent veto by Gov. Ogilvie of a state reimbursement rate to $19 per semester hour (an increase of $3.50 from the present $15.50) creates a deficit in the Triton budget of about $433,000.

The board approved an operating budget of $7,881,835 last week, a budget "cut to the bone," according to Richard Francetic, acting vice president for business management. If the General Assembly upholds Ogilvie's veto in October, it is expected that a working cash fund will be created in the district. A total of $1,375,000 was included in the budget for that purpose.

Last week Francetic announced a reduction in per student costs made possible because of increased enrollment and better classroom utilization The cost per student dropped from $1,512 to $1,457, and cost per semester hour from $50.40 to $48.58. This reduction is passed on to school districts not in the Triton district, which will now be billed $26.08 per semester hour in charge-back fees, down from $29.90.

Tuition fees, state funds, and taxes assessed in-district residents are Triton's means of financial support. Residents pay 15 cents for $100 assessed valuation to Triton.

Triton College, when completed, will cost $34 million. The chief economic task, say officials, is "seeking the best balance" among the three sources of income.

Their chief educational aim is to keep Triton the "people's college" it has been during these seven "boom years."

THE GENOCIDE CONVENTION AND THE FIRST AMENDMENT

Mr. PROXMIRE. Mr. President, one of the crimes defined in article II of the Genocide Convention is "direct and public incitement to commit genocide." The fear has been expressed that if the Senate ratifies the Genocide Convention Americans will lose their right of free speech.

This is not so.

The U.S. Supreme Court in *Brandenburg* v. *Ohio*, 395 U.S. 444, held that the first amendment guarantee of free speech does not protect speech which is both intended to and is likely to produce unlawful action. Incitement is defined as action that is directed to producing imminent lawless action and is likely to produce such action.

This ruling by the Supreme Court is entirely consistent with the intent of the framers of the Genocide Convention in article III. There is no way in which our adherence to the Genocide Convention will abridge or threaten the right of free speech in the United States.

Mr. President, I call upon the Senate to ratify the Genocide Convention with all deliberate speed.

GAO REPORT ON TUBERCULOSIS DRUG

Mr. RIBICOFF. Mr. President, the results of a GAO investigation I am releasing today reveal that the Federal Food and Drug Administration and the Public Health Service's Center for Disease Control have failed to supervise properly the development and use of isoniazid, a drug for treating and preventing tuberculosis. As a result, several patients have died and the health of numerous others has been threatened. In addition, this study raises serious questions about the adequacy of Federal programs for the use of investigational drugs. Since 1952, doctors have used isoniazid to treat patients who have tuberculosis. Isoniazid has also been given, since 1955, to people who do not yet have tuberculosis to help prevent its onset.

Early in 1970 several cases of tuberculosis were discovered among workers in congressional cafeterias and restaurants. The Communicable Disease Center—CDC—is part of the Public Health Service in the Department of Health, Education, and Welfare. As part of its responsibility to treat and prevent communicable diseases, the CDC decided to undertake a preventive isoniazid program among congressional employees. Skin tests were given. Those with positive results were given isoniazid in 300-milligram tablets even though very few of those who show positive results on the skin test actually have tuberculosis. Statistics show, in fact, that only one out of every 1,400 people who has a positive reaction actually has this disease.

The Capitol Hill program was a disaster. More than twenty persons treated with isoniazid developed hepatitis. Two of those treated, Timothy Bleck, a reporter for the St. Louis Post-Dispatch, and Robert Stuckey, a television newsman, died of hepatitis after taking isoniazid.

As a result of this incident, I asked the GAO to investigate the manner in which the 300-milligram isoniazid tablet was developed. They found a shocking example of neglect, a total and knowing failure by Federal agencies to abide by legal requirements and a permissive attitude about the use of people as the subjects for medical experiments.

According to the GAO, isoniazid was originally given to patients three times a day in 100-milligram tablets. Doctors at the Communicable Disease Center searching for an easier way to administer the drug, began to have patients swallow the three 100-milligram tablets all at once every day.

The Public Health Service doctors next sought to develop a single 300-milligram tablet that could be used in preventive programs. In order to experiment on people with a 300-milligram tablet the doctors needed an FDA exemption for the investigational use of this drug on human beings. The FDA exemption was required regardless of the fact that the smaller 100-milligram tablet was already in use. When the dosage of a drug is increased, FDA regulations treat the larger dosage as a new drug and require separate approval.

In November 1964, officials at the Communicable Disease Center—CDC—asked for permission to start investigational use of a 300-milligram tablet. The FDA informed the CDC what information would be required before experimental use of the drug on people could begin, including all available data derived from animal tests as well as from clinical studies and experience with the drug. An outline of the planned investigation was also required.

CDC supplied virtually none of this required information to the FDA. Instead, CDC doctors started an accelerated experimental program on a wide range of human subjects—over 6,000 people—between 1964 and 1970.

FDA regulations divide investigational testing procedures into three phases. Phase 1 covers the first trial in man to determine human toxicity and other reactions. Phase 2 covers pharmacological trials on a limited number of patients for purposes of specific disease control. Finally, the investigators may move to phase 3 where the drug is used on a group of patients to evaluate the drug's safety and effectiveness.

Contrary to those established procedures, CDC skipped the first two phases altogether and moved immediately to tests on groups of patients. FDA never knew what happened to the 6,000 people CDC was experimenting with—even though the agency is required by law to evaluate the results of all testing programs—because CDC never told the FDA anything about its results. This failure is all the more disturbing in view of the fact that on two occasions the FDA requested such information and the CDC promised to supply it.

The FDA's own records contain ample evidence that the agency was fully aware of the inadequacies of the data CDC had submitted. For example, an FDA chemist's evaluation dated December 28, 1970—more than 6 years after CDC had started investigational use of the 300-milligram tablet and more than a month after Bleck and Stuckey had died—contained the following evaluation:

Labeling—unsatisfactory.
Components and Composition—unsatisfactory.
Synthesis—unsatisfactory.
Raw materials controls—unsatisfactory.
Other ingredients—unsatisfactory.
Laboratory controls—unsatisfactory.
Control number—unsatisfactory.
Stability—unsatisfactory.

Even with this report, FDA had not moved either to obtain the missing information from CDC or to stop the investigational programs.

The FDA Division Director told GAO investigators that the FDA had been unable to give appropriate attention to the isoniazid application at the time of the CDC request for exemption in 1964 because of the heavy workload resulting from the 1962 drug amendments. No reason was given to explain why the FDA had still not collected the required information more than 6 years later.

FDA officials also stated to the GAO that the failure of CDC to submit the data amounted only to a "technical violation." Even if there had been reports to the FDA of hepatitis or jaundice in experimental programs, the FDA officials said they would not have been concerned because hepatitis and jaundice were well-known dangers even in smaller doses and could be expected to occur at least as frequently with the experimental larger table. Apparently, the greater the likelihood of danger, the less the FDA was concerned with protecting the public.

Even the FDA's negligence is exceeded, however, by the CDC's disregard for the human subjects of its medical experiments. As noted, the CDC ignored its statutory obligations and disregarded the FDA's requests for information about its treatment programs. Had it reported on those treatment programs, it would have had to admit that, even before the Capitol Hill test, two patients treated with the 300-milligram tablet had died of hepatitis.

Perhaps most surprising, however, was the manner in which CDC conducted the Capitol Hill program. Many persons who were given the drug were told by CDC doctors there would be no side effects. One patient remembers a CDC official describing the drug with the phrase, "as safe as aspirin." Another patient described an orientation session at which a CDC doctor refused to answer questions about side effects, stating if he described them then "everyone might come down with them."

Attempts to monitor results were haphazard and inept to the extent they existed at all. CDC officials seem to have behaved as if they were unaware that they were dealing with a potentially dangerous drug.

Throughout the program, the rights of the patient were ignored. A patient who actually has tuberculosis may be willing to run certain risks of side effects from a drug which can help cure him. But a patient who merely has a positive reaction to a test which only establishes that he has one chance in 1,400 of actually having tuberculosis may well decide that the risks of using the same drug may be excessive. At the very least, a patient should know what risks he is running and be able to make this choice.

The FDA and the CDC have committed appalling mistakes in the use and the regulation of isoniazid. I am concerned that what we have discovered about isoniazid may be only the tip of a massive iceberg of bureaucratic neglect. I am therefore asking the GAO to undertake a comprehensive investigation of all drugs approved by the FDA for investigational use, with special attention to be given to drugs approved for such use in 1964 and 1965.

We urgently need to test and develop new drugs. At the same time, there is an equally pressing need to be sure that drugs used on human beings—especially investigational drugs—are safe. The fact that a drug is approved only for investigational use is no assurance that it is not being widely distributed and used.

Those taking an investigational drug have a right to be protected; they are not rats in an experimental lab. We have to depend for much of this protec-

tion on Federal agencies charged with that task. The very least we can ask of these agencies is that they observe the regulations they themselves have established.

THE 26TH ANNIVERSARY OF THE UNITED NATIONS

Mr. HUMPHREY. Mr. President, as we mark the passing of the first quarter of a century in the history of the United Nations, we could raise glasses high in salute of the fact that the U.N. is still standing.

Or we could list past failures and paint a dismal picture for the future based on the inadequacies which events of the past have demonstrated all too vividly.

But I happen to believe that the best way to celebrate is to take a critical view of the United Nations in an attempt to determine what conceivable role it can have in the future.

The Charter, when it was first written 26 years ago, was based on assumptions that grew from the trying experience of World War II and, to a lesser extent, from the aftermath of World War I.

We, that is the United States as one of the original and principal founders of the United Nations, were devising a system based as much on past configurations as on the future.

The principles of that system were designed to be a lasting and effective rebuttal to all governments and forces which debased human dignity and fostered international strife.

The goals were herculean. But the means as set out in the charter could not possibly service such goals adequately.

Put another way, as our former ambassador to NATO, and vice chairman of the United Nations Association—U.S.A., Harlan Cleveland, has said:

> The trouble with the United Nations is that it became indispensable before it became possible. Our problem now is to make it a practical proposition.

This is precisely the problem. We do not have to tamper with the goals, all of which are tributes to human intellect and sensitivity, any more than we have to rewrite the preamble of our Constitution.

But we should concentrate on revising and reforming the structure in order to make it a practical proposition to make it responsive to the changing order of our international society.

How to best characterize that changing order? We have witnessed rapid technological change, interdependent and integrated economies, tremendous population growth, ecological alterations, and a lowering of the threshold for the rapid internationalization of conflict.

All these developments spell the decline of the nation state and make ever more necessary an effective international organization. Interdependence has become the fact of our time.

If this stage in international political development is not perfectly clear, one only need look at specific examples to realize the full portent of where we stand today.

The most recent example that I can think of, of interdependence, is the international monetary crisis. In my estimation the present situation is an outgrowth of several nations' economic policies.

The repairing of present circumstances, both commercial and monetary, can only be done through international cooperation and coordination of policies.

Many will say that the dollar has faced trouble and adversity before, but with guts, jawboning, and national inventiveness, we will see our way out in flying colors. This is only wishful thinking.

It is not just a question of the dollar facing a challenge and when we legislate certain measures. Everything will turn out just right.

On the contrary, the dollar we now know has become what it always should have been—an international unit of exchange. It only has value in terms of what foreign consumers as well as our own people give it. And it is a means of translating our own production position.

Here, the link is obvious for we simply cannot produce without the inputs from other nations.

In short, our economy is international and, therefore, the institutions we devise to regulate the economy must also in large part be international. To take another, more painful and still blistering example, there is Vietnam. We thought, as did the Soviet Union, that we could localize this conflict and resolve it ourselves. Well, history proves that this was a fallacy.

Vietnam has become a sore point for the entire international community and has obstructed forward momentum in many areas which are ripe for international agreement and cooperation.

Or, another defense matter, there was a time that national defense systems, if ever unleashed, could at the worst affect only the warring parties.

Now, with nuclear weaponry, there is no doubt that the firing of nuclear missiles threaten the entire earth.

What, then, could be more demonstrative of the clear need for an effective international organization to help initiate and systematize international decisionmaking, based on international consensus.

While highly critical of past failures, Secretary General U Thant in his latest annual report on the work of the U.N., stressed the essential place which the U.N. holds for the future maintenance of international peace and security.

He emphasized that—

> At this stage the United Nations system provides the best available and workable method by which nationalism and national sovereignty can evolve in order to keep pace with the vast changes that have made the nations of the world interdependent. The United Nations as a global organization has a vital role to play in the new breed of worldwide mass phenomena which we are now, almost helplessly, witnessing.

If it has a "vital role," as it undeniably does, and yet if it is inadequately equipped to meet the demands which we would like to place upon it, then the focus of our attention on this 26th birthday should be on revitalizing the United Nations institutionally and spiritually.

Spiritual vitalization is the most difficult because it involves the intangible of commitment which no revisions in the charter or additional legislation can create.

Commitment is the stuff of society, be it national or international, and without it we are lost.

Although we cannot define it in precise terms, we can identify it when it is there. We know that the flying of the U.N. flag alongside the State flag in Minnesota is commitment; we know that "major power" financial obligations in arrears is not; joint peacekeeping efforts are. The refusal to settle international conflicts under international auspices is not.

An ounce of commitment can go a long way. If there is a minimum of spiritual support for the United Nations, which I believe there is, then it can be maximized through institutional reforms which in turn engender further support.

After 26 years, we have reached the cold realization that there are institutional inadequacies which help to account for past failures. But, also, I think there is a discernible willingness, such as never before, to reform the structure and system of the United Nations.

During the 25th anniversary celebrations the General Assembly passed a resolution requesting member states to make their views and suggestions on the review of the U.N. Charter known to the Secretary General.

Accordingly the President set up a U.N. commission under the chairmanship of Ambassador Lodge to make a report on this very question.

At the same time several independent studies, including reports by the United Nations Association—U.S.A., and the Senate Foreign Relations Committee, were published. Together these reports form a tight weave of suggestions for necessary institutional reform.

If the maintenance of international peace and security are still the main goals of the United Nations, then bold new initiatives must be undertaken to upgrade and strengthen the peacekeeping and disaster relief capabilities of the U.N.

While the United Nations Emergency Forces have played a most effective part in staving off a confrontation between the Turkish and Greek communities in Cyprus, the record of the UNEF in the Middle East is far less illustrious. As a start, the United States could earmark specialized units within its own defense forces to be made readily available for U.N. peacekeeping efforts. In a similar fashion military equipment could be made available.

Before resorting to the use of force in the defense of peace, the U.N. Charter offers a number of procedures for pacific settlement of international disputes. These could be expanded.

For example, investigatory and mediation procedures could be greatly improved, especially in the field of arms control and disarmament.

For those cases following the formal judicial route, more accessibility and a comprehensive definition of jurisdiction would greatly change the stature and functioning of the World Court.

The United States could begin the movement for reform by ending the Connally amendment which has severely limited the jurisdiction of the Court.

I introduced legislation which would repeal the Connally amendment as early as 1959 and again this year.

At the same time, we could make every effort to incorporate into treaties provisions which would explicitly accept the jurisdiction of the Court.

With respect to economic, social, and environmental questions, great advances must be made if we are even to approximate the goal of promoting "social progress and better standards of life" for all nations.

Here, the United States can lead the way by programing more of its foreign assistance through the multilateral agencies of the U.N.

It could also prepare a concrete plan for the establishment of a U.N. Commission on the Environment.

This plan could be worked out in detail, as I have suggested in another piece of legislation which I introduced this year in the Senate, at the U.N. Conference on the Environment in Stockholm.

Perhaps the most important and by far the most difficult reforms must be in terms of organizational and structural changes.

While the General Assembly has developed into an extremely important organ of the U.N., it is often paralyzed by the frequent failure to agree, something which is most understandable considering the fact that there are 130 member states, large and small, represented.

Every attempt should be made to preserve the openness of the General Assembly while at the same time giving due recognition to the varying degrees of power and influence that individual nations have.

Some system of weighted voting within the General Assembly would be extremely helpful in translating the realities of present international political relationships.

The latest efforts of the United States to offer a seat on the Security Council to mainland China should certainly be considered as part of this reform drive. But if the intention is to make the Security Council the vehicle for international understanding and compromise by the major powers, it must include all the major powers.

With the seating of China I would suggest that Japan and India be extended the same offer. Certainly Japanese representation is totally consistent with the goals of the U.N. and with historical precedent. Japan was, after all, an original member of the Council of the League of Nations, and is today the third most wealthy nation in the world.

I have just provided what can only be considered an outline of reform.

In each instance I have singled out the United States and made suggestions with respect to its U.N. policies. This bias is out of habit and necessity.

The United States was the first great power to propose a workable system of world government. Then, as it got older, it neglected its offspring and tried it along with such tactics as "brinksmanship" and "gamesmanship." Now I think we are discovering how unsuccessful this choice of tactics can be. We are maturing by realizing the limits of our own power.

I would intend that other great powers may be reaching the same stage of consciousness. True or not, the United States should be prepared to inspire the commitment and the institutional reform which can launch the United Nations into another quarter century, stronger than before, more equipped to deal with the complexities of a new age—an age of true internationalism.

PROPOSED EQUAL RIGHTS AMENDMENT

Mr. FULBRIGHT. Mr. President, on September 30, 1971, the Governor's Commission on the Status of Women of the State of Arkansas adopted a resolution with respect to the proposed equal rights amendment.

I ask unanimous consent that two letters expressing the Commission's views be printed in the RECORD.

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

GOVERNOR'S COMMISSION ON THE STATUS OF WOMEN,
October 5, 1971.

Hon. J. W. FULBRIGHT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: At our meeting on September 20, 1971, the Governor's Commission on the Status of Women adopted the following resolution with respect to the proposed Equal Rights Amendment:

"Whereas, passage of the Equal Rights Amendment is necessary to provide equal opportunities for women and men, and

Whereas, there can be no equal rights without equal responsibilities,

Now therefore be it resolved, that the Arkansas Governor's Commission on the Status of Women does hereby recognize the necessity for a constitutional mandate to assure equal rights for women and men, and urges the Congress of the United States to pass the amendment in its original form, without amendments, and upon such passage, that the Arkansas General Assembly be and is hereby urged to ratify it speedily."

We also passed a resolution strongly urging the President to appoint a qualified woman or women to fill one or both of the existing Supreme Court vacancies. Since Supreme Court nominations are submitted to the Senate for approval, we thought you would be interested in the enclosed copy of our letter to President Nixon.

Sincerely yours,

DIANE D. KINCAID.

GOVERNOR'S COMMISSION ON THE STATUS OF WOMEN,
October 5, 1971.

HON. RICHARD M. NIXON,
President of the United States,
Washington, D.C.

DEAR MR. PRESIDENT: At our meeting on September 30, 1971, the Arkansas Governor's Commission on the Status of Women adopted the following resolution:

"Whereas, there are two existing vacancies on the United States Supreme Court, and

Whereas, there are many eminently qualified women trained in the law who could serve the court and the country with distinction, and

Whereas, the Arkansas Governor's Commission on the Status of Women advocates the placing of women in positions of leadership and responsibility,

Therefore be it resolved, that the Arkansas Governor's Commission on the Status of Women hereby strongly urges that President Nixon appoint a qualified woman or women to fill one or both of these vacancies."

Respectfully,

DIANE D. KINCAID.

FAA: CALLOUS DISREGARD FOR AVIATION SAFETY

Mr. HARTKE. Mr. President, recently I spoke of the need for a complete reorganization of the Federal Aviation Administration. My comments were made almost 1 year to the day after 32 people died in the crash of a plane leased by Wichita State University.

The report of the National Traffic Safety Board makes it clear that the cause of that crash was poor pilot judgment. The pilot of the downed aircraft was a mechanic who had a pilot's license and the necessary rating to fly the plane. The copilot was the president of a company which provided Wichita State with the aircraft crews. He did not have the necessary rating to fly the plane. It was the poor judgment of these two men which took that plane into a mountain valley from which it could neither climb nor execute a successful course reversal before hitting high terrain.

In response to this crash, the FAA issued a Notice of Proposed Rule-Making—70–41—which would have required all charter aircraft to meet commercial aircraft standards. These standards apply not only to inspection and maintenance of the aircraft, but also to the proficiency of the crew and the financial responsibility of the operator. Had commercial standards applied to charter aircraft prior to the Wichita State crash, 32 people would be alive today.

Tragically, the FAA chose the anniversary of the death of those 32 people to announce that it was rescinding its proposed rule—70–41—and offering a new one in its place. This new rule—71–32—would subject charter aircraft to commercial standards of inspection and maintenance only. No crew proficiency or financial responsibility standards will be imposed on charter aircraft in excess of those which were in effect prior to the Wichita State crash.

Mr. President, this is a callous disregard for the safety and well-being of the millions of Americans who fly in chartered aircraft. I find it incomprehensible that the Government agency charged with promoting safety in the Nation's air system can fail to implement minimum safety requirements for chartered aircraft. I can only speculate on the reasons for the FAA's policy reversal. Whatever the specific cause, the new proposed rule is ample proof that the FAA gives greater weight to certain irresponsible segments of the aircraft industry than it does to the best interests of the general public.

How many more crashes will it take? How many more lives will be lost needlessly? How many more investigations will be undertaken before the Federal Aviation Administration recognizes that

its first responsibility is to the public and the pursuit of this responsibility requires dynamic leadership and a firm commitment to aviation safety?

NEW LIFE FOR RURAL AMERICA

Mr. CRANSTON. Mr. President, on September 26, 1971, an article appeared in the Opinion Section of the Los Angeles Times authored by the distinguished Senator from Minnesota (Mr. HUMPHREY) entitled "A Plan for Breathing New Life Into Rural America." I commend the article to the Senate.

The article reveals again the foresight and initiative characteristic of the junior Senator from Minnesota. As chairman of the newly established Senate Subcommittee on Rural Development, Senator HUMPHREY has given us all new insight into the essential elements of a "balanced national growth policy" for the future development of our Nation's human and economic resources.

It is estimated that, within the next 30 to 40 years, another 75 to 100 million people will be added to our total population. This rapid population increase requires that we plan now how to meet the basic needs of our future population. Since returning to the Senate, Senator HUMPHREY has clearly demonstrated his understanding of this as well as an unusual sensitivity to the needs of rural America.

Mr. President, 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:

A PLAN FOR BREATHING NEW LIFE INTO RURAL AMERICA

(By Senator HUBERT H. HUMPHREY)

In the short period since World War II, the population of the United States has grown by 55 million people. The value of the goods and services we produce has grown from $280 billion a year to nearly $1 trillion. The two-home family is becoming nearly as commonplace as the two-car family.

On the other hand, 3 million farms have disappeared in the technological revolution that is still sweeping agriculture. More than 30 million people have abandoned the small farms and towns for the cities, so that 75% of our people are crowded onto less than 2% of the land. Twenty-five per cent occupy all the rest—many of them in lonely decline—while city residents live in overcrowded disorder.

The result of all this movement has been a national crisis of the environment, which in many respects lies at the heart of all the talk about ecology.

This problem of the changing relationships between the people and the land has festered the social and economic sores which have erupted around us.

If the trend to megalopolis continues, in the next 30 years 100 million more Americans will be crammed into the big cities where 150 million are already living. If these 100 million new Americans were to live in newly created communities, a city the size of Portland, Oreg., would have to be created every 30 days over the next 30 years.

We have become a troubled nation. We are vaguely aware that we could have shaped our society with consideration for resources, people and space, demanding quality as well as quantity.

Instead, we have rushed after something we call "progress," piling more and more people into less and less space.

These trends can be stopped, or at least slowed down and possibly reversed. Certainly a nation which has explored outer space for a decade can muster the energy and technology and the will to create a life here in our country that offers opportunity and decent living conditions for all.

But the land, as space to live on, is taking priority over the old idea of the land as something to be exploited no matter what the consequences. The changes that will be necessary must be based on nation-wide geography and not just political geography. We must head toward a rural-urban balance—a healthy balance between the people and the land.

The fact is, we have space to spare. But it is time now to stop acting as though it were a limitless resource. Government—all levels of government—must begin planning together. We must begin to do those things which will influence our nation's growth in a more orderly way—in a way designed for people, rather than expediency.

We must design a national growth policy that will have as its central premise the relationship of people to land, water, air and resources. There must be a healthy balance that permits people to live in harmony with their environment.

We must establish the right of all people to have a realistic choice about where they will live and work—not a choice dictated by politics or economics.

This means that young people will not be forced, as they are now, to migrate to metropolitan areas because there are no jobs at home. This means that people who may want to live in small towns can expect to find good schools for their children, a decent transportation system, and the best of medical care and medical facilities.

This means new industries, modern social services and cultural activities. It means that Americans should be able to enjoy all the benefits of life, liberty and property not only in big cities, not only in suburbs, but all over America.

A century ago, "Go West, young man" was not a tourist travel slogan. It was a firm national policy designed to serve America's best interests.

Accordingly, the federal government gave incentives to settlers—the Homestead Act. And the federal government gave incentives to railroads to open up the West. Large land grants to the railroads made some people millionaires who probably didn't deserve it, but they did provide highways of steel to take people in and bring the crops out.

And just a little more than 100 years ago the federal government encouraged the growth of higher education in the Midwest and West by establishing the Land Grant College Act. The government was concerned with everyday necessities of life as well: In 1896 a federal act established the Rural Free Delivery service.

And then, for some reason, we stopped. As farming became more mechanized in the early decades of the century, as Americans tumbled into cities and then out of cities and into suburbs, just when we needed a population policy—we stopped.

We must develop a long-range population policy in the United States to bring vitality back to rural areas. We already have a number of laws on the books providing for federal assistance to rural America, and progress is being made in some areas. But we have yet to look at the problem in terms of an overall solution.

We have yet to consider our urban and rural problems in the light of a need for a national growth policy—a national plan to achieve rural-urban balance.

It seems that concern for rural segments of our population is the lowest priority item in the national budget. In the past, Congress has adopted a number of prorgams in the name of rural development, but all of them are inadequately funded.

Accordingly, we must establish major new sources of financial assistance for the development of rural America—financing for business and industrial development, for new payrolls and new jobs, for better schools, for medical centers and hospitals close to the people for parks and recreation areas, for improved transportation systems, for day care facilities, museums and cultural centers, for desperately needed housing.

And much more: industrial parks, water and sewer systems, waste disposal plants, community colleges, rural slum clearance, streets and highways, police and fire stations, and libraries.

Two steps should be taken to allow these developments to occur: First, the Department of Agriculture should be reorganized to insure a major emphasis on financing farm credit and nonfarm rural development requirements. Second, rural credit should be expanded by making it available to private and public borrowers unable to get credit from commercial sources for rural development purposes.

An initial subscription by the government could be $2 billion in 10 annual payments averaging $200 million. This would enable the system to issue about $2 billion to $3 billion a year in debentures and bonds in its early years, increasing to a potential of $10 billion to $20 billion a year when it is in full op ration and when full or partial borrower-owned status is achieved.

This is not a proposal merely to bail out a community or a business or a farm that is on the precipice of disaster. We already have laws that help businesses and institutions in such circumstances.

This program is designed for long-term, constructive, orderly development of America. America needs a development program just like the ones through which we are helping other nations in the world.

Our own big cities and suburbs are in trouble. And while they try to deal with the problems of yesterday, hundreds and hundreds of people from rural America get off the buses today, putting pressure on already overloaded urban systems and adding to welfare rolls.

We know that if there is to be a healthy, productive, prosperous and free America, we must rejuvenate, revitalize and modernize the vast areas of rural America.

I don't plan to start a massive back-to-the-farm movement, but we must give the young people who are still growing up in rural areas some reason to want to stay home. If we can develop the industries and shops, create the jobs, build the schools, provide the health and recreational services in rural America, those young people will stay, and many of those who have left will return.

But what Congress does will matter very little unless the unending political war between rural and urban interests begins to cool off. Politicians in rural areas make political hay by attacking "evil" city people, while in the cities, they have been demagoguing about the reactionary forces of rural America.

It is imperative that city and country stop shooting one another down and begin working together—because rural and urban America are inseparably tied together.

We are not talking about a city problem or a rural problem. It is not a liberal issue nor a conservative issue. It is not Northern, Southern, Eastern or Western. It is the very life of our country.

This is something we must face together as Americans. The issue at hand is the nation's destiny.

CALIBER OF RECRUITS TO ARMED SERVICES

Mr. STENNIS. Mr. President, I shall briefly discuss a very serious problem in the field of military manpower. My remarks are addressed to information developed during the final days of the draft debate and to the pay amendment which was included in the pending procurement bill.

During the recent draft debate, information was submitted by the Defense Department, and presented here by me, which indicates a sharp decline in the caliber of young men entering the services during the 2-month draft holiday. Two measures of this decline were presented: a drop, for all the services, in the high school graduate rate for recruits, and a rising proportion of recruits in the lowest acceptable mental category.

Mr. President, enactment of the biggest military pay increase in history should help solve this problem since the bill contains several incentives for high quality enlistments. In addition, the Senate version of the procurement bill provides a $381 million supplement to the draft law's recordbreaking $2.4 billion pay package.

Together these incentive provisions are designed to provide a full and fair test of the concept of an all-volunteer force—a test of whether enough qualified enlistees will volunteer to meet the Nation's military manpower needs.

I want to stress that the test must be full and fair. Along with reports of the decline in the quality of new recruits, I have been hearing speculation that enlistments will now magically meet service quotas—and that the President will, himself, act to end the draft before the 1973 expiration date.

I want to make it very clear that as a Senator and as chairman of the Armed Services Committee I will insist that recruits meet quality standards. I will oppose any transition to a volunteer force based on filling the armed services with warm bodies, marginally qualified for military service.

This is definitely not a numbers game, Mr. President, and it is not a game in which anyone can play. The name of the game must be "quality" in today's armed services.

I want to speak very plainly: the apples left near the bottom of the barrel—the culls—will not meet today's service needs. Pentagon officials will come under heavy pressure to meet "all volunteer" goals, and I intend to do what I can to see that they do not do so at the expense of quality.

We know that military weapons systems are becoming ever more complex and that the military requirement is for recruits of ever-increasing potential to man nuclear submarines, repair supersonic aircraft, and so forth. That quality requirement must be met.

The Armed Services Committee is going to pay very careful attention to what happens in this quality area as the testing period for volunteer enlistments goes forward. I want the Senate to know that I am writing Defense Secretary Melvin R. Laird asking that information be supplied to the committee, monthly, on the high school graduate rate for accessions in all the services, together with data on the percentage of recruits in each of the four mental categories.

I want the Senate to know that if the quality picture in the armed services does not reverse itself and show improvement, I will be discussing this matter soon again here on the Senate floor.

Mr. President, I ask unanimous consent that my letter to Secretary Laird may be printed in the RECORD.

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

SEPTEMBER 28, 1971.

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

DEAR MR. SECRETARY: As you will recall, the final days of debate on the Selective Service Conference Report featured information, supplied by you and the armed services, indicating that the quality of recruits in the armed services suffered markedly in the period during which there was no draft.

With the pay incentives provided in that bill—and under draft pressures which are now fully restored—that quality decline should now reverse itself. New incentives are being provided, and the quality of recruits should improve over the experience in the period before the two-month draft holiday.

I hope that will happen as I am sure you do. I want to make sure, however, that I continue to receive full information on this question. Will you, therefore, provide the Committee on a monthly basis, and in a similar form for all services:

(1) Data on the high school graduate rates for each of the services with a comparison of the high school graduate rate for recruits in the same month a year ago.

(2) Information on the percentage of recruits in the four mental categories for each of the services, again compared with the same month a year ago.

I assume this information is easily available since, as I have noted, it was supplied to us during the draft debate.

In the same context will you please provide the Armed Services Committee with information on the following, for each of the services:

(1) The lowest high school graduate rate which would be acceptable in view of needs for high quality personnel.

(2) The highest acceptable percentage of category IV recruits viewed on the same basis.

I hope the meaning of these questions is clear. I will oppose any finding that quotas have been met for an all-volunteer force if they have been "met" by the enlistment of recruits who cannot in fact meet service needs.

I am sure you share this view, and I will welcome your cooperation.

Sincerely,

JOHN C. STENNIS.

SOME PEOPLE REGARD THE ELDERLY AS EXPENDABLE

Mr. HARTKE. Mr. President, recently, the Palm Beach Post ran a series of articles highlighting the problems and the needs of the elderly in the State of Florida. These articles are equally appropriate to the 20 million senior citizens who live in the other States of this Nation. Their message is one of despair and abandonment. At the same time however, there is hope in the fact that the elderly are becoming politically active.

We cannot afford to ignore the needs of a rapidly growing segment of our population. It is for that reason that I commend these articles to the Senate and ask unanimous consent that they be printed in the RECORD.

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

MOST PEOPLE REGARD THE ELDERLY AS EXPENDABLE

(By Rochelle Jones)

Frank Cuyler, puffing on a fat cigar, sat at his desk in his Lake Worth home planning a trip to Europe. It would be nice in September when the tourists had left, he said.

On the other side of Palm Beach County, Mrs. James Wolfe poured over a dog-eared account book wondering if there was another way to stretch her meager Social Security check.

A few miles away Mrs. Violet Smith waited with resigned tranquility for death to release her from the Palm Beach County Home.

A common bond joins these three people. They are over 65 and society says they are old.

It is an arbitrary term. People don't suddenly turn old on the morning of their 65th birthday. Aging occurs constantly throughout life.

Instead, old age has been linked to retirement. When a person can no longer work, he is considered old.

And once he is old, he is abandoned.

The old require food, shelter and medical care but society makes it difficult for them to acquire these things. Further, small Social Security checks are the maximum resources for most.

Too frequently, for reasons beyond their control, the elderly face a life of never ending loneliness, frustration and gnawing anxiety.

America is not kind to old people.

In fact, there is a distinct discrimination against the old that has been called age-ism. Gerontologists believe in 25 or 30 years age-ism will be a problem equal to racism.

"Most people regard the elderly as expendable," said Bill Oriol, staff director of the U.S. Senate Committee on Aging.

Who are the elderly? How many are there? Why can't they fend for themselves?

Few people know the answers to these simple questions. The young seem to regard the old as an alien race to which they will never belong.

In the United States some 20 million older individuals make up 10 per cent of the total population, a large and rapidly growing minority group.

There are 985,690 people over 65 in Florida. nearly 15 per cent of the population. In 1960 they were one out of every nine people. By 1970 this had risen to one out of seven.

They are heavily concentrated in Palm Beach County where senior citizens comprise 17.3 per cent of the total population.

There are 60,415 elderly people in the county. A third are over 75. Overwhelmingly they are white. And women outnumber men by about 5,000.

These are frightening statistics. They suggest that wishful thinking will not make the problems of the elderly go away.

Today's senior citizens are a pioneer generation, the first group in history to experience an early and long retirement.

The old are social pioneers in another way, too. Their problems are not unique. They are the problems of society, magnified and intensified.

"The old are unwilling pioneers on the frontiers of many social problems," said Dr. George Maddox, a Duke University sociologist, "Income maintenance and health care are not problems of the old alone.

"The old are just alerting us to problems with general relevance."

They are ill-equipped for the challenge.

They grew up under different nutritional and educational standards. Only 1 million have a college degree, for example. They worked long hours for low wages. They were able to save little and the depression wiped out many bank accounts permanently.

The result is a deprived lifestyle perpetuated into old age.

Their biggest problem is lack of money. About 50 per cent exist on Social Security checks that keep their incomes below the official poverty line.

They have less but they must spend proportionally more of their income on food, shelter and medical care. These basic necessities take up 70 per cent of their budgets. Some choose between food and medicine.

The elderly have more chronic ailments, visit doctors more often and have longer hospital stays. Despite Medicare they had to pay $193 for health care in 1969 from their own limited resources.

Hundreds are locked up in the state's five mental hospitals because they have no place to go. They aren't mentally ill; they lack the ability to make other living arrangements.

Of course, there is a good side to aging. Those with money and health can travel. For those with wide ranging interests there is time to pursue hobbies.

The happiest seem to be those interested in enjoying life, with a concern for others and a talent for being rather than doing.

Instead of clinging to the past with a secret fear of death in their hearts, they have given the descent of life its own meaning.

Bob Marmuth, a retired manufacturing engineer, is too busy to worry about growing old. He dabbles in community affairs when he isn't absorbed in the Pacers, a senior citizen group that he organized several years ago.

"I have become more concerned with people since I retired," he said. "When I was working, I was concerned with raising a family.

"After retirement I began to realize there are other people in the world. I began a love affair with people.

"And I'm getting more out of it than I am putting in."

There are people such as Darby Rathman, a ruddy-faced, white-haired Irishman, who said, "I don't know what the word retire means."

At 73 he is an articulate spokesman for senior citizens, an active organizer of senior citizen groups and a nagging gadfly at politicians' indifference toward the elderly.

"Communications has important bearing on growing old," said Rathman, a retired Chicago newspaperman. "When I get lonely, I get on the phone and call people who can't get out.

"Not communicating with others is selfish. It shows lack of concern for mankind."

But the Rathmans and the Harmuths are fortunate exceptions.

Much money has gone into studying the problems and recommending solutions for the plight of the elderly. Little has been accomplished.

In 1965 the Older Americans Act stated the goal of "retirement in health, honor and dignity after years of contribution to the economy."

But in 1971 the funds were slashed by 62 percent of programs under the act.

In 1961 the White House Conference on Aging issued a blizzard of white papers. Nine years later the U.S. Senate Committee on Aging reported the recommendations were being ignored.

Another conference is scheduled for November but critics fear it will turn into a partisan political forum.

Only after insistent urging by senior citizen groups were the elderly invited to attend the conference as delegates.

"I don't need a 25-year-old social worker with a master's degree telling me about growing old. I've done it," said Max Friedson of Miami.

The talking has had little impact on the daily lives of the old who are too independent to beg, too timid to revolt and too shy to demand.

With proper funding and political concern the ranker injustices of old age can be alleviated by government action. But the basic problem can be solved only by a radical reordering of society's values.

The fundamental question is this: What should society be like so that in old age a man can remain a man?

At the least this means people must be granted a meaning aside from their productive functions. They must be valued when their economic role is over instead of being discarded like outdated machinery.

As long as men come to the end of life alone and empty-handed, old age will denounce the failure of society.

"The moral tone and lifespan of a civilization," writes historian Arnold Toynbee, "can be measured by the respect and care given its elderly citizens."

FOR THE OLD, LONELINESS IS THE FOE

(By Rochelle Jones)

Her face had been chiseled by age so that her features looked like deft sculptor's strokes and her skin had a translucent pallor.

But for all of that she didn't look 89 years old. At one time, it was easy to see, she had been a beautiful woman.

She held her head, haloed by a wispy cloud of white hair, high as she talked about her life.

She talked about her "terrible sick spell" recently and about her precarious struggle to exist on $150 a month. She was, she said, literally imprisoned in her small apartment. Sickness kept her from leaving

She began to recall her husband who died 12 years ago in a three-room apartment. "There's not a soul left of my own," she said.

Tears started trickling down her parchment-thin cheeks but her head stayed erect.

"To tell the truth I would just as soon died that last time as to live to be as old and as helpless as I am," she said in a voice that crackled like dried leaves in an autumn wind storm.

"I don't see that I have any reason to live," she continued. "I would just as soon be dead.

"I can't understand why God lets me live but I suppose He has a reason and I just hope He will supply me with the strength to go on until I can die."

Her name is Mrs. Alfred Hutch and she sits day after day in her spotlessly clean apartment watching her life slip away.

Her remaining years are unravelling like a tattered sweater leaving nothing in her shriveled hands but formless threads.

Her bleak life is a mirror of all that living holds and the reflection of youth's future is ugly.

Telling her about the "golden years" is subtle mockery. She knows such talk is a way for the young to forget the old without guilt.

She knows the so-called golden years are tarnished beyond redemption.

Mrs. Hutch is isolated but not alone.

Her loneliness, depression and boredom are universal emotions that turn many old people into unwanted masses of human flesh who long for death as an alternative to the kind of existence they have been experiencing.

Frequently, emotional isolation turns into hypochondria. Health experts have come to view heightened body concern, one of the most common neurosis of the elderly, as a demand for attention.

They see the old crowding into the public health clinics and they know from experience that the elderly are not there because they the sick.

"They come to the clinics more often than they really need to," said Mrs. Mabel Johanson of the Palm Beach County Health Department. "The treatment process, seeing the tests run, meeting the doctor gives them a sense of personal concern.

"It revives their sense of self-worth; it reestablishes a personal relationship for them."

Added Mrs. Alice Barber, director of the Palm Beach County Welfare Department, "The welfare pharmacy has become a social affair. They bring their lunch and they stay all day. For many it's the only contact they have with others."

With old age comes a series of losses. In addition to the real or imagined loss of health, there is loss of employment, of friends who have died and of children who have grown up and away.

The result is the creation of a different kind of human being, said Dr. Carl Eisdorfer, director of the Center of Aging and Human Development at Duke University.

Eisdorfer talked about the need for achievement versus the fear of failure with the knowledgable assurance that comes from a lifetime of studying the psychological aspects of aging.

"In younger people the need of achievement is stronger but the fear of failure gets stronger during life," Eisdorfer said. "The old have the ability to achieve but they become more interested in protecting the self than in exposing the self."

A physically vigorous mentally alert 65-year-old woman summed up the feeling unintentionally. "There is so much I would have liked to have done," she said. "Now I am old and I never will be able to do it all."

Actually some psychological changes are caused by organic brain degeneration that accompanies old age. Senility is a catchword for many varied conditions.

"People may label an aging person senile or psychotic when he is just going through the normal aging process," said Mrs. Banna Ghioto of the state Division of Mental Health. "Not being able to remember recent events as clearly as past events is a good example."

Mrs. Ghioto envisions a diagnostic and evaluation center, staffed by a team of doctors and psychologists, to sort out the normal old who might end up at South Florida State Mental Hospital by mistake.

"Unfortunately, too many relatives think a person should be put away as soon as he shows any sign of old age," she said.

But at the moment the center is in the planning stages.

One thing which doesn't diminish or grow old is the need for love and affection. These wishes, these drives don't change. Loneliness is the common foe.

"To live alone is a rough thing," said a widower of 19 years. "You do get lonesome. I have emphysema and there are times when I lie awake at night wishing someone was there."

For women it's worse.

With their longer lifespans women are left to grow old alone. At the age of 75, for example, 40 per cent of the men live with their spouses but only 15 per cent of the women do.

"I can tell you what I need," said a well-dressed woman in her early sixties. "I need a man. That would solve my problems."

Her friend waved a hand around the recreation hall where a group of senior citizens were meeting.

"Not enough men come to the meetings," she said. "The women who are married don't bring their husbands because they're afraid the rest of us would take their husbands away."

The old need help developing a wire repertory of activities that will make their added years of life a gift, not a burden.

During their working years they had no time for other interests so in old age they know nothing but work. The physical changes of aging, the financial letdown and the unexpectedly large amount of free time have left older people in a depressing—and depressed—state.

Mrs. Trudy Cross, Florida State Employment Service counselor, called the retirement crisis the "six-month syndrome."

"About six months after they retire they are dying to get back to work," she said. "There are a number who were making very good money, say $25,000 a year, but they find retirement so dull that they are willing to settle for $80 or $100 a week just to have something to do."

The county's senior citizens clubs provide fun and friendship, but for those who aren't joiners there is little besides shuffleboard into the void.

"Look at these hands," said a retired dentist, his voice etched with bitterness. "I spent years learning to use them. Now I'm supposed to make baskets with them."

Until the end of life is given some meaning, the old will be consigned to the oblivion of social obsolescence.

In two rooms in West Palm Beach live a blind, partially paralyzed man and his 76-year-old wife.

Two television sets stand in a corner but they are broken and there is no money to fix them.

Mostly the man lies on a couch smoking cigars. The woman sits by the window looking at the people coming and going along the busy street.

She rarely leaves. Her time is spent taking care of her husband and cleaning the two little rooms.

"I like my place to be clean, ready for people when they come over," she said.

She was asked if she had many visitors.

"No," she shook her head ruefully. "No one ever comes."

THEY NEVER EXPECTED TO LIVE OUT THEIR LIVES IN POVERTY

(By Rochelle Jones)

Mrs. James Wolfe, 66, fumbled in the cluttered desk drawer for a small notebook, the kind of loose leaf, spiral bound writing tablet sold in dimestores for 15 cents.

Its pages are filled with shaky handwriting that tells in painful detail the struggle of elderly people to live on inadequate incomes.

On the day the Social Security check arrives, Mrs. Wolfe lists the amount, $163.30, on the top line. As the month passes, she subtracts her expenditures—$35 for rent at the city housing project, $6 on her husband's outstanding medical bills, varied amounts for medicine, food and carfare.

She writes very small to save paper. When the notebook is filled, there may not be enough money to buy a new one.

Hopefully, at the end of the month the income and expenses tally. If she's lucky, there may be a little left over.

"I don't know how sometimes, but some how we get by," she said in her West Palm Beach apartment.

"Getting by" is a way of life for most of the elderly. For the Wolfes, like for most, is is a painful, new experience.

In New York, where the Wolfes met and married 40 years ago, they had good jobs. She was a registered nurse. He was a mechanical engineer.

They never expected to live out their lives in poverty. It just happened.

There was a stroke that left Wolfe, 87, partially paralyzed and unable to talk. The whopping medical bills wiped out their savings.

Inflation has hurt, too. More and more they find their fixed income isn't keeping up with the rising cost of living.

Recently, Mrs. Wolfe stopped buying pears, their favorite fruit. "They got too expensive. I used to like them so much," she said wistfully.

Long ago she stopped buying clothes. She sews now. A few years back she started making potholders to send to friends at Christmas. This year the cards will be homemade, too.

"I try to save money every way I can," she said.

The Wolfes are part of bureaucratic statistics. Their $1,959.60 annual income puts them just below the poverty line.

There are millions like them, elderly Americans who fought two World Wars, endured a major depression and helped build the country into an economic power, only to be abandoned in their old age to a life of poverty.

The statistics are a national disgrace:

Fully 44 per cent of those over 65 have annual incomes at or below the poverty line ($2,020 for couples and $1,600 for unmarried persons).

In addition, 11 per cent are considered "near poor," constantly teetering on the brink of economic disaster.

Only one-third are able to maintain a modest standard of living. The Bureau of Labor Statistics sets a "moderate budget" for an elderly couple at $3,930 a year.

The local figures are equally bleak:

The average Social Security check in Palm Beach county is $123 a month. This is the sole income of about 50 percent of the recipients, according to Jack Tatem, head of the local Social Security office.

People over 65 make up 17.3 per cent of the county's population but they account for 33.3 per cent of county welfare cases.

Moreover, there is striking evidence that the elderly are being cheated by the nation's rising standard of living. As the country gets richer, the old get poorer.

For example, between 1968 and 1969, at a time when poverty declined generally, the number of elderly poor rose by 200,000.

And at the Palm Beach County Office of the Division of Family Services, there is a waiting line to qualify for old age assistance.

"A lot of people come in before they are 65 but they can't qualify then," said caseworker John Fulton. "There is a waiting list to become eligible."

Equally alarming is the fact that the overwhelming majority of the 2,151 people on state old-age asistance are newly poor.

"Most of these people have never been on assistance in the state of Florida," said caseworker Edith Woeber. "They hit a financial snag and they come to us. But once they are on assistance, they are on it for good."

In June, Congress passed with much fanfare a 5 per cent across-the-board increase in Social Security benefits.

It helped little.

"With inflation I just about broke even," said one man. "I'm not even sure about that but I know I certainly didn't gain anything from the raise."

In the Wolfe's case the increase added $8 to their monthly check. But at the same time it boosted their rent $3 a month because of federal laws on rent and income in public housing projects. In the end they gained $5 a month.

And for the poorest of the poor the increase was a cruel trick.

It was just enough to disqualify some for old age assistance. No one knows the exact number but caseworkers agree there were "many."

Alice Barber, director of West Palm Beach County welfare, said, "The number coming to county welfare has increased since the Social Security hike because they were thrown off state welfare."

Besides direct cash assistance, they also lost federal commodity foods, Medicaid and drug allowances.

Inadequate retirement income is not a problem of the statistically poor alone. It is, without exception, the No. 1 worry of all of those over 65.

They become reconciled to an increasingly impoverished existence as inflation erodes their previous standard of living.

When Bob Harmuth, a manufacturing engineer, retired six years ago on his doctor's orders, his savings seemed quite adequate.

Now, he said, "They are beginning to look pretty puny. Inflation has cut drastically into our retirement funds."

The Harmuths are fighting the rising cost of living but they worry it may be a losing battle.

"We have gradually curtailed activities," said Harmuth. "We don't eat out as often as we used to. We are trying to be increasingly conservative in our spending habits.

"Right now the car needs a new set of tires," he continued. "Usually I've bought the best because I believe it is the best value in the long run.

"But when it's a choice between spending money now and trying to hold off a little longer, the choice has got to be holding off."

Lack of money means lack of choice. The alternatives narrow. The old ask themselves, not "What do I want to do?" but "What can I afford to do?" It is a question that pervades their existence.

Some must choose between companionship and money in their old age.

"They are very practical about marriage," said a caseworker at the Social Security office. "A large number of widows call to see if they will lose their check if they remarry. They call, too, to see if they can get more if they remarry."

Money represents not just purchasing power but independence and the ability to live in self-sufficient dignity. They cling to their pride because many have only their pride left.

One woman, eligible for county welfare drug allowance, declined to take it.

"I figure as long as I can get by without it, I will," she said. "I figure there are an awful lot of other people who can use the money."

Although the elderly already comprise one-third of the county welfare cases, social workers, are convinced many others are eligible, but too proud to apply.

"Accepting welfare is a major trauma," said Mrs. Woeber at the Division of Family Services. "These people have been financially independent throughout their lives. They accept help reluctantly."

Sadly there is little escape from inflation. The old can only watch their dwindling bank balances with impotent rage and gnawing anxiety.

Industry's mandatory retirement age limits sharply the number of available jobs. In an average month the local Florida State Employment Service places about five people over 65.

Among the few employers is Goodwill Industries, which has always welcomed older workers.

"We recognize that old age is a handicap for some people," said Adele Kramer, director of vocational rehabilitation. "Age can make a person just as unemployable as a physical disability."

For the past year 74-year-old Roger Wilson has worked in Goodwill's furniture repair shop. Eager to work, he makes the lengthy round trip from his home in Loxahatchee to the West Palm Beach office five times a week.

Despite his 64 years as a carpenter, he was unable to obtain employment. He searched for a year, growing more and more despondent until a friend suggested Goodwill.

"I picked up a few odd jobs here and there," he said. "But most people wouldn't hire me because of my age."

"This helps out a lot. It takes everything I'm able to beg or borrow to get by."

But unfortunately there aren't enough jobs for those who need or want to work.

Even if there were, the Social Security laws would stop many. The law limits outside income to $1,680 a year.

The income cap applies only to wages, however. Rental incomes and stock dividends are exempted.

The law is doubly punitive to the poor, first by providing basically inadequate benefits and second by curtailing supplemental income.

"It's the poor guy who gets socked," said Tatem at the Social Security office.

Inadequate retirement income is a new social problem. A generation ago fewer people reached retirement age. Those who did needed less because their life expectancy was shorter.

Dr. Juanita Kreps, a leading economist at Duke University, said, "Recognition of retirement as a relatively new lifestage, which requires its own financial arrangements, is obviously necessary and just as obviously lacking. The implications of this lifestage for public policy have not been fully accepted."

It is a complicated, perplexing and enormous problem that is likely to increase as retirement age is pushed lower.

"The basic problem is that the economy can't generate enough jobs for everyone that wants to work," said Dr. Kreps.

The solution, she suggested, may require a thorough revolution in the working habits of the nation, involving longer vacations, sabbatical leaves and extensive vocational retraining in middle age.

"There is a need for some reasonable balance of work and income throughout the lifespan as opposed to a concentration of work and earnings in the middle years," she said.

"We must find a way of subsidizing leisure other than retirement "

While the nation fumbles for a solution, the old grow poor and the poor grow old.

In the Older Americans Act of 1965, Congress promised the elderly "an adequate income in retirement in accordance with the American standard of living."

Mrs. Wolfe, painstakingly adding and subtracting figures in her little notebook, is waiting for the promise to be kept.

MEDICARE ISN'T DOING THE JOB IT PROMISED SENIOR CITIZENS

(By Rochelle Jones)

Michael Tyler spread the red, white and blue Medicare booklet across his lap. He waved a sheaf of official looking papers and jabbed a forefinger at page 11, titled "Your Home Health Benefits After You Leave the Hospital."

"It says it right here," he said triumphantly. "It says Medicare will help pay for part-time nursing care and therapy.

"Medicare should do what it says it's going to do. Otherwise, the government should dump it," he said.

Tyler, reading and re-reading the little booklet, puzzling over the seemingly clear language, is an angry and confused man.

Last October his 73-year-old wife suffered a stroke. When she left the hospital after 27 days, her doctor ordered skilled nursing care plus physical, occupational and speech therapy.

For five months the Tylers sent the bills to Medicare and payment was made routinely.

In June Medicare stopped payment. Furthermore, through a little publicized provision, called retroactive denial, in the Medicare law, payment was stopped, not after June, but after March.

Suddenly and unexpectedly, the elderly couple was left with two and a half months of whopping medical bills.

Even after three trips to the Social Security office, Tyler can't understand exactly what happened or why.

"I'm not an educated man," said Tyler, a former construction worker. "If it doesn't mean it, why do they put it in the book?"

The Tylers know only that for five years they paid Medicare premiums to take care of them if illness struck. They thought they would be protected.

They weren't.

Mrs. Tyler, perched in a wheelchair, watched her husband's face flush with anger as he talked. Partially paralyzed on her right side, she struggled to move her lips in unison and finally succeeded.

"This stroke, it's not my fault," she said haltingly. "I thought we had insurance to help at times like this."

The Tylers' experience illustrates a grim fact that older Americans discover when they become ill.

Despite high premiums that have doubled since Medicare started six years ago, Medicare is not giving the protection they need and believe they are paying for.

"Medicare isn't doing the job it promised senior citizens it would," said Marion Borzon, director of the Palm Beach County Visiting Nurses Association.

Senior citizens naively trust Medicare to pay their medical bills. Only about 10 per cent of Florida's senior citizens have supplemental coverage under Blue Cross-Blue Shield.

But when illness comes, they are finding with increasing frequency their trust has been misplaced.

In 1970 the average person over 65 had a medical bill of $791, six times that of youths and three times that of people 19 to 64.

Even with Medicare and Medicaid, the state financed version of Medicare, the average elderly person had to pay $221 in out-of-pocket medical bills.

This is more than most can afford. It represents, for example, two months of Social Security benefits for the average person in Palm Beach County.

And in a place as affluent as Palm Beach County there are still people whose incomes won't stretch quite far enough to cover Medicare premiums.

They try to escape medical bills by ignoring the possibility and hope in blind fear that they can forestall illness by a simple act of faith until they are released by death.

One 76-year-old West Palm Beach woman faces a simple choice—food now or medical care later. Her Social Security check can't cover both.

"I just don't know what would happen if I got sick because I can't afford a doctor," she said. "I just pray I'll never need one."

Those who can pay aren't much better off really.

A Lake Park man, troubled by a variety of chronic ailments, is finding doctor bills a slow drain on his limited resources.

His frequent visits to the doctor are only partially covered by Medicare. A recent bill of $15 cost him $9.60.

"Medicare helps some," he said. "But it doesn't help as much as some younger people think. When I have to pay more than half of the bill, it's of limited value."

Termed a system of noncare by the U.S. Senate Committee on Aging, Medicare is basically remedial. Problems must escalate to the crisis stage before it helps. Medicare will do little to prevent serious sickness.

When James Richard's daughter was hospitalized, a physician ordered a home health aide into the house to care for the elderly man "to prevent institutionalization."

For two months Medicare paid for visiting nurses and home health aides. Then it abruptly canceled payment.

Ironically, if he had gotten sicker, Medicare would have paid to put him in a nursing home. But it wouldn't pay to help keep him at home.

It is simply impossible to overestimate the devastating effect the cost of medical care has on the elderly with a fixed income. It is forcing hundreds into bankruptcy.

At the Division of Family Services in Palm Beach County caseworkers say medical expenses are primarily responsible for the aged on welfare.

The majority of the county's 2,151 old age assistance recipients came to old age with what they believed was a comfortable financial cushion.

Their health expenditures, which are rising twice as fast as the skyrocketing expenses of younger people, wiped it out.

"We see them when they start having health problems," caseworker Don Sweeney said.

Another caseworker, John Fulton, receives an average of 10 phone calls a day from desperate old people who have heard about Medicaid and hope against hope it will help them.

In most cases it won't.

Florida is willing to help only after hard-working people have been reduced to the indignity of poverty in their old age.

While other states will grant Medicaid to people who aren't on welfare, Florida won't. And although other states such as California make provisions for the medically indigent, Florida doesn't.

"Florida has some of the most restrictive Medicaid requirements of any state in the country," Fulton said.

Those who are eligible for Medicaid find frequently doctors won't accept it.

Two-thirds of Florida's doctors have dropped out of Medicaid and the percentage is roughly similar in Palm Beach County, according to Mike Lopez, director of the Palm Beach County Medical Society.

"Some doctors would rather write off these cases instead of bothering with Medicaid forms," Lopez said.

In fact, the state's contribution to Medicaid has been so miserly that the Florida Medical Association complained recently to the Department of Health, Education and Welfare, contending doctors were being exploited by inadequate funding.

Truthfully, the country gives little help for the simple problems that lead to an increasingly impoverished quality of life for the elderly.

It will pay millions for extended care in nursing homes, for example. It will pay nothing for things like eyeglasses and hearing aids.

"Loss of hearing and sight are more of a problem than the classic diseases of old age," said Dr. James Howell, of the Palm Beach County Health Department. "These really add to the withdrawal of old people from society."

Because of inability to pay for eyeglasses and hearing aids, old people find themselves forced into premature isolation from the rest of society. The exclusion process begins.

In Lake Park, a man said, "I don't hear as well as I used to. When I'm right next to someone, I can hear fine but in a room of people I can't. The time is coming soon when I'm going to need a hearing aid.

"I've checked and the ones I need will cost $250 to $300. That's a lot for someone living on Social Security so I'm putting it off as long as possible."

The old accept their condition with grim stoicism. They have become used to making do, doing without and putting off.

"I need glasses," said a 67-year-old woman. "But I can't afford them so I guess I'll just have to stop seeing so much."

In a self-perpetuating, debilitating cycle, simple problems lead to isolation and exclusion. Loneliness aggravates previously existing chronic ailments. They lead, in turn, to further withdrawal.

"The No. 1 health problem of old people is their mental health," said Howell. "Social problems are bigger than physical problems. Many physical problems are psychoneurotic. They say they have arthritis because they are unwilling to say they are lonely."

Two years ago Mrs. Vicki Smith, a grandmotherly-looking 73, had arthritis so excruciatingly painful she barely could move her arms.

Most of her day was spent at home. Life, after her husband's death, scarcely seemed worth the effort. By the time finances forced her to apply for a job at Goodwill Industries she was taking six aspirins a day.

Now, although her hands and fingers are still puffy with arthritis, she moves agilely through the warehouse picking up donated clothes.

"I feel so much better now," she said. "I love the work. It's the best thing that ever happened to me.

"I didn't have anything to look forward to before." she said softly, "Now I get up at 5 a.m. to come to work. And when I come home, I cut my lawn and do my little chores and I lie down and sleep.

"This job has done wonders."

Most old people don't want charity. The acceptance of charity denies at the end of their life everything they have been for six and seven decades—hard working, independent, self-sufficient.

"The first question we are asked is, 'How much will it cost me?,' " said Miss Borzon at the nursing association. "We will take a patient regardless of their ability to pay.

"But they are emphatic. If they can't afford it and Medicare won't pay it, they don't want our services frequently."

This is common, health authorities say. Forced to choose between health and pride, old people usually choose the latter.

Too often, old people are treated in a callous way that saves the body but destroys their spirit. The price is too high for many.

Independent-minded Miss Bonnie Greene, 68, stared at the telephone in her three-room apartment. In the morning mail she had gotten another hospital bill for $25. It was the second one in two days and Miss Greene couldn't figure out what it was all about.

"If it's an honest bill, I don't mind paying it but I can't see where it comes from. They keep sending me these bills," she said with a grimace.

"It makes me feel bad. I told them I would pay it when I got the money but they would have to wait until my Social Security check arrives."

She stared at the black telephone that waited in mocking silence for her to pick it up.

She thought about the last call she had made. The way they had replied to her honest confusion about the bill. And the sick way she had felt when she hung up.

"I told them, 'I may be old and black but I got feeling. I don't want to be treated like a dog'," she said. "I dread calling the hospital."

In 1961 the White House Conference on Aging recommended to the President and the Congress, "Health care should be made available without barriers and with preservation of the dignity of the individual."

In November the conference will reconvene to review their recommendations.

As Miss Greene could tell them, little progress has been made.

SOMEONE PLEASE HELP ME

(By Rochelle Jones)

Tens, perhaps even hundreds of thousands of elderly Americans are dying many long, lonely years before they are buried.

They are the old, the infirm and mostly poor who are confined unnecessarily to institutions.

They are not there because they are physically or mentally ill. They are there because they have no alternative.

"Institutions are primarily a place to live for people with nowhere else to go," said Dr. Leonard Gottesman, a leading gerontologist.

No one has bothered to count them but the best estimates run depressingly high.

Gottesman places the number at one third of the country's one million institutionalized elderly. At South Florida State Mental Hospital "at least a quarter, perhaps one third" of the 364 geriatric patients don't belong there, according to Dr. Richard Parks, superintendent.

And Mrs. Banna Ghioto of the state Division of Mental Health guessed "about 50 per cent" of the country's approximately 1,000 nursing home patients don't require skilled nursing care.

Geriatric specialists agree that many of these people could live comfortably in their own homes with a little assistance.

Sadly, there is little hope for the institutionalized elderly. They vegetate behind walls until they are discharged by a death certificate.

A sign at the entrance to South Florida State Mental Hospital makes the point unintentionally blunt. "Geriatrics 1 and 2 . . . Warehouse," it reads.

Richard Held, administrator at the Palm Beach County Home, refers to one ward with a number of geriatric patients as "death row." "The next stop for most of them is the cemetery," he said.

Mrs. Violet Smith, 100 years old, is among the elderly who are socially dead. She has been at the Palm Beach County Home for five years.

At 95 she was increasingly hard of hearing and slowly going blind but she was able to get around with help.

"She could get to the table and that's about all" said Mrs. Smith's niece, her only living relative. "I work and I had to come home to feed and take care of her. It got to be too much so I brought her home."

The niece glanced around the cramped, stark room that Mrs. Smith shares with another elderly woman.

It was Mrs. Smith's 100th birthday and the home had tried to make it into a special occasion, a slightly different day from the ones that pass in monotonous regularity into months and years.

On a table, wheeled into the room for the party, was a vanilla layer cake. Beside it were a few gally wrapped and beribboned birthday presents.

The pink flowered wrapping paper rustled slightly as an aide slid off the pink ribbon, took out a small bottle of perfume and dabbed a bit under Mrs. Smith's nose.

"See how pretty you smell," she said.

Mrs. Smith moved her trembling, painfully thin body slightly away from the aide's hands.

"Won't you help me please," she cried in a barely intelligible voice. She gazed helplessly at her visitors with eyes that could no longer see.

The visitors, some of them crying, continued to sing "Happy Birthday." Someone got a knife and the niece cut through the pretty pink flowers into the birthday cake.

She held a small bite to Mrs. Smith's cracked lips. Mrs. Smith jerked her head away.

"Won't someone please help me," she cried again. She strained her frail body against the wooden slats of the rocking chair, trying with meager strength to get up.

"You wonder what they're thinking about sometimes," the aide said.

The niece began to cry. "She was the sweetest, nicest person that ever lived," she said.

In the little room, furnished with two iron beds and a wooden chair, they went on talking about Mrs. Smith in the third person. They referred to her in the past tense.

Sweet, nice Mrs. Smith who sang in the church choir, buried three husbands and helped found West Palm Beach has committed a horrible social blunder. She lived too long. And society makes no provisions for people like her.

There are other Mrs. Smiths in private nursing homes and state mental hospitals.

Mostly they are in nursing homes because 894,490 of the one million institutionalized elderly are cared for by private industry.

Back in the 1950s and 1960s the nursing homes tackled a job that no one wanted—the care of those who can't care for themselves.

Government didn't do it. Private charity couldn't afford it.

The result has been a phenomenal growth in the last 10 years of the nursing home industry.

A further result has been a fundamental contradiction between the goals of the nursing homes and society.

To stay open the nursing homes must make profit. That means their beds must be occupied. The stated aim of society is to move the elderly out of beds and into the community to lead as normal a life as possible.

"Nursing homes are paid more if their patient is sicker." said Gottesman. "If a patient were to make her own bed, the home would either have to send her away (and nursing home patients generally are there partly because they have no home) or lose payment for her."

The nursing home is not to blame. They did not set up the system. The tangled thicket of rules and regulations was enacted by Congress.

The present non-system is unbelievably costly to the taxpayer, the nursing home and the elderly.

Take it from the taxpayer's viewpoint.

The 19 nursing homes in Palm Beach County are skilled nursing homes. That means they are certified under the most rigorous standards of the Florida Department of Health.

But a recent nursing home survey by the Division of Family Services revealed 165 Medicaid patients who didn't need skilled nursing care. They could be cared for in intermediate care facilities that often room and board, personal assistance and low-key medical services at less cost.

The lack of these facilities is costing taxpayers up to $198,000 a year in Palm Beach County alone.

Now take it from the viewpoint of Frank Noasko, local president of the Florida Nursing Home Association and director of Cuyler Pavilion.

Nursing home patients are overwhelmingly poor. Out of the approximately 1,000 nursing home patients in the county, 618 have their bills paid by Medicaid, the state version of Medicare.

At Cuyler Pavilion a little more than a third are Medicaid cases.

The state recognizes that the nursing home will spend $350 a month to care for them. But the state will repay only $300.

"The nursing homes want to take care of these people but from our standpoint it's difficult," said Noasko. "We aren't going to accept any more Medicaid patients because we can't afford it.

"For example, we've had two price increases in milk this year, July 1 we had an increase in bread prices. We've had no increase in state money."

Presently the Florida Nursing Home Association is suing the state of Florida for a declaration of rights to insure a reasonable cost plus a margin of profit. Noasko estimates this would be about $480 a month.

"At present the private pay patients end up subsidizing the Medicaid program" said Noasko. "This isn't fair to them."

For the taxpayers and nursing homes the dollar and cents cost can be reckoned.

The cost is infinitely higher to the unfortunate elderly who are suffering from the lack of alternatives to institutionalization.

Take it from the point of view of an old person who has been dumped at South Florida State Mental Hospital.

Dr. Parks estimates there are between 91 and 121, "maybe even more" of them. If his estimates are true for the state's five mental hospitals, there are an appalling 2,371 to 3,090 elderly who aren't mentally sick locked up with the mentally ill.

At South Florida the day passes slowly. There are no magazines or games in the locked dayrooms. There is nothing to do and little to talk about.

The day begins at 6 a.m. It is punctuated by three meals, five doses of medication and one doctor's visit. At 9 or 9:30 p.m. the lights are turned out for another 15 hours.

Mostly the elderly sit in rows keeping vigil in front of a television set with tired eyes. It is literally a death watch for only death will end the wait for many.

For a lucky few there is "remotivation group" once a week. It prepares them to reenter the community. Few participate because few leave.

The average stay for a geriatric patient is 1,374 days, nearly four years. The average stay for other patients is 230 days.

Last year 136 geriatric patients were released—87 to the community and 49 to the cemetery.

Many are imprisoned against their will, according to one geriatric social worker.

"Many patients can't get out because relatives don't want them out. The relatives want their money," said Mrs. Sarah Hoyle. "Since they have money of their own, they can't qualify for state mental health benefits to get out on their own."

Dr. Parks is fully aware of the plight of his geriatric patients but he has received no help in solving it.

"People don't know what to do with the elderly," he said. "It's become a habit to dump them in the mental hospitals.

"We try to take only those who have to be in a mental hospital. This should be the last resort.

"But we still get them when the primary problem is physical—a broken leg, for example.

"We get them because no one else wants them."

The infirm elderly are not about to go away simply because society ignores them.

At the state's mental hospitals geriatric patients account for 50 per cent of the waiting list for admissions. There are 250 to 300 at South Florida alone. Some have been in it since 1964.

"With more and more elderly coming into the state, the state is going to have to take care of more and more people who can't take care of themselves," Dr. Parks said.

Recently there has been a commendable crusade to eliminate scandalous conditions in private nursing homes.

But the crusade overlooks a crucial fact—an institution, no matter how good, cannot replace a home.

And it obscured the primary point—untold, frightening numbers of elderly could be released from institutions if there was some place for them to go.

The problem is not insolvable. It is a problem only because the government has made it one.

The clue to the solution lies in a very simple fact. That is, governments—federal and state—will pay millions to subsidize institutions for the elderly. They will pay little or nothing to keep the elderly in their own homes.

For example, it is generally agreed that many elderly, now in institutions, could be cared for at home with the help of home health aides.

But increasingly restrictive requirements are reducing Medicare funds for this vital service. In Palm Beach County the nonprofit Visiting Nurses Home Association reports Medicare has reduced repayments for services by more than a half in the last four years.

Florida is to blame for hundreds, if not thousands, of senile elderly who are shunted into the state's mental hospitals.

There is federal money that could release many of them. Under a law sponsored by Sen. Russell Long (D-La.) states can apply for funds to develop alternative arrangements for those who would be committed to state mental hospitals.

But the state has ignored the opportunity to provide humane and individualized accommodations.

In St. Petersburg and Miami, nonprofit groups have initiated free homemaker services and low cost means for the homebound elderly in an effort to keep our people in their own homes.

Palm Beach County lacks these needed services.

One of the few local programs to keep the elderly out of institutions was sponsored by Darcy Hall Nursing Home. It offers low cost day care for the elderly.

For the past year it has had a small but real success.

The center has enabled one elderly man to live for one more year in the comfort of his own home before he was confined to an institution.

The director is puzzled by the community's lack of response.

But one theory may be depressingly true.

Perhaps, he suggested, those who could have used it have already been turned over to institutions.

HIGH LIVING, TRANSPORTATION COSTS FACE AGED

(By Rochelle Jones)

Simple necessities aren't so simple to the elderly.

Basics like food to eat, a modest place to sleep and the ability to get from place to place—little things taken for granted by the young—are troublesome to the old.

They are large expenditures for the elderly. They must spend $7 out of every $10 of their income for food, housing and transportation.

That is, of course, when they can be purchased. Often they can't.

There has been scant recognition that one out of every 10 Americans is over 65, making 20 million elderly consumers with need of special products and services.

Only in the last few decades has the senior citizen market boomed.

Fifty years ago the old lived with their children, ate their food and simply walked downtown.

"I can't recall a time when we didn't have five or six old aunts and relatives living with us," said one man in his 70s. "Of course there were large houses in those days."

Smaller houses and increased mobility of the total population has eliminated the three-generation household. The most common living arrangement has become an old couple in their own home.

And although it imposes additional strains on limited budgets, the change is not unwelcomed. The elderly who have tried living with their children testify the relationship is nettlesome for both old and young.

"There's not a roof big enough for two families," said one woman who moved into her own trailer after several unsettling years in her daughter's house.

"They were nice to me," she said. "It didn't work though. After dinner they went into their room to watch television and I sat in the living room alone.

"I was miserable."

For most older people their home is their only asset. Two-thirds of the elderly own their own homes and 80 per cent of them are free and clear of mortgages.

The Alvin Whites own a medium priced, three bedroom house on a quiet suburban road just west of Jupiter. It represents a lifetime of savings.

But in a very real sense they are house poor. Owning a home, they are discovering in their retirement year, is a deceptively cheap form of housing.

They haven't stopped to figure the cost although they know it's high but if they did, they would probably discover operating expenses, repairs and furnishings take up about 34 per cent of their budget.

They did calculate what their $5,200 reassessment will do to their diminishing bank account.

"This means $120 more a year in taxes or a 25 per cent increase," said White. "This will be a hardship to us."

Retired homeowners, like the Whites, are being financially paralyzed by rising property taxes. Because of differences in local property bases, a retiree in Lake Worth pays a higher millage rate than a millionaire in Palm Beach.

Some 21 states offer senior citizens exemptions from property taxes, something Florida started by passing a $10,000 homestead exemption for school taxes during the last legislative session.

"The increased homestead exemption looks good and sounds good but it isn't going to do that much good actually," said White. "It certainly won't be much help after the reassessment."

The Whites are resigned to their lack of housing mobility.

"Sure, we could sell the house but what would we do then?" asked White. "Where would we go?"

Attractively furnished, low-priced housing is desperately needed for Palm Beach County's senior citizens.

At the city housing project there is a "very long" waiting list, between three months and three years, to move in, according to director Thomas Walker.

At St. Andrews, a church-sponsored project for the elderly, the average wait is between two and four years, said director Neil Hurst.

The county is doing very little to assure old people of decent housing. There are a mere 118 public housing units for the elderly compared to 613 in Jacksonville and 150 in Daytona Beach, two cities with sizeably smaller populations of senior citizens.

Recently, the city of West Palm Beach refused to participate in the federal rent supplement program. Participation would have meant $30 to $40 a month to about 5 per cent of the St. Andrews residents, according to Hurst.

"We need communities to live in, not places that are warehouses for undertakers," Max Freidson, the outspoken 72-year-old president of the Dade County Congress of Senior Citizens.

One possibility is the senior citizens campuses in Freidson's county. Built by a consortium of public and private funds, they offer low-cost meals, housing and recreation in an attractively landscaped setting.

The key, said program co-ordinator Dick Steiner, is the 1,000 nutritious meals served daily at a cost of 50 cents.

"This gets them out of their cages," he said. "Otherwise they would never leave their rooms. Once we get them out, we can help in other ways, too."

Malnutrition, declared the U.S. Senate Committee on Aging, is reaching the proportions of a "national emergency" among older Americans.

It has, experts concur, little to do with lack of money to buy food.

Instead, society's youth orientation reinforces an elderly person's deepening sense of not being needed or wanted. An old person starts to feel it isn't worth the trouble to cook for himself.

The icebox door creaked once and stopped as Mrs. Amy Smith took out a few styrofoam containers and placed them on the kitchen counter. There was a little dab of spinach, a tablespoon full of corn and a small serving of stewed tomatoes.

"I just don't bother to cook for myself," said the 65-year-old widow. "Now when my family comes, I cook.

"But it's just too much trouble when I'm alone. When I'm alone, I eat scraps."

Like most of the elderly's most pressing problems, the needs for nourishing meals and adequate housing are not separately solvable.

They relate directly to transportation. Inadequate public transportation complicate their ability to provide for themselves.

Without cheap and efficient public transportation, the elderly are literally imprisoned in their homes, unable to go anywhere or to do anything, with only a blaring television set for company.

"You can't go to the mall or uptown to shop in the evening or to a movie or to the auditorium. In fact, you can't do anything," said one woman.

"I don't know anyone. I don't have any friends.

"All you can do is watch TV and go to bed at 9 p.m."

The older a person gets the less likely it is he will own a car. Those who do find the infirmities of age put sharp limits on driving.

"I recently had a restriction on my driving license. I can't drive at night now," said a Lake Worth man. "This means with the lack of public transportation I won't be able to leave the house after dark."

The Donald Kings, a vigorous couple in their mid-sixties, invested in two bicycles when they moved to West Palm Beach from Ohio. They use their gleaming three-wheelers for recreation and transportation, pedalling them furiously around town.

"If it rains, we don't go," said King simply.

A difficult dilemma confronts others—go where the buses go or don't go.

The alternative is to pay people for rides and this has obvious, unhappy drawbacks.

Once a month Mrs. Mark Austein must get from her apartment on Tamarind Avenue to the surplus food station at Palm Beach International Airport.

There are no buses so she must pay for a ride to pick up the bulky containers that enable her to stretch her food budget just a little bit further.

"I have to pay $2 to get there," she said. "Sometimes I think, 'Lord, I could just take that $2 and buy the stuff.' "

Inconvenience is only one aspect of the transportation problem. The lack of bus service eats into small Social Security checks in many ways.

Mrs. William Tulloch knows she could wring a few more dollars out of her family check if she had a little help from the community. She doesn't, so she must, for example, grocery shop at the store across the street, instead of a cheaper one 12 blocks away.

"I'd like to get to Palm Coast Plaza where I could get some cheap material to sew a few things but I can't," she said. "I hate to butt in on neighbors when the bus doesn't go. I know I could save some money if I just had the means."

We Are Getting Politically Minded

(By Rochelle Jones)

St. Petersburg.—A hundred couples foxtrotted vigorously past the old man at the edge of the dance floor.

He hummed a few bars of "If You Knew Susie," flirted with a white-haired woman and turned to a visitor.

"You from West Palm?" he asked. "I lived there when I first came to Florida. They don't give a damn about old people there.

"Now St. Pete cares about senior citizens."

He excused himself to ask the woman, who had been returning his glances, to dance. Multicolored lights revolved above them as they glided past the "Dance at Your Own Risk" sign.

The old man was right.

If Palm Beach County cares about its 60,415 senior citizens, it isn't evident.

There are woefully few programs to meet their medical, nutritional, recreational and housing needs.

The County Health Department tests for glaucoma. Emergency financial help is available through county welfare. And the county clinic and nursing home are open to those who qualify for welfare.

But for the overwhelming majority there is nothing besides neglect and indifference.

Even the federally funded Council on Aging was a half-hearted, piecemeal and short-lived stab at representing the area's senior citizens. It enabled other agencies to neglect the elderly with a clear conscience although it did nothing itself.

Council Director George Young said, "No one knows what older people need or want in the county."

The council made no progress toward finding out during its two-year existence.

"We tried doing some surveys on needs and problems but the surveys were unacceptable," Young said.

Last spring the council disbanded after rejecting funds offered by the Department of Health, Education and Welfare under a three-year grant.

"We refused because we felt the programs we were undertaking were moving in the wrong direction," Young said. "We felt the general direction of welfare was wrong. The kind of welfare that begets welfare is wrong."

Palm Beach County is not alone in its neglect of the elderly. The state and federal governments are equally guilty.

For example, on the national level a mere $8 million is spent annually for research on aging. In the four-story Gerontology Research Center, half of the laboratories and offices are empty because of government cutbacks in budgets and hiring.

In 1965 Congress passed the Older American Act mainly to start local programs and develop pilot projects for the elderly.

But in 1970 only $32 million—about $1.60 per senior citizen—was appropriated for the programs.

That was $8 million less than the Pentagon got for publicity purposes only and $27 million less than Greece received in foreign military assistance.

The federal government has done little but the state has done less.

"The state invited us to come here," said Max Friedson, president of the 8,000 member Dade County Congress of Senior Citizens. "There were ads in the newspapers up north saying, 'Come live in the sun.' "

"When we came, there was no one here to receive us, to insure that we would live out our lives in dignity. It's been a farce."

For years the legislature has routinely passed special interest legislation to protect the distillers, the cigarmakers and the mobile home industry. At the same time it has kept old age assistance payments the fourth lowest in the country.

During the 1971 session only one law was passed to help senior citizens—the $10,000 homestead exemption for school taxes.

"The legislature isn't receptive to the needs of old people," said Friedson who represents the Florida Retirees Legislative Organization in Tallahassee. "They care about the duPonts and the Balls. You can't get near some of the legislators."

Other state officials have acquiesced in the legislature's blithe disregard of almost 15 per cent of Florida's population. There was no outcry, for example, when the Florida Commission on Aging was downgraded to a bureau within the mammoth Department of Health and Rehabilitative Services.

Here and there, scattered around the state, are outstanding programs for senior citizens. They are encouraging examples of what can be done.

On the edge of Tampa Bay the sprawling Senior Citizens Center is second home to some 3,000 members. For $6 annual dues they have unlimited use of the card, billiard and music rooms. In the cafeteria, overlooking sailboats bobbing in the municipal marina, they can buy sandwiches for 30 cents.

"Many are so alone," said Daisy Adams, the director. "They come first thing in the morning and stay all day. They're at the door waiting to get in when we open."

Even on a sultry summer day the center bustled with activity—dance and pinochle lessons, bingo in the afternoon and ballroom dancing at night.

In the billiard room Jack Martin, 67, a retiree from New Jersey, watched the men bending over the green felt table.

"I come every day. For $6 a year you can't beat or tie it," he said emphatically.

Across the state in Daytona Beach's Halifax Senior Citizen's Center the telephone rang. Edna Lendway, secretary to the Volusia County Council on Aging, answered.

"Yes, dear, of course, your call is confidential," she said reassuringly. "Mhmm . . . mhmm . . . now tell me, dear, are you married to this man?"

On the other end of the line was a 75-year-old ex-WAC entangled with an elderly alcoholic veteran. Wanting to get away from him but not knowing how, wanting to get help for him but not knowing where, she had called the center's senior hot line.

Mrs. Lendway helped the caller, hung up the phone and said, "This is the kind of thing I do all day—try to answer people's questions."

The 24-hour hot line is just one of the services at the center, termed among the best in the state by Oliver Jurigan, director of the state Bureau on Aging.

With a $20,000 a year budget the council operates a lively employment service, outreach projects in nursing homes, monthly town meetings with representatives from various agencies and a varied recreation program.

Part of its low budget success comes from its location in Daytona Beach's modern, 13-story senior citizen housing project. The 200 residents are eager volunteers at the center.

"More important it makes the people feel needed," said Mrs. Lendway as an elderly man pulled a visitor over to "his coffee maker."

And down in Miami the huge Metropolitan Senior Citizen Center was functioning in its usual happy chaos on a recent day. The phones rang endlessly as people scrambled to arrange transportation to a rodeo for 400 senior citizens.

"The place is always like this," said Director Cliff McCloud with a smile.

The Metropolitan Senior Center is one of 12 centers operated by the Senior Centers of Dade County, Inc., a multi-funded organization supported financially by the United Fund, county, state and federal governments.

The centers offer comprehensive services to senior citizens.

They serve 1,000 low cost meals daily, recruit adult education teachers for classes, give 20,000 free immunization shots yearly, screen for diabetes and glaucoma and sponsor individual and group psychological counseling.

The recreation programs range from gem cutting to bowling to movies.

Most important, perhaps, is the attitude of McCloud. It's reflected in the "Senior Power" button on his desk.

"The seniors have a very important role in running the centers," he said. "My attitude is that the professional staff is there for leadership, guidance and continunity."

They could be a formidable political force.

In Palm Beach County, between 25 and 35 per cent of the registered voters are over 65, according to Horace Beasley, supervisor of elections.

"I'm positive they vote more often and more regularly than the younger voters," he said. "Where there are precincts in retirement areas between 75 and 85 per cent of those registered vote."

Moreover, Beasley added, the political activity of the senior citizens is on the upswing.

"I have noticed that their interest in politics has increased remarkably in the last three years," he said.

Recently Rathman organized a Senior Citizens Voters Group in Palm Beach, Martin and Broward counties. Friedson is organizing branches of the Florida Retirees Legislative Organization around the state.

"We're not kooks or militants," Friedson said. "But we are getting very, very politically minded because that's the only way we can get what we need."

The problems of old age should not be the concern of those over 65 alone. They are the legitimate concern of all society.

"The young people should be joining us," Friedson said. "We're trying to leave a legacy to youth. We're trying to leave them a better old age than was left to us."

Ideally there will come a day when the senior citizen is honored for his contribution to society. Then old age will not be something to be feared. Instead, old age will be recognized as a moment in existence, different perhaps from youth and maturity, but possessing its own and enviable rewards.

But it is apparent from the past actions of public officials that time will not come soon unless senior citizens demand change.

In the past senior citizens have viewed their problems as individual problems. That is the reason efforts to organize senior citizens have floundered.

"We must stick together. If we don't we'll hang separately," Friedson said.

If senior citizens begin to realize their problems are common problems, shared by thousands, the result could be explosive.

Bill Oriol, staff director of the U.S. Senate Committee on Aging, summed up. "If the elderly ever realize what is being done to them, they will rise up and the revolt will be bigger and louder than anything this country has ever seen."

SENATOR WILLIAMS DISCUSSES IMPLEMENTATION OF THE OCCUPATIONAL SAFETY AND HEALTH ACT

Mr. CRANSTON. Mr. President, last year a great step forward in safeguarding American workers from health and safety hazards they face on the job was taken with enactment of the Occupational Safety and Health Act of 1970. I was privileged to participate as a member of the Labor Subcommittee of the Labor and Public Welfare Committee in passage of this historic act. However, there are now disturbing signs that the promise held out by this new law is being diluted by half-hearted efforts at implementing it.

The distinguished chairman of the Senate Committee on Labor and Public Welfare, and of the Subcommittee on Labor, Senator WILLIAMS, has made it clear that he intends to monitor very closely the administration's implementation of this law, and to object forcefully to any laxity. Senator WILLIAMS was the principal author of the act, and he knows very well that it can only be successful if it is effectively administered.

Mr. President, on October 6 in remarks before the annual convention of the Industrial Union Department, AFL–CIO, Senator WILLIAMS discussed this new law and the shortcomings he sees in the administration's implementation of it. I think his clear and comprehensive speech will be most enlightening to anyone interested in the safety and health of American workers, and I ask unanimous consent that the text of the speech be printed in the RECORD.

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

REMARKS OF U.S. SENATOR HARRISON A. WILLIAMS, JR.

It's a real pleasure to have this opportunity to meet with you.

And, I count this an outstanding chance to talk with a group of people who are leaders in a cause that is very important to me.

I'm talking, of course, about on-the-job health and safety.

Thanks to you—the members of your unions and your representatives here in Washington—we now have on the books a solid, Occupational Safety and Health law.

I will say that it is doubtful we would have this law today if we had not had your strong leadership.

You acted as the conscience of the Congress, and helped to insure that the law we passed was a strong and effective as was needed.

I count my own involvement with this legislation as one of the high points of my Congressional career.

No other law I can think of has the potential for bringing such great benefits to so many workers.

Enactment of this law marked an end to the shameful history of government neglect of the problems of job safety.

This law represents the first real Federal commitment to protecting the safety and health of some 57 million workers.

It also provides unprecedented opportunities for workers and their representatives to take part in securing the protection which the Act offers.

And, it establishes a new basis for research into occupational illness—for development of new methods of making workplaces safer—and for training and education programs needed to make the law effective.

Unfortunately, it is now clear that many of our hopes and expectations are being thwarted and frustrated.

Implementation of this Act is in the hands of an Administration which has failed to approach its objectives with vision and imagination.

Instead, the Administration has adopted the penny-pinching attitude that health and safety for workers is something that this great Nation can barely afford.

It is an Administration which has little sympathy for the concept of workers' rights and workers' participation, which is embodied in the Act.

And it is an Administration which seems singularly determined to turn over most of the program to States, whose past inadequacies provided the chief reason for passage of this Act.

This reluctance to support an all-out effort against on-the-job hazards seems especially surprising in an Administration which places such emphasis on "productivity."

Job Safety seems to me the best way to foster productivity.

As George Shultz himself told our Committee, a 20 percent reduction in the rate of job injuries would be equivalent to augmenting our economy by the output of 300,000 workers.

Nevertheless, the disappointing record of this Administration's implementation of the Act is clear.

Let me cite a few examples of what I'm talking about—examples that should cause all of us great concern.

Despite the fact that this Act covers more than four million workplaces, the Labor Department asked for only enough funds ($24.9 million) to place 500 compliance officers in the field by next June 30.

With one inspection for every 7,200 establishments, you can see that a lot of inspection is *never* going to get done.

Efforts made by myself and by your representatives in Washington to get 1,000 new inspectors by next June 30 were not successful.

But, we did manage to obtain enough additional money to provide at least 200 more inspectors.

Now there are reports that even this modest increase may be wiped out because of the Government hiring cutbacks which are part of the President's so-called "new prosperity" program.

So you see that the fallout from the Administration's mismanagement of the economy has no end of side effects upon the working people of this country.

The Administration's unwillingness to make a meaningful investment in implementing this Act is especially obvious when we look at its budget for the National Institute of Occupational Health and Safety.

This Institute was created, and placed in the Department of HEW, in order to perform the comprehensive research efforts which are so essential to achieving the health objectives of the Act.

Yet this urgently needed new agency has been treated like an unwanted stepchild.

And, we still have no indication that it is undertaking any major new efforts to cope with the great range of occupational health hazards that have been ignored for so long.

The Institute's budget for the current fiscal year is only $8.5 million more than was allocated ($25.2 million v. $16.7 million) for occupational health activities before the Act was passed.

This reflects very little appreciation on the part of the budget makers for the real dimensions of the task the Institute has been given, and the needs which must be met.

Just consider the fact that there are more than 10,000 potentially toxic substances now found in regular industrial use—a number that is growing constantly.

These are all substances for which the Institute should be developing criteria, so that standards may be established embodying all the protective features specified by the Act.

Yet the Institute is operating under such strangling budget constraints that it is able to work on the development of standards for only ten of these 10,000 substances this year.

I can't think of anything that points up more glaringly the outrageous indifference that this Administration is displaying to the objectives for which this Act was passed.

Some other serious shortcomings in the Administration's approach to implementing the Act should also be mentioned.

One is its reluctance to recognize that workers and their representatives must be treated as full partners, along with business, and government, in making this program work.

For example, despite the extensive first-hand experience that workers have had with problems of safety in the workplace, how many have been employed to work in the program?

I know that many have been recommended by your unions, yet not even a handful have been hired.

The Administration seems to prefer people from management, or even Government people with no safety background.

Certainly, management should be represented—indeed must be represented.

But, it is essential that workers also be adequately represented.

Unfortunately, the Administration has made it pretty clear that workers are just wasting their time in applying.

This attitude has also been evidenced in the Labor Department's failure to make effective use of the Act's provisions for Government-supported training programs.

There is a crying need for such programs, and a great deal of interest throughout the country.

Many unions are anxious to participate.

They recognize that if key workers in each plant can acquire sufficient knowledge about the Act and its application to their own situations, the workers themselves will be able to bring about compliance without need to always depend upon a Federal inspector.

Yet the Department has done virtually nothing to meet this need.

Of course, it has now set up a series of one-day orientation sessions for union representatives.

But these are no substitute for more intensive, in-depth training programs.

What's more, even here the Department completely ignored the educational and training capabilities of so many of our unions.

Instead, it decided to pay the Boeing Company $65,000 to provide the orientation for union representatives.

A matter of particular concern right now is the Labor Department's determination to turn much of the Act's program over to the States.

Nothing in our past experience gives us any reason to expect that more than a handful of states will administer an effective occupational safety and health program.

Indeed, it was the record of failure of many decades on the part of most states that led to the conclusion that a Federal program was needed.

The Act does provide for approval of state plans which give appropriate assurances of being at least as effective as the Federal program in the development and enforcement of standards.

However, the Department is so eager to bring in the states, that it seems willing to approve plans on the basis of paper promises that a state will at some time in the future have the authority and capability to fulfill its commitments.

The Department also seems willing to approve programs which are not in accord with the concept of worker rights and worker participation which is so expressly laid out in the Federal law.

For example, Undersecretary of Labor Silberman has publicly announced that the right of an employee representative to accompany a compliance officer during an inspection need not be included in a state plan.

This is clearly a case of disregarding Congressional intent.

Congress viewed this right—and other workers rights included in the bill—as being essential to successful implementation.

It is most unfortunate that the Administration should now try to subvert this intent in implementing the law.

All of these concerns I have mentioned—the Administration's refusal to provide meaningful budgetary support for this Act, its unwillingness to give full recognition to the idea of worker participation and its hastiness to turn over the Act's administration to states—make it very clear that our hopes and expectations for this Act will not be self-fulfilling.

We must never stop looking over the shoulders of those who are administering this Act.

And, we must never hesitate to raise the roof when we think they are going astray.

I believe the time is not far off when the Senate Labor Committee will have to begin oversight hearings to determine, in a formal way, just how this law is being implemented, and to establish the basis for a more realistic level of funding for the Act's programs.

To my mind, those administering this Act must be guided by at least the following objectives:

—An all-out effort to perform the research necessary for developing the most effective standards for protecting employees against the full range of on-the-job hazards.

—The development of an adequate compliance staff in the Department of Labor, equal to the task of providing a regular and effective inspection procedure. The task should have the capacity to respond promptly when workers send notice that dangerous conditions exist in their places of employment.

—The refusal to approve a State plan for any State which is not able to commit itself to at least as vigorous and effective a program as the Federal program—including full recognition of the principle of worker participation and worker rights.

—A comprehensive program to provide employees with training in the Act's requirements and the application of those requirements to their own places of employment. In this way, they themselves may bring about a maximum level of compliance, without the need to depend upon Government inspectors in every instance.

—Imaginative use of the Institute's resources and the Act's authority in an effort to integrate occupational medicine into an overall system of health care. Major emphasis should be on individualized screening and prevention.

To insure the achievement of these objectives will require constant vigilance and commitment on the part of all of us.

It will also take a substantial amount of money.

But, I can't think of many better purposes for spending money than safeguarding the safety and health of those who produce our Nation's wealth.

And the day we get an Administration that sees things the same way, I believe the fullest realization of the Act's goals will be within our grasp.

BILL TO END POLICE SHOOTINGS RECEIVES SUPPORT

Mr. SCHWEIKER. Mr. President, yesterday, five wives and friends of Philadelphia policemen visited me to present petitions supporting the enactment of my legislation which is designed to end the tragic killings of policemen.

Mrs. Dee Basciano, Mrs. Loretta Hudec, Miss Helen LeRoy, Mrs. Kathleen Mulvihill, and Mrs. Joanne O'Malley came to Washington to present me with the names of 5,000 Philadelphia area citizens who each signed petitions supporting S. 120, a bill to prohibit assaults on State and local law-enforcement officials, firemen, and judicial officers.

On September 16, 1970, I originally introduced the bill. Late in the 91st Congress the Senate Judiciary Committee held hearings on this legislation which clearly indicated the urgent need for its enactment. Witness after witness presented convincing evidence that the killing of these officials is a national problem and that there is substantial justification for Federal legislation. Regrettably, no action was taken on the bill during the 91st Congress.

I therefore reintroduced my bill, S. 120, at the beginning of the 92d Congress. Under this bill, in any case where an individual has traveled in interstate commerce or used any instrumentality of, or facility for interstate commerce, with the intent of assaulting, injuring, or killing such officials, or where a dangerous or deadly weapon which has been transported in, or is customarily distributed in, interstate commerce is used to commit the crime, Federal officials would be able to assist local authorities in investigating the crime and tracking down the criminals. The crime would be punishable under Federal statutes.

Mr. President, over 100 policemen were killed last year. This problem has increased since I originally introduced my legislation.

I deeply appreciate the support offered by the wives and friends of the Philadelphia policemen who came to see me and the additional expression of support by the 5,000 people who signed the petition presented to me. The wives advised me that this is just the beginning of their campaign and that they would have had far more signatures, had there been more time available before our meeting. I again call on the Senate Judiciary Committee to act quickly on this urgently needed legislation. We simply cannot stand by in the face of increasing attacks on our courageous and dedicated law-enforcement officials.

TEACHING THE CONSTITUTION

Mr. BELLMON. Mr. President, earlier this year a very worthwhile program was conducted by the American Citizenship Center of Oklahoma Christian College. The distinguished senior Senator from North Carolina (Mr. ERVIN) participated in this program—a 2-day seminar for high school teachers on the Constitution and how to teach it.

The success of the seminar was described by James J. Kilpatrick, of the Washington Star syndicate, in a column published in the Daily Oklahoman. In order that other Members of the Senate may be aware of the program, I ask unanimous consent that the column be printed in the RECORD.

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

TEACHERS LEARNING HOW TO TEACH PRINCIPLES OF U.S. CONSTITUTION

(By James J. Kilpatrick)

DALLAS.—Summer is the seminar season for teachers. A thousand classes in intellectual calisthentics must be in session this week, and doubtless most of them merit a word of praise. A recent gathering here in Dallas, at the law school of Southern Methodist University, calls for a special salute.

Nearly a hundred high school teachers of history and social studies got together last week for two days of hard listening and lively discussion. They met to consider, of all things, the Constitution of the United States, how to teach it today. Who ever heard of such a thing?

The seminar was organized by the American Citizenship Center of Oklahoma Christian College, up in Oklahoma City. A Texas donor put up the modest sum required to finance the affair, and teachers were invited from both large and small high schools in the two states. Sen. Sam Ervin of North Carolina, one of the nation's foremost constitutionalists, served as principal speaker, but with deference to Sen. Sam, the teachers themselves provided the real meat and potatoes. For persons who love the Constitution—simply love it, and love to talk about it—these were two happy days.

Dr. James O. Baird, president of Oklahoma Christian College, and Dr. Robert H. Rowland, director of the Citizenship Center, were the prime movers in bringing the teachers together. Their principal concern in recent years has been the failure, as they view it, of so many young people really to learn the fundamental principles and values of their country. In a small but effective way, working first with high school students and now with their teachers, they are trying to rekindle old fires of dedication and understanding.

It is a tremendously important task. As President Nixon remarked the other day, in a brooding moment out in California, the most casual study of the decline of Rome will turn up some striking analogies with conditions in the United States in recent years. Nixon did not want to be misunderstood: He was optimistic that our old Roman virtues would reassert themselves. He was not about to acknowledge the onset of some new barbarianism with new Dark Ages to follow.

How does one "teach the Constitution"? To listen to the teachers as they talk among themselves, students have little interest in textual analysis. James Madison does not exactly grab them. They do not groove upon the doctrine of enumerated powers. "My students," one instructor remarked, "think of the Constitution in terms of just one word: 'rights.' They say, 'I know my rights.' But they don't know their rights. And it's not easy to talk to them of 'ordered liberty' when most of our time in the classroom has to be spent in just keeping order."

One approach suggested in the Dallas seminar is to concentrate—without ignoring historical background—on what the Constitution means today. A student who may yawn at 18th Century prohibitions upon an "establishment of religion" may be awakened by last month's Supreme Court decision on aid to parochial schools. Is the Fourteenth Amendment dull stuff? Then talk about the Constitution in terms of the compulsory busing of students to achieve racial balance. It's a hot topic in Texas today. The point is: The Constitution lives. Effective teaching, by knowledgeable teachers, will not let it die.

STRONG ARGUMENTS FOR THE INVESTMENT TAX CREDIT

Mr. PERCY. Mr. President, with enthusiasm, I invite the attention of Senators to a recent speech by Dr. Maurice Mann, executive vice president of the Western Pennsylvania National Bank, before the Kentucky Bankers Association on September 13. Dr. Mann is well known to me and to others in this body as an extremely able economist and dedicated public servant who served with distinction as Assistant Director of the Bureau of the Budget earlier in this administration.

In his speech, entitled "The Difficult Road to Economic Growth and Stability," Dr. Mann presents a very compelling argument for stimulating spending for investment as an appropriate and necessary element of national economic policy. His reasons briefly are that: First, consumption is now heavily favored at the expense of private and public investment; second, future trends in investment spending as forecast by the Council of Economic Advisers for the next 5 years show an increase in the share of GNP devoted to consumption while the share allocated for business investment remains flat; third, to satisfy the tremendous investment needs of the economy, including productivity, it is necessary to devote a much larger share of GNP to investment; fourth, the 1969 Tax Reform Act provided significant reductions in personal income taxes, but increased the level of business taxation, and restoration of the investment credit would help redress the balance; fifth, because the multiplier effects of spending for capital equipment are far greater than spending for consumer goods, jobs would be created at a time when they are desperately needed; sixth, data on the respective shares of total income accounted for by individuals and businesses indicate that income accounted for by business in the last half of the 1960's decreased steadily while employee compensation increased, suggesting the existence of an imbalance.

I ask unanimous consent that the portion of Dr. Mann's statement referred to above be printed in the RECORD.

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

ANOTHER LONG-RUN PROBLEM

Inflation is not the only problem that stands in the way of satisfactory long-run economic growth and stability. Another obstacle is the appropriate allocation of limited resources among vigorously competing demands. In this regard, considerable criticism has been leveled against the proposal to reinstate the investment tax credit, on the grounds that it provides a tax bonanza for business, while individuals receive only a token tax reduction. In my opinion, this criticism may be somewhat wide of the mark. For example, the historical record reveals that, whenever it was thought that economic stimulus was needed, we have tended to stimulate consumption; and whenever it was thought that economic restraint was desired, we have tended to restrain investment. As a result, we are now at the point where consumption is heavily favored at the expense of private and public investment.

The investment tax credit is desirable and advantageous because it would increase the relative position of private investment in the Nation's priority structure, which is something that needs to be done. For example, the five-year forecast in the 1971 report of the Council of Economic Advisers showed an increase in the share of GNP devoted to consumption, while the share allocated for business investment (as well as state and local government purchases) remained flat. This set of economic relationships would make it much more difficult for the Nation to achieve satisfactory long-run economic growth and stability. Because of the tremendous non-consumption needs of the economy—for example, to improve the Nation's competitive position in world markets, to offset large gains in compensation per man-hour, to upgrade the transportation system (particularly in urban areas), to solve the problems of air and water pollution, to name a few—it seems inconsistent to devote an increasingly larger share of GNP to consumption—and less to investment.

In the upcoming dialogue on the investment tax credit, we should remember that the Tax Reform Act of 1969 provided significant reductions in personal income taxes over a period of years, but increased the overall level of business taxation. In fact, many people agreed at the time that the Tax Reform Act of 1969 was weighted too heavily in favor of the consumer. Reinstatement of the investment tax credit at this time would go a long way toward restoring a reasonable balance between consumption and investment in the economy. Moreover, increased production of additional capital goods would also provide a significant source of new employment opportunities—it is well known that the multiplier effects of capital spending on employment and income are considerably greater than those of consumer spending.

Another dimension of the consumption/investment relationship is indicated by recent data on the respective shares of total income accounted for by individuals and businesses. The evidence clearly shows that income accounted for by business has steadily decreased as a percent of total income, while employee compensation has steadily increased. For example, total compensation of employees as a percent of total national income reached a recent low of nearly 70 percent (69.8 percent) in 1965, and then increased steadily, moving up to nearly 76 percent (75.6 percent) in 1970 and in the first half of 1971 (75.8 percent). Conversely, corporate profits before taxes as a percent of national income reached a recent high of nearly 14 percent (13.8 percent) in 1965, and then declined virtually uninterruptedly, falling to 9.5 percent in 1970 (in the first half of 1971, the share was 9.6 percent). The story is essentially the same, but not as dramatic, with regard to the proportions of personal income accounted for by labor's share and the share accruing to business and professional income and dividends. What is dramatic, however, is that corporate profits as a percent of the Nation's total output are at the lowest level in more than thirty years.

All in all, I believe that this is additional evidence of the fact that the scale is tipped in favor of the consumer sector at the expense of the business sector. It also has interesting implications with respect to the possibility of holding various types of income at present levels, especially since the current share of business income is considerably below the average of the past 10 years or so, while employee income is considerably above its recent average.

In addition to restoring the investment tax credit permanently, it may be necessary in the years ahead to increase, rather than reduce, the average level of personal taxation in the United States. This must be done if we are at all in earnest about producing all—or even most—of the public goods that we seem to think we want—catering to the Nation's housing needs as well as to the types of spending that fall within the province of State and local governments.

CONCLUDING COMMENTS

Taking a position that advocates lower business taxes and the possibility of higher personal taxes will not win a popularity contest—at least in today's political environment. However, it is perhaps about time that we, as a Nation, consider the problems of the long-range economic outlook and stop cutting off our noses to spite our faces. It is an increasingly apparent fact of economic life that, in the years ahead, it will be a formidable challenge to make resource availability consistent with a satisfactory rate of economic growth—in terms of both the quantity and quality of that growth. Among other things, we cannot continue to short-change investment in private and public productive capacity, nor can we afford to ignore the development of practical and lasting solutions to the basic structural problems that confront the economy. We now have some time to begin to move in all of these areas—to make necessary adjustments in labor markets, in collective bargaining procedures, in international trade practices, in private and public pricing policies and procedures, among many others. If we do not move promptly and effectively, the favorable initial effects of the new economic policy will quickly dissipate, and the road to economic growth and stability will be even more rocky and more troublesome than it is already destined to be.

DEALING WITH NUCLEAR INVESTORS

Mr. BYRD of West Virginia. Mr. President, on behalf of the distinguished Senator from Alaska (Mr. GRAVEL), I ask unanimous consent to have printed in the RECORD a statement by him entitled "Dealing With Nuclear Investors."

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

DEALING WITH NUCLEAR INVESTORS

(Statement by Senator GRAVEL)

Some people are amazed that President Nixon is still promoting nuclear electricity (fission) as "our best hope" for meeting future energy needs, in the face of its obvious inferiority to sure alternatives such as solar energy in a variety of forms.

Should anyone really be surprised that there is so much reluctance to abandon nuclear fission? There is a huge private investment at stake in this obsolete technology.

Only dreamers can imagine that bankers, utilities, uranium owners, and other giant investors in nuclear electricity are going to allow President Nixon to jump on any other energy bandwagon, unless their huge nuclear investment is made recoverable somehow. In addition, under some rate-setting regulations, the high capital expense of nuclear power plants may be considered an advantage and not a disadvantage by utilities, whose political clout is large indeed.

As long as big money is on the side of nuclear fission, the nuclear juggernaut will roll on regardless of court decisions like Calvert Cliffs, regardless of soaring costs to consumers, regardless of unsolved safety problems at every step, regardless of the high probability of irreversible nuclear contamination of the planet.

IF WE KNOW, SO DO THEY

The various energy barons know that nuclear power is not the "only" or "the best" energy for the future. If we know about the alternatives, so do they.

There are clean fossil fuel systems, clean geothermal energy, various forms of clean solar energy (including sea-thermal energy, now recoverable at low cost). While we can expect that there are some flaws in these presently unfunded alternatives, their flaws can not begin to compare in number or danger with the flaws still existing in every step of the nuclear cycle.

If, even without solicitation, my office is receiving proposals for non-nuclear alternatives which require nothing more than today's technology, then the energy barons are receiving them too.

Why do they ignore the non-nuclear alternatives so diligently? It is not ignorance. Therefore, education won't help.

When Nixon and the energy owners choose fission as the energy source of the future, in the face of at least half a dozen safer, ecologically sounder, and possibly cheaper choices, it is obvious that the engine of the nuclear juggernaut is money, not merit.

Those of us who want to prevent radioactive contamination of our planet (like those who want to end poverty or militarism) have got to come to terms with the people who are profiting from and perpetuating what is dangerous. We have got to make alternatives attractive to them in their terms: money, not merit.

EQUALIZING PROFIT POTENTIAL

It must be possible for as much profit to be made from safe energy sources as from nuclear energy sources, just as it must be made possible to profit equally from peace products as from war products, from decent jobs for everyone as from unemployment and poverty. In a private enterprise system, it is futile to argue merits without arguing money.

Since the President has declared nuclear energy to be the nation's highest priority energy program and has budgeted for it accordingly, nuclear electricity must surely be a major subject of examination in the Senate's energy study, mandated May 3rd by Senate Resolution 45 of which I was a cosponsor.

This study, under the direction of William Van Ness of the Senate Interior Committee staff, will perform a distinct service to the country if it takes a public instead of a backroom look at the money as well as the merit questions of our energy choices. Two distinguished Alaskans, Dr. Arlon Tussing and Joseph Fitz Gerald, are staff consultants, and I have high hopes for the product.

Scandal or impropriety is not what I'm expecting. I'm simply talking about finding out who needs what in order to make certain publicly desirable things happen. The only hope of reconciling public policy-making with private enterprise is open recognition of the financial facts of life. What needs to be hidden, if we agree that money is a natural force in a private enterprise system?

NUCLEAR DOLLARS IN PERIL

Perhaps the so-called "smart money" has already gotten out of nuclear energy, in the realization that a single severe accident puts the entire investment at peril, and that a severe accident is possible—perhaps probable.

Non-nuclear investors had better start worrying about President Nixon's energy policy too, because if this country ever grows dependent on nuclear energy for more than a few percent of its electricity, the entire economy could be crippled by one bad nuclear accident which required the shutdown of all nuclear plants. That kind of financial loss would find no relief, when the Price-Anderson amendment to the Atomic Energy Act limits liability to $560 million per accident.

Even if "smart money" has seen the danger in going nuclear, there is plenty of not-so-smart money so deeply entangled with nuclear fission that it will publicly discount inconvenient evidence and information.

A SYSTEM FOR BAD ADVICE

Where have nuclear investors been turning for their technical advice? They have been getting it exclusively from scientists in the nuclear establishment who are lavishly funded in government, industry, and universities to promote nuclear energy. Since investors failed to have any funding given for the adversary mission—which would be finding out everything which is wrong with nuclear energy—nuclear investors have been getting only one kind of advice.

They must feel bitter now. Here they are, deeply committed to a technology, when a new revelation about its absurdity hits the press almost every week. Suddenly they find that the most essential safety system in nuclear plants may not even work, that the principal by-product (radioactivity) is many times more dangerous than they had been advised, that there is no solution developed yet to the guardianship or transportation of radioactive waste or to the problem of radioactive mine tailings. Nuclear advocates have more than met their match in terms of brainpower, credentials, and motives. The critical scientists are at least as good as the advocate group, and nuclear investors must know it.

PROTECTING AN INVESTMENT

They find themselves pitifully deep into a bad idea. I am not without sympathy for them. They, however, are without sympathy for my position, which is that we urgently need a moratorium on the construction of any nuclear power plants. They have their investment to protect.

Perhaps they still hope that even a grotesque idea can flourish, provided it has government blessing and generates profits, jobs, and abundant research contracts. They, too, have learned lessons from the arms race.

Unless we come to grips with the financial forces at work behind nuclear electricity, nothing will prevent nuclear pollution, and nothing will develop the obviously superior alternatives to nuclear electricity. Alternatives—no matter how potentially profitable—will receive only token federal development funds if their development means a big loss for powerful nuclear interests.

Therefore, if we want safe alternatives adopted, we should be willing to come to terms with the nuclear investment.

GOVERNMENT TAKE-OVER

Who is "we"? We means Congress—starting perhaps with the Senate Energy Task Force. Congress, which was *not* responsible for the recent predicaments of Lockheed and the Penn Central, came to their rescue. Congress, which was *largely* responsible for commercial development of nuclear electricity, is obliged to pay particularly close attention to the nuclear mess which has developed.

Once upon a time, it was dreamed here that nuclear electricity would be "too cheap to meter". The high hopes for nuclear electricity were codified by Congress in the 1954 Atomic Energy Act. At that time, the extreme hazard of its radioactive by-products was not well appreciated at all. If the hazard had been appreciated, I am sure that Congress would never have put fission in the hands of private industry, where cost-and-corner-cutting so naturally overwhelm quality control and safety considerations.

It may well be that the government will have to take back—which means buy back—ownership of nuclear power plants, in order to see that they are built and operated at least as carefully as nuclear submarines are, under Admiral Rickover's scrutiny.

GOVERNMENT PAY-OFF

Since the federal government applied pressure vigorously on private industry to develop nuclear electricity, I firmly believe that the government is obliged to pay-off the investors and to guarantee jobs to the workers affected by the needed reversal of the government's nuclear policy.

Estimates, probably inflated, place the pri-

vate nuclear investment at $20 billion now. How much of that figure represents money still unspent and work still unperformed? How much of that represents equipment and construction work that could be readily used in new, clean, fossil-fuel plants?

The pay-off, even on $20 billion, would amount to about $10 per capita per year for a ten-year period. That is cheap ransom from an error which could well contaminate the planet forever, at least in human time-scales.

SMALL AND FOREIGN INVESTORS

If the energy establishment in this country continues to promote an obsolete fission concept, small investors or foreign investors may turn out to be the winners in the solar energy sweepstakes. Some of the pilot plants—for instance, for sea-thermal power—require so little capital that someone with determination like Ralph Nader's could raise it himself. The big energy interests might simply be ignored.

I intend to supplement my solar energy remarks in the July 8th *Record* with a series of papers and proposals on both solar and geothermal technologies.

The Calvert Cliffs decision (see the Congressional Record July 30, 1971, pages 28443–28450) and the National Environmental Policy Act require the Atomic Energy Commission to consider the alternatives before granting a nuclear license. The superior alternatives receive only lip-service because all the dollars are behind fission.

Financial forces, "invisible hands", are pushing this country toward a radioactive future. Congress can make it financially attractive for them to push in safer directions. It's time to help them out of their nuclear rut.

I would most certainly welcome hearing the views of the investment community about these remarks, and about handling possible changes in direction for technologies such as electric power production.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

SPECIAL FUNDS OF THE ASIAN DEVELOPMENT BANK

The PRESIDING OFFICER (Mr. GAMBRELL). Under the previous order, the Chair lays before the Senate the unfinished business, which the clerk will state.

The legislative clerk read as follows:

A bill (S. 749) to authorize United States contributions to the Special Funds of the Asian Development Bank.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD at this point a letter from Mr. John Connally, Secretary of the Treasury, under date of October 18, 1971. In his letter, he makes some comments on the bill passed yesterday and the two bills which will be before the Senate today, namely, S. 748, S. 749, and S. 2010, a bill providing for U.S. financial support of the Inter-American Development Bank, the Asian Development Bank—now the pending business—and the International Development Association. I am sure that Senators will find what the Secretary of the Treasury has to say to be of interest.

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

THE SECRETARY OF THE TREASURY,
Washington, D.C., October 18, 1971.

DEAR SENATOR MANSFIELD: I understand that early floor action is contemplated on S. 748, S. 749 and S. 2010, Bills providing for U.S. financial support to the Inter-American Development Bank, the Asian Development Bank, and the International Development Association. These Bills are the heart of President Nixon's program of expanding U.S. reliance on multilateral development financial institutions. I am writing to you today, to indicate my strong belief that we should carry out the international undertakings to which the Bills relate, and to request your maximum efforts to secure their speedy passage.

I need not describe the details of the proposed U.S. subscriptions and contributions, since these are well presented in the three reports approved almost unanimously by the Committee on Foreign Relations. I do wish to emphasize, however, the importance of action to approve the full amounts called for under the international agreements governing the replenishments of the respective institutions, which are the basis of legislative actions already completed by other nations. In view of reductions already made in our bilateral assistance programs, full funding on the multilateral side is essential if the downward trend of our total assistance effort is to be arrested.

The United States is, of course, now deeply engaged in discussions with other major nations on broad matters of trade and international finance. It would be unfortunate if concentration on the central issues in these discussions were hindered by the need to reopen previous agreements in the field of multilateral development assistance. In this sense, prompt Senate action on the pending Bills would be a demonstration of continuing U.S. commitment to the principle of international cooperation. It would also confirm that we are ready to go forward with internationally-negotiated arrangements when they embody—as the international financial institutions clearly do—the concept of burden sharing on a fair basis.

Sincerely yours,

JOHN CONNALLY.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. JAVITS. Mr. President, I wish to address myself to the two remaining bills, as I did not have an opportunity yesterday to address myself to the Inter-American Bank bill which was pending at that time.

Mr. President, I believe that we need to have a much clearer sight on the situation than we had before. Inasmuch as I engaged in the debates with respect to foreign aid for 23 years, including my work on the Marshall Plan, when I had the honor to be the floor deputy for a revered Member of the House named Dr. Eaton, of New Jersey, who was then Chairman of the House Foreign Affairs Committee, of which I was a member, I am thoroughly aware of the classic arguments made against foreign aid which again are being made today. As the arguments were voiced yesterday, very eloquently and ably, by certain of our colleagues, I simply heard the same thing all over again.

In short, Mr. President, there are two questions respecting these particular bills. One question is: Shall we engage in foreign aid at all, either with credit or with money or with technical assistance? The other question is: Having decided that we will—if we do, and apparently we decided that yesterday, as we have for years before—how will we do it?

My point in respect of these bills is, first, that the case, in my judgment, is very strong that we should have an effective foreign aid program—and I will deal with that in a moment; second, that it is even stronger, that it should be done in the way we are now beginning to do it, with an important emphasis—not exclusive, but an important emphasis—upon multilateral organizations as contrasted with bilateral aid. There is a place for bilateral aid, but the multilateral field, in my judgment, that offers the greatest future promise since burden sharing is implicit in the concept of aid channeled through multilateral organizations.

As to the classic anti-foreign aid argument, the impression is sought to be given that we are taking bread out of the mouths of American babies by engaging in a foreign aid program, and the sense of perspective is lost almost completely in those discussions. The fact is that we run an annual budget in the area of $135 billion to $150 billion, and with the trust funds, and so forth, it runs to approximately $220 billion to $230 billion. The fact is that we are talking about programs which enlist hundreds of billions of dollars, while the total foreign aid program, in round figures, comes to about $4 billion. The big figures in respect of our foreign activities are military. For example, the estimate of our operations in respect of NATO alone comes to something like $14 billion a year.

Yes, we have a material deficit; and whether Senator BYRD's figure is right or not—I am sure he feels that it is, based upon his research—of at least the $30 billion deficit, or whether in the 20's is a better estimate, whichever way we slice it, it is still a very big deficit.

But, Mr. President, I do not see Congress turning down $25 billion for military procurement or seriously questioning an aggregate of $65 billion for total defense. I do not even see Congress turning down $3 billion to $4 billion a year for space on the ground that it is taking bread out of the mouths of American babes. Then as mentioned in terms of the balance-of-payments transactions of the United States, the big, adverse expenditures in terms of the balance of payments, is not the foreign aid program but our continuing military expenditures abroad. So the idea that by engaging in foreign aid or in subscribing in the "tranches" as they are called in banking, in terms of the international multilateral banking organizations which serve the developing countries, that we are

taking bread from the mouths of American babes, or not reconstructing the slums of New York City in my State, or in other cities, or denying children free lunches, or not running an adequate poverty program, and so forth, does not stand up in the face of the facts.

The assumption is made, of course, that if we did not spend what we are called upon to spend with respect to the programs, we would use it for other more worthy purposes. I hope that we are sophisticated enough to know that the one does not lead to the other or that our deficit would be less than it otherwise would be.

Thus, Mr. President, I just do not see that those arguments, the so-called taking of bread from the mouths of American babes, or the fixing up of one's own backyard before we fuss with someone else's, are particularly valid. This is particularly the case in our increasingly interdependent world and as the United States increasingly becomes a have not nation in terms of natural resources.

The argument is made that we are not really welcome in other countries and that therefore we have no business engaging in these activities which seek to better the lot of two-thirds of mankind. In the first place, we have staked the world to the extent of $150 billion in the past 25 years. We produce one-half of the world's GNP every year. And then we say that we are poor and cannot afford it? We cannot have it both ways. The facts are against it on that score, because the question is not how rich we are, but how poor everyone else is, too.

It is my view that the domestic economy and our national security will be ill served if we do not carry our fair burden with the other developed countries of the world in attempting to bridge the tragic and growing gap between the have and have-not nations. In fact, our Nation undertook a solemn commitment toward this end during the 25th anniversary session of the United Nations during which I had the honor of serving on the U.S. delegation.

It is important to our Nation that we should continue to make strong efforts wherever we can to provide facilities and mechanisms which will enable every man, whether in this country or other countries, to become productive and economically self-reliant. The two-thirds of humanity who live in less developed nations must see hope for this through peaceful means rather than by violent revolution. International political stability in the future depends on it.

The economic help which we provide today serves to produce enduring economic benefits for us in the United States. As other nations develop and become productive and increasingly self-reliant with the help of our aid, foreign markets for our goods and services will expand. And the sustained growth of our exports is certainly in our best interest.

The progress of the less developed nations has been and should remain of concern to us, as our political and economic relationships are truly mutual. We should support multinational efforts to advance this principle.

The institutions that we are being asked to fund are the cornerstone of the efforts of the industrialized world to help the two-thirds of the world's population living in the developing countries advance toward economic self-sufficiency and political and social integration.

It is my understanding that it is the intent of this administration that the United States—in a fair proportion with other nations—increasingly channel its foreign development assistance through these institutions. At the same time, it is right and timely that other nations bear an increasing share of the cost of economic development assistance to the poorer nations.

Nations once recipients of foreign aid are now providing assistance in steadily increasing amounts. This is appropriate and should be encouraged by the Congress. Other nations now promote our concept of sharing together the burden of development aid as well as other kinds of assistance.

The pooling of resources of not only the more affluent but also the less developed countries of the world, their expertise and their knowledge in economic development is essential to assure that each country does its share in an effective and systematic effort to bring about orderly and enduring world prosperity.

Yet sadly, the fact is—and this, to me, is "the" critical point—the United States is now down at the bottom of the list of the leading industrial nations in terms of per capita GNP foreign aid. So that we are not breaking our backs in foreign aid. We have tapered off considerably. And we should. I have no quarrel with that.

At the same time, I cannot stand silent and permit that argument to be used as a reason why we should not engage in what is an extremely modest and an extremely worthwhile program.

Mr. President, then as mentioned we still have the highest per capita personal income factor, by far, generally speaking, compared with any other nation in the world, by a ratio of 2 to 1.

The U.S. gross national product, with 8 percent of the population of the world, is 50 percent of the gross national product of all mankind.

Mr. President, when we have that kind of power—of course, we have poor among us, we have joblessness in the country, and we have great difficulty with some 25 percent of our population—but when we have what we have, spread large and clear upon the public record, and we are living on the international street with other nations, we cannot cry "poor mouth" in the face of the record when other nations are engaged in active and effective foreign aid programs in relation to their resources which are much greater than ours. We can hardly get away, to use a curbstone phrase, by saying, "We are sorry, we are too poor, we are backing out of this."

Now, Mr. President, in the debate on the bills now before the Senate, I am concerned about the somewhat distorted picture that is being painted which depicts these money authorizations of being of no benefit to the United States. This is not the case and I would like to lay before the Senate the concrete benefits the United States receives from these expenditures.

First, it is important to recognize the important role of continued capital transfer to the developing nations in maintaining a steady flow of trade with them. The World Bank, its affiliate the International Development Association, the Inter-American Development Bank, and the Asian Development Bank among other regional funds help sustain the credit worthiness of these nations and keep them integrated into the free world economic system. This is an important consideration in our balance-of-payments picture, in our overall national security, and as such in our self interest to maintain.

Second, over the years, a total of 33 percent of all procurement by the IBRD and IDA has been placed in the United States. By the end of 1970, payments received by U.S. suppliers for such orders amounted to $3,060 million, $1,323 million more than paid-in capital and subscriptions received by the Bank and IDA together from the United States. In turn, as of December 31, 1970, U.S. suppliers have received orders under 540 of 791 loans made by the Bank.

In competition among the 20 supplier countries, American suppliers provide a wide variety of goods and services including chemicals, construction equipment, automotive machinery and equipment, civil works, consultative services, livestock, textile, and agricultural machinery, vessels and floating equipment, railway equipment, et cetera.

Turning specifically to the IDA, as of December 31, 1970, U.S. suppliers had received orders under 113 of 237 credits made by the IDA. By sector, U.S. participation has been particularly significant in the following areas and the figures I will now give are IDA disbursements in the United States by category of goods and services:

IDA disbursements in the United States by category of goods and services (July 1, 1966 to Dec. 31, 1970)

[In thousands of U.S. dollars]

Chemicals	20,021
Construction materials	2,867
Construction equipment	14,690
Mechanical equipment	11,400
Textile machinery	22
Agriculture machinery	6,935
Electrical equipment	23,642
Automotive machinery	15,686
Materials and equipment for railways	16,250
School equipment and supplies	1,476
Civil works	29,547
Consulting services	19,705
Freight and insurance	1,047
Miscellaneous	762
Total	164,050

Turning to the impact on the U.S. balance of payments, in the 25-year history of the World Bank group, its constituent institutions taken together have had a net favorable impact on the U.S. balance of payments of over $2,500 million. The World Bank by itself has been a net contributor of $2,862 million; IDA, which received contributions from the United States, has created a counterflow of

slightly more than 10 percent of this amount, or a drain of $299 million. In fiscal 1970—ending July 1, 1970—the net impact of the Bank on the U.S. balance of payments was $576 million as compared to a drain of $45.3 million by IDA.

Finally, Mr. President, I ask unanimous consent that the list of U.S. suppliers to IDA projects 1966–70 broken down by State be placed in the RECORD at this point. I note that among the States represented are Colorado, Iowa, North Carolina, Oklahoma, Tennessee, Texas, and Wisconsin, in addition to California, Illinois, New York, and Pennsylvania.

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

THE UNITED STATES AND THE WORLD BANK GROUP—U.S. SUPPLIERS TO IDA PROJECTS 1966 THROUGH 1970 [1]

State and firm	Goods/services
California:	
Parsons Corp., Los Angeles	Engineering services.
Leedshill-De Leuw, San Francisco.	Engineering services, irrigation project.
International Engineering Co., San Francisco.	Consultant services.
ICC E. Webb, International, San Francisco.	Civil works, roads.
Kaiser Aluminum International, Oakland.	Parts and materials for manufacufre of wire and cable.
Colorado: Engineering Consultants, Inc., Denver.	Irrigation project.
Illinois:	
Booz, Allen & Associates, Chicago.	Consultant, water supply.
International Harvester, Chicago.	Agricultural equipment, trucks, tractors.
Goodman Manufacturing Co., Chicago.	Construction equipment.
Caterpillar Tractor Co., Peoria.	Tractors, bulldozers, loaders, trucks.
John Deere, Moline	Tractors.
Harza Engineering Co., Chicago.	Engineering, irrigation project.
De Leuw Cather, International, Chicago.	Consultant, highway planning.
Public Administration Service, Chicago.	Technical assistance.
Iowa: Weitz-Hettelsater Engineering Co., Des Moines.	Consultant services.
Massachusetts: Arthur D. Little, Boston.	Consultant services.
Michigan:	
Chrysler Corp., Detroit	Truck parts.
Ex-Cell-O Corp., Detroit	Machinery components.
New Jersey:	
Louis Berger Assoc., East Grange.	Consultant services and highway engineering.
Burns & Roe, Inc., Oradill	Engineering, electric power project.
New York City, N.Y.:	
General Electric Co	Turbines, generators, transformers.
Ammam & Whitney	Engineering and road flexibility studies.
General Motors (overseas diesel).	Locomotive parts, trucks and parts, auto parts.
Ore and Chemical Corp	Machinery and copper bars.
Philbro, Inc. Asia	Locomotive components.
Sulphur Export Corp	Bright sulphur.
Babcock & Wilcox	Materials and equipment for steam boiler.
Alcoa, International	Aluminum rods and ingots.
Reynolds Metals Co	Aluminum ingots.
Coca-Cola Export Corp	Bottling equipment.
Marubeni-Iida (America)	Material and equipment for thermal plant.
Frederick Harris	Supervisor and inspection highway construction.
Fried, Zoellner	Copper wire scrap.
Copperweld Steel, International	Steel wire.
North Carolina:	
Athey Products Corp., Raleigh	Trucks.
J. A. Jones Construction Co., Charlotte	Construction, hydroelectric project.
Oklahoma: Oklahoma State University, Stillwater	Teacher education program.
Ohio:	
Kaiser Jeep, Toledo	Jeeps and parts.
Cleveland Graphite	Machine parts, steel wire.
Timken Roller Bearing, Canton	Bearing, rollers.
Pennsylvania:	
Allen-Sherman-Hoff Co., Pittsburgh	Ash handling plant.
Louis Berger, Inc., Harrisburg	Highway engineering.
Koppers, International	Tubewell pumping equipment, industrial machinery.
Gannet, Fleming, Corddry & Carpenter	Engineering, highway project.
Mack Trucks, Allentown	Trucks.
Tennessee: Aamco, Nashville	Cutter dredges.
Texas:	
Crispin Co., Houston	Agricultural machinery.
Brown & Root, Houston	Engineering, roads.
Teer-Chambco, Houston	Civil works, highway construction.
F. & C. Drake, Houston	Civil works, highway construction.
Wisconsin:	
Bucyrus-Erie, Milwaukee	Earth moving equipment.
Allis-Chalmers, Milwaukee	Agricultural equipment, earthmoving machinery.

[1] Suppliers identified as holding contracts valued at $200,000 or more.

Mr. JAVITS. Mr. President, with regard to the list, I note some of the leading States represented by Senators who argue here on the theory that we are taking bread out of the mouths of American babes when we subscribe to IDA.

Now, Mr. President, one final thought. I have heard in this Chamber the most brilliant and the most passionate speeches regarding the fact that in this or that area of the world, the people were turning against the United States. Indeed, I have heard it particularly in respect to Latin America and the dismay with which that has been greeted.

Most of us remember the presidential campaign of 1960 which was literally fought upon the issue of the image of the United States in the world.

Mr. President, why all this concern about the image? Is this just imagemaking, Madison Avenue style, or does it really have a point and a purpose? I respectfully submit that it has a very profound point and purpose.

We are a powerful people by any standards. We have 8 percent of the world's population and one-half of its gross national product. We have the greatest industrial plant that mankind ever possessed, let alone dreamed of. We do not want to jeopardize this by engaging in a trade war or by being hated in the world. We want to live in peace with the world. We have to live in amity with the world. Otherwise we are in constant danger of establishing our country as a fortress and extinguishing all our liberty.

That is why Members of Congress stand up and speak with alarm about the fact that we are disliked in this or in another part of the world.

I do not pretend that we can be liked as a nation which is great and has great authority and has to do many things which many other countries do not like. However, not being liked and being hated are very different things.

The people of the United States were deeply concerned, and properly so, when for long periods of years, the government of mainland China preached hatred against the United States and individual Americans as part of its governmental policy.

One of the great reasons why President Nixon's initiative regarding mainland China is widely hailed and respected is that it seemingly will begin to put an end to this kind of inculcated hatred in the minds of 750 million people. In the world, there are about 2.5 billion people who are in very serious need. They need the help of developed countries who contribute foreign aid, among whom we are preeminent.

Suppose we follow the advice given to us and cut off the foreign aid and refuse to contribute to the multilateral organization. We would hear the greatest outcry because over time we would have to double the defense budget to allow us to survive in an increasingly hostile world. What are we talking about in that regard? Even today let us put the matter in perspective—we are talking about a defense budget of $65 billion to $70 billion and an aggregate foreign aid package of something in the area of $4 billion.

It is no wonder, therefore, notwithstanding the rhetoric, that for years and years—as was true on yesterday—when it comes to a vote, the Members of the Senate and of the House of Representatives even in the absence of strong administration leadership decisively record their position in favor of doing something intelligent with respect to the difficulties, economic and otherwise, that befall the rest of mankind except for a mere handful of the industrial and developed nations with their relatively minor proportion of the world's population.

Mr. President, I say these things with all due respect to those in this country that want to sell papers and sell air time, and so forth. Someone denounces a program and tells us that they are taking bread from the mouths of poor babies in the United States and supporting lazy foreigners. It is colorful news. It is exciting. However, thank God the Members of the Senate and the House have more sense than to believe that. I think that our people have more sense, also. At least, however, some of us ought to say it so that it might get at least equal time and equal space.

The final question involved is the best way in which to do it. I happen to agree thoroughly with the President of the United States that we need to reshape our foreign aid program.

I think they can be handled much more intelligently and economically by the rollover, by the financial practice, and by the management technique of the autonomous Government-owned corporation. And I hope very much that we will come to that. However, politics being what it is, we do not seem to be able to do it this year or the next. So, we are still going the old route, putting together a foreign aid package which will give aid and cooperation, albeit in a manner that is less efficient than I think it should be.

However, if we cannot do it in the optimum way, do we do it at all, or do we cut it out? My argument is that we

should not do that and that it would be most inadvisable to cut it out. Even though we cannot do it in the optimum way, we should do our best. I shall be for that and I hope that it will be successful.

The whole reason for the international financial organizations, which we helped to form, was to help other countries in cooperation with other industrial countries. Indeed, it was we and not other nations who urged the formation of the International Development Association which is the main beneficiary of the three bills we will pass. The reason we did it is that it was a brilliant concept. It was the idea of former Senator Monroney of Oklahoma. He was the man who thought up IDA and proposed it and got us to do it and not some Fancy Dan down in the White House. It was a Senator who sat in the corner seat over there, the one near the door that is now occupied by the Senator from Wisconsin (Mr. PROXMIRE).

Former Senator Monroney did it because he felt that soft loans would serve the developing countries. They could not be best served with hard loans. This is increasingly clear as the debt burden of the developing world makes clear. Grants were demeaning to those countries. So, we have been getting away from that and substituting these loans for 50 years. Fifty years is not a long time in the life of a nation. Our country was organized in 1776 and 30 years thereafter the Capitol of the United States was sacked and burned. So 50 years in the life of a nation is not very long.

These are what we call soft loans. They will help other nations to get on their feet. They are infinitely to be preferred. Former Senator Monroney thought this up.

The same is true of the Asian Bank fund and the Inter-American Bank social fund, which we passed last night, to bring in other nations which were rather timidly approaching the concept of foreign aid. Canada is now joining the Inter-American Bank and at a time of economic difficulty and when their unemployment rate is above 7 percent.

Mr. President, since a graph cannot be printed in the RECORD, I think that at least the words which describe the graph and illustrate the leverage or multiplier effect of U.S. inputs to the multilateral development finance institutions, such as we passed on last night and today, should appear in the RECORD. Because other nations increasingly share the burden along with us, the international financial institutions, in 1965 for example, were able to make $1,648 million in new loan commitments, more than three times the $518 million in support appropriated by Congress for that year and only $312 million of this was in actual cash commitments of the U.S. taxpayers money. The rest was in callable guarantee capital, none of which has been or is likely ever to be called.

In 1970, the last year for which we have figures, the "multiplier" increased to 4.6 times our $686 million input when the International Financial Organization made $3,169 million in loan commitments.

The Treasury Department has provided a graph illustrating the effect of this increased burden sharing. It illustrates the leverage or "multiplier effect" of U.S. financial assistance through the multilateral development finance institutions over the past decade and projected out through 1973. Mr. President, I think this graph is an impressive illustration of the benefit in taking the multilateral approach to foreign economic development assistance. As the graph indicates, a very high volume of development lending can be sustained by international institutions that require relatively small contributions from the United States.

Mr. President, the burden-sharing benefits in both monetary and technical contributions of a multilateral approach to foreign assistance certainly makes support of the bills we are considering today fully justified.

Thus, this makes it clear that the U.S. taxpayers cost was much less, at $480 million, as $280 million was in callable guarantee capital.

This multiplier effect is why we went into IDA, and it was not the idea of a Fancy Dan in the White House. It was thought up by Mike Monroney with his excellent brain, and with the support of the rest of us. That is why we voted the same pattern in connection with the Asian Development Bank, and last night followed the same pattern in connection with the Inter-American Bank.

We have to do a lot of things. We are not liked in Latin America. That is not news to anyone here. They are worried about us, they are suspicious about us, they are concerned about us. We have many friends but we have a lot of trouble. The same is true to a lesser degree in Africa, and perhaps even to a degree in Asia. We have many difficulties in terms of our relationships with the rest of the world. But between that, sentiment and hate is a very different thing.

Yet it is my deep conviction that if we should act as some would have us act and cut off these programs, the harvest we will reap will be dragons' teeth and it will have the result over time of doubling the defense budget of the United States. Then, Mr. President, you will be taking bread from the mouths of babes to make guns, and how. I hope very much it never happens when I am around. If I can help to keep it from happening I will do my utmost in cooperation with my colleagues to see that it does not happen.

My attention has just been called to the fact that leaders of all the developing nations, the very people who are the objects of this kind of help, are meeting today in Lima, Peru, to determine how they are going to react to the U.S. 10-percent import surcharge as well as map strategy for UNCTAD III which will take place in the spring of next year.

There is a tremendous firmup in the world going on right now over what we felt we simply have to do in respect to the very difficult situation economically in our country. I beg any Member thinking about his vote to contemplate how that news will be received if the U.S. today should vote down these bills. I do not say that in order to worry or panic anyone, but it is symptomatic of my main thesis, which is that we can live with the fact that they might not like us and that we are not doing enough, and there are many complaints about Uncle Sam and the colossus of the north, but to reap the harvest of hate we cannot live with that and I do not believe any American wants to. An affirmative vote would also be a vote against isolationism which is a real danger and a vote for a continuing meaningful, forward-looking U.S. involvement with the developing world.

For that reason I think what we are doing is reasonable and prudent within the parameters and the political problems we have, even though at the moment we cannot have an optimum program even in this field.

I think these bills deserve the support of the majority of the Senate, as we had last night and as I hope we will have today.

I yield to the Senator from Kentucky.

Mr. COOPER. Mr. President, I thank the Senator for yielding. I did not know the Senator would speak at this time. I have been inspired and informed by what he has said. He lends to this subject a breath of understanding, and a viewpoint of the future.

It is very easy for us to say that we need specific programs in our States or for the large needs of our country and, therefore, we should save some money for these needs by voting against the foreign aid bill, or the bills dealing with multilateral organizations. This may gain some shorttime approval, but in the long run we must consider that we are dealing with the great interests of our country when we consider these bills.

I will speak first with respect to what is happening in our Committee on Foreign Relations. I think what we are doing there is bad in terms of our broadest interests. The President has said the administration would support a 10-percent cut with the exception of the Alliance for Progress in Latin America and, of course, we all agreed in committee there should be some cuts larger than 10 percent in military spending. But larger cuts than 10 percent have been made in the committee in technical aid and development aid. We took two actions, tentatively, so far, which would further reduce aid for developing countries of the world. These actions have been announced and published in the press, so I am not contravening our rules regarding executive sessions.

First, we approved $125 million for population control and then provided it must be subtracted from other programs. Then, after approving the humanitarian proposal to allow $250 million to destitute refugees both in Pakistan and India. The committee ordered that it be provided from funds authorized for the entire bill.

I wish to speak particularly about the Asian Development Bank. In 1965, Mr. Eugene Black, then the president of the World Bank, very kindly asked the Senator from Missouri (Mr. SYMINGTON) and me to go with him to Asia and to Manila where the charter was signed. The Congress later approved a capital allotment for that bank, but for about 4 years now we have been delaying action on provid-

ing other necessary, long-term funds to the special funds account of the bank—available to the neediest and poorest countries.

It has been said by many in Congress, by the press, and by many in the country that our policy in Asia is not a good policy, that it has been directed toward military and destructive ends rather than toward aspects of human development. Yet now when there is a proposal such as the Asian Development Bank which is affirmative, which would move toward providing better opportunities for the people of Asia, many of those who criticize so vigorously the military aspects of our policy in Asia, refuse to give their support to this affirmative, constructive program—and peaceful program—for the people of Asia, and particularly of Southeast Asia, which has been devastated by war.

My colleague, the Senator from New York, spoke of the relative proposition of the population of the developed countries to the underdeveloped countries of the world and spoke of the 2.5 billion people who are outside the opportunities which many of the developed countries have. I would like to point out also that we should look around the world and see the small number of countries which we would characterize as democratic. Some are democracies in different forms and different ways according to their own cultures and development, but at least they agree upon certain democratic values. There are so woefully few of them in the world. It means so much to the protection and encouragement of democratic values in the world that our country, which has had the longest history as a Republic and possesses the greatest wealth give leadership in this field.

I hope the provisions of our regular foreign aid bill and the support we give to these multilateral organizations will follow the very wise and eloquent appeal that the Senator from New York, Senator JAVITS, has made, which is so characteristic of his service and the nobility of the causes he has sponsored in this body.

Mr. JAVITS. Mr. President, I wish to thank my colleague from Kentucky very much. He always makes me feel very humble when he says these things. I greatly appreciate them. I know of no more rewarding element of public service than this mutual respect that is engendered in considering issues that affect all mankind.

Mr. President, I wish to state that, in the absence of the Senator from Alabama (Mr. SPARKMAN), I had stated my position strongly in favor of these measures, including the measure passed last night, and I turn the matter over to him now.

I yield the floor.

Mr. SPARKMAN. Mr. President, I understood that the Senator from Virginia (Mr. BYRD) desired to ask me questions. I wonder if this would be an appropriate time. I do not promise him that I can give him the answers he wants, but we will try. We have three distinguished members of the Foreign Relations Committee on the other side, so I am sure the four of us can get together on this.

Mr. BYRD of Virginia. Mr. President, may I say that that is a very formidable array of Senators, both on this side and on the other side.

Mr. SPARKMAN. May I say to the Senator from Virginia with reference to this bill that it passed out of the committee by a vote of 13 to 2. So when the Senator speaks of this being a formidable array, it had formidable backing inside the committee.

Mr. BYRD of Virginia. The Senator from Virginia may say he is well aware of that and realizes that the odds are overwhelming that the legislation will be approved.

I might say that, with regard to the vote of last evening, I was surprised—agreeably surprised—that 31 Senators voted in the negative. When I sought a rollcall vote. I thought I would be the only Senator in the Chamber who would vote "nay," but 31 Senators voted against S. 748 last evening.

Although I recognize the fact that the Foreign Relations Committee approved this proposal by a vote of 13 to 2, as pointed out by the distinguished and able senior Senator from Alabama, I realize the odds are overwhelming against the position that I hold. Nevertheless, I would like to ask a few questions and perhaps get a better understanding of the proposal.

I want to say, first, that I approve the technical assistance funds for the Asian Development Bank. I think that is a desirable program.

As I understand the proposal before the Senate, the proposed U.S. contribution would be the first U.S. contribution to the soft loan window. Am I correct in that statement?

Mr. SPARKMAN. Yes; in the Asian Bank.

Mr. BYRD of Virginia. In other words, we are going beyond technical assistance and are going into a new program. I am correct, am I not, in that statement?

Mr. SPARKMAN. New for us.

Mr. BYRD of Virginia. New for the United States.

Mr. SPARKMAN. I would not say it is exactly new. This has been brewing for some years.

Mr. BYRD of Virginia. So far as our making a contribution is concerned?

Mr. SPARKMAN. So far as our making a contribution is concerned.

Mr. BYRD of Virginia. By that the Senator means the U.S. taxpayers making a contribution.

Mr. SPARKMAN. That is right.

Mr. BYRD of Virginia. I question whether this is an appropriate time for the United States to be going into new foreign assistance programs.

This country had a smashing deficit last year—a $30 billion Federal funds deficit. The Federal funds deficit this year will be at least $33 billion, so there are back-to-back deficits totaling at least $63 billion.

That causes me to question whether this is an appropriate time to be expanding our foreign aid programs.

I am persuaded that perhaps it is not an appropriate time by the very fact that the President of the United States, on August 15 of this year, took very drastic steps.

I, in the main, favor what he did, but he took drastic steps. He cut the United States loose from gold. He put a 10-percent surcharge on imports. I hope the surcharge will be temporary, but it has been put on. He has asked the wage earner to forgo an increase in wages. He has asked businessmen to make sacrifices.

And yet the Congress, under this legislation, is going into a new foreign aid program.

I just have not been able to convince myself that, under the conditions existing in the United States today, it is a wise thing to do. This Government must get its own financial house in order, and it cannot do that by going into new and expanded programs.

The series of bills which the Senate is now in the process of considering, one last night and two today, will obligate our Government and our taxpayers for $2 billion—$2 billion just for additional contributions to multilateral financial institutions. I am using round figures. It is going to be $1.98 billion, but, as a practical matter, we might say it is $2 billion of additional funds.

Mr. SPARKMAN. Mr. President, may I at that point interject this thought?

Mr. BYRD of Virginia. I am glad to yield.

Mr. SPARKMAN. This particular measure is the baby of them all.

Mr. BYRD of Virginia. It has the smallest amount of money.

Mr. SPARKMAN. It is $100 million over a period of 2 years—$60 million for 1 year and $40 million for 1 year.

Mr. BYRD of Virginia. Yes.

Mr. SPARKMAN. And it is really carrying out what our Government gave the other governments every reason to believe we would do.

Mr. BYRD of Virginia. Did the Congress give the other governments reason to believe——

Mr. SPARKMAN. No. I was going to say——

Mr. BYRD of Virginia. The Senator from Alabama does not suggest——

Mr. SPARKMAN. No. Let me say that has no binding effect on the Congress. But, at the same time, the Senator knows that such an implied promise has been made by the executive department of the Government, and it was made several years ago, and it was made in conjunction with the promise of other nations.

As I said in my direct remarks, Japan and the United States took the lead in setting up this combination of nations. By the way, this is one undertaking in which the United States does not pay the major portion, nor does the United States pay more than any other nation. Japan and the United States pay the same in capital stock, and Japan has already made a substantial contribution to the special funds.

This is something that we have been trying for a long time to work out with reference to foreign aid. If we go back 5, 6, 8, or 10 years ago, it will be seen that our committee was recommending more multilateral support for the program.

Mr. BYRD of Virginia. But the point

the Senator from Virginia suggests in this particular case is not in opposition to the multilateral aspects of it. It is in opposition to a new phase of it, which the Senator from Alabama has just confirmed, a new soft loan phase, a concessionary phase, as is stated in the report.

Mr. SPARKMAN. That is correct.

Mr. BYRD of Virginia. It is a new program, so Congress has not considered it in the past. The Committee on Foreign Relations presumably has not considered it in the past, at least it has not acted affirmatively on it.

Mr. SPARKMAN. Yes, the Committee on Foreign Relations has had it, we might say, under consideration for a considerable time. In fact, more than a year ago we reported favorably on this matter, and the main reason it was not approved in the Senate as a whole was that it was right at the end of last year's session, and it was decided we would let it go over.

Mr. BYRD of Virginia. That was a good decision.

Mr. SPARKMAN. Then we held renewed hearings in the early part of April, if I remember correctly, and again when it was considered by the committee, the committee voted 13 to 2 to recommend it, because we are the ones who have been dragging our feet.

It is true it is a new program for us, but there are a number of nations that believe it is a good program and are already bearing their shares of it, and that is much better than our having to come along with a big bilateral program to pay the bill.

The Senator will remember that several years ago when we were out destroying a lot of Southeast Asia, it was the thought of those in power that when the war was over, we would go into a program of reconstruction. At that time, the thinking was primarily that the United States would largely bear the burden. Now we do have a group of nations willing to pay for it with us, and I think we would be losing something if we did not go in on it.

Mr. BYRD of Virginia. May we explore a few figures?

Mr. SPARKMAN. Yes.

Mr. BYRD of Virginia. The Senator says a number of nations are involved. He mentioned Japan.

The figures that I have—and the source of these figures is international financial institutions and the Treasury Department, August 4, 1971—indicate that of the paid-in capital subscriptions to the International Development Association, the United States has put up, in round figures, $1 billion, which is 40 percent of the total.

Mr. SPARKMAN. Wait a minute. It is what?

Mr. BYRD of Virginia. Forty percent of the total.

Mr. SPARKMAN. That we put up?

Mr. BYRD of Virginia. That the United States put up.

Mr. SPARKMAN. The Senator must have the wrong bank. As a matter of fact, the total——

Mr. BYRD of Virginia. I am in error. The Senator from Virginia wishes to acknowledge he is in error in that figure. It is a little over 20 percent.

Mr. SPARKMAN. That is right. The United States and Japan put up exactly the same.

Mr. BYRD of Virginia. Right, yes.

Mr. SPARKMAN. And they are the two largest contributors.

Mr. BYRD of Virginia. I had the wrong institution.

Mr. SPARKMAN. Twenty percent, as contrasted to 100 percent.

Mr. BYRD of Virginia. We have so many of these institutions, the Senator from Virginia got them confused for a moment. He confesses his error.

Mr. SPARKMAN. By the way, the figure is printed on page 5 of the report.

Mr. BYRD of Virginia. I want to say again I favor the technical assistance part of this program, the technical assistance part of the Asian Development Bank; my reason for questioning the desirability of the present piece of legislation is that it goes into a new program, a new program of soft loans, which is another way of saying a direct grant.

It is really a grant; it might be called a loan, but the interest rate is from 1.5 to 3 percent, including service charges—practically no interest rate—and the terms are anywhere from 16 to 40 years.

That is my objection to this particular proposal. Let me ask the able Senator from Alabama this question: How many employees does the Asian Development Bank have?

Mr. SPARKMAN. About 480. Between 480 and 490, is the best information I have.

Mr. BYRD of Virginia. Where are most of them housed?

Mr. SPARKMAN. In Manila.

Mr. BYRD of Virginia. Does the Senator have the cost of administration of this program?

Mr. SPARKMAN. I can give it to the Senator very shortly. About $6 million a year.

Mr. BYRD of Virginia. The administrative costs are $6 million?

Mr. SPARKMAN. Yes.

Mr. BYRD of Virginia. I thank the Senator.

Now, a part of my remarks are directed to the third of the three bills reported out of the Committee on Foreign Relations, having to do with the International Development Association.

Mr. SPARKMAN. Let me ask the Senator from Virginia if he would be willing to wait until that bill is before the Senate.

Mr. BYRD of Virginia. Yes, I shall be very glad to do so.

Mr. SPARKMAN. In order not to confuse the two bills.

Mr. BYRD of Virginia. I am glad to do that.

Mr. SPARKMAN. Fine.

Mr. BYRD of Virginia. I think that is the better procedure. I shall delay any questions in regard to that proposal until a later time.

Mr. SPARKMAN. I thank the Senator from Virginia.

Mr. AIKEN. Mr. President, I do not think I have much to add to what has been said already. I certainly hope that this Asian Bank bill will be approved. It should have been done a year and a half ago, but for one reason or another it has been postponed from time to time.

We do have, in my opinion, a reasonable commitment to Southeast Asia. I am not in full accord with all we have done in that part of the world over the last 10 years, but the fact remains that here is the world's greatest opportunity to develop higher living standards, and, if you want to be practical, more business.

So many people feel that the only way they can increase their own business is by taking it away from someone else. That is not true. We have over here in Asia a population of almost 2 billion people. For the most part, they have rather low living standards. I have for a long time insisted that the greatest undeveloped wealth of the world, the greatest opportunity to increase business in the world and to increase living standards, lies in the potential consuming power of 2 billion Asians.

The Asian Development Bank, which is participated in by 12 European countries as well as most of the Asian countries, the United States and Canada, is an important ingredient in working out improved conditions in that part of the world. I certainly hope that this bill, calling for a comparatively small amount, $100 million—it would only run the war in Southeast Asia for a few days—will be approved. This will be only a small part of the interest which we have in the affairs of the world at large and will likely prove to be a profitable investment on our part.

That is all I have to say.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. SPARKMAN. Mr. President, I ask for the third reading.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 749

An act to authorize United States contributions to the Special Funds of the Asian Development Bank

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Asian Development Bank Act (22 U.S.C. 285–285h) is amended by adding at the end thereof the following new sections:

"SEC. 12. (a) Subject to the provisions of this Act, the United States Governor of the Bank is authorized to enter into an agreement with the Bank providing for a United States contribution of $100,000,000 to the Bank in two annual installments of $60,000,000 and $40,000,000, beginning in fiscal year 1972. This contribution is referred to hereinafter in this Act as the 'United States Special Resources'.

"(b) The United States Special Resources shall be made available to the Bank pursuant to the provisions of this Act and article 19 of the Articles of Agreement of the Bank, and in a manner consistent with the Bank's Special Funds Rules and Regulations.

"SEC. 13. (a) The United States Special Resources shall be used to finance specific high priority development projects and programs in developing member countries of the Bank with emphasis on such projects and programs in the Southeast Asia region.

"(b) The United States Special Resources shall be used by the Bank only for—

"(1) making development loans on terms which may be more flexible and bear less heavily on the balance of payments than those established by the Bank for its ordinary operations; and

"(2) providing technical assistance credits on a reimbursable basis.

"(c)(1) The United States Special Resources may be expended by the Bank only for procurement in the United States of goods produced in, or services supplied from, the United States, except that the United States Governor, in consultation with the National Advisory Council on International Monetary and Financial Policies, may allow eligibility for procurement in other member countries from the United States Special Resources if he determines that such procurement eligibility would materially improve the ability of the Bank to carry out the objectives of its special funds resources and would be compatible with the international financial position of the United States.

"(2) The United States Special Resources may be used to pay for administrative expenses arising from the use of the United States Special Resources, but only to the extent such expenses are not covered from the Bank's service fee or income from use of United States Special Resources.

"(d) All financing of programs and projects by the Bank from the United States Special Resources shall be repayable to the Bank by the borrowers in United States dollars.

"SEC. 14. (a) The letters of credit provided for in section 15 shall be issued to the Bank only to the extent that at the same time of issuance the cumulative amount of the United States Special Resources provided to the Bank (A) constitute a minority of all special funds contributions to the Bank, and (B) are no greater than the largest cumulative contribution of any other single country contributing to the special funds of the Bank.

"(b) The United States Governor of the Bank shall give due regard to the principles of (A) utilizing all special funds resources on an equitable basis, and (B) significantly shared participation by other contributors in each special fund to which United States Special Resources are provided.

"SEC. 15. The United States Special Resources shall be provided to the Bank in the form of a nonnegotiable, noninterest-bearing, letter of credit which shall be payable to the Bank at par value on demand to meet the cost of eligible goods and services, and administrative costs authorized pursuant to section 13(c) of this Act.

"SEC. 16. The United States shall have the right to withdraw all or part of the United States Special Resources and any accrued resources derived therefrom under the procedures provided for in section 8.03 of the Special Funds Rules and Regulations of the Bank.

"SEC. 17. For the purpose of providing United States Special Resources to the Bank there is hereby authorized to be appropriated $60,000,000 for fiscal year 1972 and $40,000,000 for fiscal year 1973, all of which shall remain available until expended."

Mr. SPARKMAN. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the Senate by Mr. Leonard, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session, the Presiding Officer (Mr. STEVENSON) laid before the Senate a message from the President of the United States submitting the nomination of Albert C. Hall, of Maryland, to be an Assistant Secretary of Defense, which was referred to the Committee on Armed Services.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

U.S. PARTICIPATION IN INTERNATIONAL DEVELOPMENT ASSOCIATION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 394, S. 2010.

The PRESIDING OFFICER. Without objection, it is so ordered, and the bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2010) to provide for increased participation by the United States in the International Development Association, reported without amendment.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. 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.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business be temporarily laid aside and that the Senator from Georgia be recognized.

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

FREE OR REDUCED PRICE LUNCHES FOR NEEDY SCHOOLCHILDREN

Mr. TALMADGE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on House Joint Resolution 923.

The PRESIDING OFFICER laid before the Senate House Joint Resolution 923, a joint resolution 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, which was read twice by its title.

Mr. TALMADGE. I ask unanimous consent that the Senate proceed to the immediate consideration of the joint resolution. I might add that this request has been cleared with the Senator from Vermont (Mr. AIKEN), the Senator from North Dakota (Mr. YOUNG) and with other interested Senators.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Georgia?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. TALMADGE. Mr. President, Senators will recall that on October 1, 1971, Senate Joint Resolution 157, which also assured that every needy schoolchild will receive a free or reduced price lunch, passed the Senate by a vote of 75 to 5.

That resolution was referred to the House Committee on Education and Labor. Hearings were held on the issue and subsequently the House committee reported House Joint Resolution 923, which amended the provisions as contained in Senate Joint Resolution 157. Due to a parliamentary problem, the House was unable to proceed to a substitution of the language of House Joint Resolution 923 for the language as contained in Senate Joint Resolution 157.

Mr. President, I might say that the distinguished chairman of the House Committee on Education and Labor called me and was quite apologetic that the House parliamentary situation prevented a substitution of the House language for the Senate bill. I understood the matter, and I am perfectly content with the House action.

House Joint Resolution 923 passed the House by a vote of 353 to 0.

I make this explanation only to point out why the Senate is today considering House Joint Resolution 923 instead of Senate Joint Resolution 157.

In passing Senate Joint Resolution 157 by an overwhelming margin, the Senate attempted to deal with a grave funding crisis in our school lunch program.

The language of Senate Joint Resolution 157 clearly states that the Senate feels that the rate of reimbursement for free and reduced price meals proposed by the U.S. Department of Agriculture on August 13 was inadequate. Moreover, the resolution requires the Secretary of Agriculture to utilize funds appropriated by section 32 of the act of August 24, 1935, to provide a rate of reimbursement which will assure every needy child the free and reduced price lunch that he is entitled to under the law. The Secretary is to use section 32 funds only until such time as a supplemental appropriation may provide the additional funds that are needed. The section 32 funds expended for this purpose are to be reimbursed out of any supplemental appropriation that is subsequently enacted

for the purpose of carrying out section 11 of the National School Lunch Act.

House Joint Resolution 923 is identical with Senate Joint Resolution 157 in regard to the aforementioned points.

In addition, the Senate resolution contains language which makes it clear that the funds made available by the resolution will be apportioned to the States in a manner that will best enable these schools to meet their obligations with respect to the service of free and reduced price lunches. The resolution also requires that these funds be apportioned and paid as expeditiously as possible. On these two points the language of the House resolution is identical.

Section 3 of Senate Joint Resolution 157 requires the Secretary of Agriculture to immediately determine and report to the Congress the needs for additional funds to carry out the school breakfast and nonfood assistance programs at levels which will permit expansion of the school breakfast and school lunch programs to all schools desiring such programs as rapidly as practicable. Here again, the language of House Joint Resolution 923 is identical.

However, there are some areas in which the language of the House resolution departs from the provisions of the Senate resolution.

Although both the Senate and House resolutions provide for a rate of reimbursement of 6 cents to carry out the purposes of section 4 of the act, the Senate resolution would amend section 11(e) of the National School Lunch Act to provide that the maximum per lunch limitation on the amount of funds that States may reimburse their schools for special assistance shall not be fixed by the Secretary at less than 40 cents. The Senate resolution also requires the Secretary of Agriculture to establish a higher maximum rate for especially needy schools.

House Joint Resolution 923 includes additional language designed to provide a minimum rate of reimbursement of 40 cents for every free meal served in schools where the cost of providing meals warrants 40 cents and to provide for reduced price meals at a rate of 40 cents minus the highest amount charged the student for the reduced-priced meal.

In effect, House Joint Resolution 923 places a floor under the Federal payments to be made under section 11 for free and reduced price lunches. This minimum will be 40 cents for a free lunch. For reduced price lunches, the minimum payment would be 40 cents minus the highest price charged for a reduced price lunch by the school. Schools can count on these minimum payments.

House Joint Resolution 923 would authorize higher reimbursement payments for especially needy schools—schools that can demonstrate that they cannot afford to serve free and reduced price lunches to all the children that are eligible for such lunches. These higher payments, however, could not exceed a maximum payment for especially needy schools which would be prescribed by the Secretary of Agriculture by regulation. The Department's current regulations now prescribe that especially needy schools can receive up to a maximum of 60 cents for a free or reduced price lunch in a combined section 4 and section 11 payment. It is expected that the Secretary's regulations will continue to include that 60-cent provision for 1972 in addition to the new increased minimum payments.

The new minimum payments under section 11, together with section 4 payments, and the use of federally donated commodities, should meet the needs of most schools. But, it is recognized that there will be some schools that will need to serve a high percentage of free and reduced price lunches or schools in the central core of a city that need to go to the extra expense of transporting food into the school because they have no food preparation facilities in the school.

We would expect that the Secretary would provide guidelines for States to follow in determining when schools can be considered especially needy. And, within those guidelines, we would expect States to make prudent determinations as to when a school has demonstrated that it needs more than the minimum 40-cent rate authorized by this resolution.

As amended by Public Law 91-248, section 9 of the National School Lunch Act provides that local school authorities are required to make determinations as to which children in the school district qualify for a free or reduced price lunch. The law spells out certain criteria which must be included in making these determinations. However, the law requires that after January 1, 1971, any child who is a member of a household which has an annual income that is not above the income poverty guidelines shall be served meals free or at reduced price cost. Thus schools in every State are required to provide free and reduced price meals to children from families whose income is not above the income poverty guidelines. But the States and local school districts have been authorized to establish higher eligibility standards, if those standards meet certain criteria.

Senate Joint Resolution 157 contained no provision in regard to eligibility standards, for eligibility had not been a problem under the regulations proposed by the USDA on August 13. However, in early October the Department of Agriculture proposed a change in regulations which would eliminate from eligibility for reimbursement under the free and reduced price lunch program all children from families with an annual income above the income poverty guideline. Since many States had established eligibility levels well above the income poverty guideline, the proposed change in regulations would have the effect of eliminating thousands of children from the program. Some estimates indicate that over a million children would have been disqualified from receiving a free or reduced price lunch.

To rectify this situation House Joint Resolution 923 includes language which requires the Secretary of Agriculture to reimburse for fiscal 1972 schools for free and reduced price meals served to needy children determined as eligible under criteria adopted by State agencies prior to October 1, 1971.

In addition, the House resolution forbids the Secretary of Agriculture from making changes in the standards of eligibility which would reduce the number of eligible children during a fiscal year to be effective that same fiscal year.

During the 1970-71 school year the Department of Agriculture permitted States to utilize section 32 funds for the school breakfast program. Some States utilized these funds extensively to expand their breakfast program to a number of additional schools desiring the program. However, the regulations proposed by the USDA for the current school year do not permit such a utilization of section 32 funds. Therefore, it appears that many States will be unable to expand the breakfast program to schools desiring the program and some States are prohibited from any expansion of the breakfast program whatsoever.

House Joint Resolution 923 authorizes the Secretary of Agriculture to transfer funds from section 32 for the purpose of assisting schools which demonstrate a need for additional funds in the school breakfast program.

As I previously stated, both the House resolution and the Senate resolution contains certain language requiring the Secretary of Agriculture to make a prompt report to the Congress on the need for additional funds to permit the expansion of the school breakfast program to all schools desiring such a program.

It is contemplated that the Secretary will include in this report his plan to use section 32 funds for the school breakfast program in 1972.

Mr. President, we have had a long and controversial battle on the school lunch regulation. My own efforts to resolve the fiscal crisis in our school lunch program began when I wrote to President Nixon on September 2 to express my strong objections to USDA regulations proposed on August 13. Although I requested these regulations be changed, I never received a response from the President. As the fiscal crisis in the school lunch program mounted, I called hearings in the Committee on Agriculture and Forestry on September 16.

The testimony received in these hearings convinced a majority of the committee that immediate action was needed to change the proposed school lunch regulations. Therefore, I introduced Senate Joint Resolution 157 in an effort to provide relief for these needy schoolchildren and the distraught school officials around the country. This resolution was reported from the committee on September the 29th and passed on the Senate floor on October 1 by a vote of 75 to 5.

I am pleased that the House took action so promptly. I am also pleased that the Department of Agriculture finally yielded on most issues on Monday of this week. However, the needy schoolchildren of the country deserve a final answer. They deserve to know whether they are going to receive free lunches during this school year.

School officials around the country, already hard pressed for cash to provide basic educational services, need to know whether their schools will be able to af-

ford to feed hungry children as required by law.

I hope that the Senate will act today to approve House Joint Resolution 923 which will provide the final answer.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. JAVITS. Mr. President, I have a question for the Senator from Georgia with regard to the pending joint resolution which incidently I favor very strongly. I believe my question will help resolve a problem which may have not been resolved completely in the other body. I hope the Senator from Georgia will help us to clarify the matter here.

The question is whether this resolution requires that the Secretary must continue to provide Federal reimbursement for all the free and reduced price lunches served pursuant to income eligibility standards set by local school authorities and approved by the State even if those local standards are higher than the Secretary of Agriculture's "income poverty guideline."

Apparently a provision in section 5 of this resolution was stricken in the House and there seems to be some question whether the fact that it was stricken meant there was any design to eliminate that practice, which is apparently ongoing, or whether it was the intent to leave matters in that regard as they are and were before October 1, 1971.

The manager of the resolution will help us enormously if he can clarify that situation.

Mr. TALMADGE. The answer is affirmative. I made that clear in my remarks and it is a part of the legislative history.

Mr. JAVITS. In other words, the intention is there will be no change in existing practice?

Mr. TALMADGE. That is correct.

Mr. JAVITS. I thank the Senator very much.

Mr. TALMADGE. I thank the Senator from New York.

Mr. CASE. Mr. President, I am voting in support of this resolution because it requires the Secretary of Agriculture to continue to provide Federal reimbursement for all the free and reduced price school lunches served during this fiscal year to children who are determined to be eligible by local school authorities under the income eligibility standards that those local authorities set prior to October 1, 1971.

Section 5 of the resolution requires this by providing that—

> . . . the Secretary shall reimburse during such fiscal year State agencies and local school authorities for free and reduced cost meals served pursuant to eligibility standards established by State agencies prior to October 1, 1971.

By referring only to eligibility standards established by State agencies the resolution is not intended to deny Federal reimbursement for meals served pursuant to local income eligibility standards which are higher than the statewide standard recommended by the State agency.

On Tuesday morning, October 18, 1971, I learned that Department of Agriculture personnel were already speaking to State nutrition officials about holding New Jersey to its general poverty guidelines, thus excluding as many as 15,000 urban children from receiving free lunches in the national school lunch program.

I immediately telegramed the Secretary of Agriculture in an effort to forestall this cutback.

The text of my telegram follows:

> DEAR MR. SECRETARY: A complication has arisen over the interpretation of the regulations of the national school lunch program affecting at least seven cities in New Jersey. Under present rules, the states set the poverty line for free and reduced price lunches.
>
> In New Jersey, the poverty standard for cities has been set somewhat higher than the general state standard, reflecting the increased cost of living in metropolitan areas. For example, the cities of Camden, Paterson, Elizabeth, Hoboken, New Brunswick, Passaic, and Orange set the poverty standard $500 higher than the general state level.
>
> It has been customary to provide free lunches on the basis of the urban poverty designation in New Jersey, thereby carrying out the President's commitment to provide a school lunch to every needy child.
>
> If this new interpretation is adopted, as many as 15,000 needy children in New Jersey will be cut from the free lunch program.
>
> New Jersey has been a national leader in implementing a viable school lunch program. The state subsidizes a substantial part of this program because it recognizes the real need that exists.
>
> I urge you to permit New Jersey's cities to set the poverty line for free and reduced price lunches at a level commensurate with the urban cost of living.
>
> CLIFFORD P. CASE,
> *U.S. Senator.*
>
> OCTOBER 19, 1971.

It is important to note that the resolution we are considering today does not refer to locally established eligibility standards for technical reasons. Since 1946, when the National School Lunch program was begun, local districts have set their own income eligibility standards subject to the approval of the State agency. Since the 1970 Amendments to the School Lunch Act, the State agencies have not been allowed to approve any local standards that were less than the Secretary of Agriculture's income poverty guideline. But the State agencies still have the duty of approving local standards that are higher than the Secretary's minimum. I am informed that under this resolution, all of the standards set by the local school districts in New Jersey and elsewhere are to be deemed to have been established by the State agency if the State agency approved such local standards prior to October 1, 1971.

My understanding is that all of the local district standards have already been approved by the respective States and, therefore, free lunches provided pursuant to such district-set standards will be Federally reimbursable.

Mr. President, New Jersey has been a national pioneer in operating and subsidizing the National School Lunch program. It has placed more of its own money into this program, on a matching basis, than most other States. It has administered its lunch program in such an efficient manner and at such a small cost that many more children have had the benefit of a free school lunch than would normally be anticipated. There is no doubt about the efficacy of this program in New Jersey and my vote today is intended to see to it that the New Jersey program, along with those in other States, is expanded, not circumscribed.

Mr. COOK. Mr. President, this resolution is a very important measure because it helps to fulfill our commitment to feed every needy schoolchild in the United States. Although this bill contains seven crucial features in it, it is important to underscore two of the provisions in this resolution. Without these provisions, we would be taking tragic steps backward—rather than necessary steps forward—in our fight against hunger in America.

The first provision that I wish to call attention to deals with the Federal reimbursement rates that we prescribe in this resolution. In our amendment to section 11(e) of the School Lunch Act, we require that 40 cents be provided to each school district as a rock-bottom minimum, out of special cash assistance, for every free and reduced-price lunch served to a needy child.

School districts can, of course, pursuant to this resolution, receive a higher reimbursement rate than 40 cents out of special assistance funds if the State approves such a higher reimbursement rate. It must be understood, however, that the 40-cent figure is not an average reimbursement figure; it is a minimum reimbursement to every school district for every free and reduced-price lunch served. Therefore, if school district X in a State receives 48 cents in special assistance reimbursement for every free or reduced-price lunch served, school district Y in the same State cannot have its reimbursement cut to 32 cents to make up for the 8-cent higher reimbursement rate provided to school district X. Since this resolution requires a minimum reimbursement rate of 40 cents out of special cash assistance, school district Y must also receive at least 40 cents per lunch out of special cash assistance for every free and reduced-price lunch served.

The second provision in this resolution of crucial importance deals with which lunches will be federally reimbursable. As we all know, on October 6, 1971, the Department of Agriculture announced that it would no longer provide Federal reimbursement to school districts for free and reduced price lunches served to children, from four-person families, whose income exceeded the Secretary's "income poverty guidelines" figure of $3,940 annually. If this were done, the substantial progress that we have made with the school lunch program over the past few years would be obliterated instantaneously. At best, such action would be legally questionable; in reality, such action would have tragically brought much more hunger in our Nation's classrooms.

The resolution we have before us today

would prevent the Department from taking such ill-considered action. This resolution retains the historic role of States and school districts in determining which children shall receive federally reimbursable free and reduced price school lunches. In the past, some States have proposed and suggested free and reduced price lunch eligibility standards to the school districts in their States. In other instances, States have established required eligibility standards. In most instances, States have recommended eligibility criteria and then permitted local districts to establish their own—frequently higher—standards.

The resolution before us today requires the Secretary to reimburse, during the fiscal year, "State agencies and local school authorities for free and reduced cost meals served pursuant to eligibility standards established by State agencies prior to October 1, 1971." This means that reimbursement must be provided to State and local agencies for all free and reduced price lunches served pursuant to standards set by the district and approved by the State as of October 1. Therefore, if a State recommends a free lunch eligibility standard of $4,000, and the district sets its eligibility criteria for free lunches at $5,000, all free lunches provided to children whose family incomes are $5,000 or below will be federally reimbursable. The only provision is that the district's standard must have been approved by the State by October 1.

In sum, this resolution is most important and should be passed because it provides assurances to children throughout the country that no cutbacks in the provision of federally reimbursable free lunches will be tolerated. Whatever standards are presently being used by local districts will be maintained and will receive adequate Federal reimbursement therefor. By passing this resolution, we will fulfill our promises to the needy children of this great Nation. I urge everyone to support this legislation.

Mr. CRANSTON. Mr. President, first let me say that I am pleased to support this resolution. I believe it will go a long way in meeting our commitment to eliminating hunger in this Nation. Indeed this resolution does much to clarify our expression of concern and, more importantly, to underline our position that hunger amongst the youth of our country can no longer be condoned.

I would like to direct my brief comments to section 5 of this resolution. I think it relevant and important to point out that section 5 does not take away local school districts' rights to implement federally reimbursable higher eligibility standards for free and reduced price lunches than those recommended by the States. As long as these local standards were set by the district and accepted by the State before October 1, 1971, these local standards will be federally reimbursable. I would add that the present use of these federally reimbursable local standards would evince the fact that there already has been State approval of such local standards unless, of course, a State has clearly expressed its disapproval of those local standards.

I think it should be made clear, that the only implication of the use of the term "State agencies" in section 5 is to assure that a State is aware of, and has not rejected, the local school districts' free lunch eligibility standards. Certainly, these guidelines need not be identical to those recommended by the State. According to this resolution, Federal reimbursements must be forthcoming from the Department of Agriculture for all lunches that are served by local school authorities pursuant to such local school authorities' eligibility criteria even where higher than the recommended State guidelines.

I believe that this resolution will adequately protect the poor children of our country. I, therefore, urge that this resolution be passed.

Mr. McGOVERN. Mr. President, I rise today to urge my colleagues in the Senate to accept House Joint Resolution 923 the school lunch bill as it was passed by the other body yesterday.

This resolution closely parallels Senate Joint Resolution 157, which was passed by the Senate by a vote of 75 to 5 just days ago. It also parallels yesterday's announcement by the Department of Agriculture that they were substantially revising the proposed school lunch regulations which they announced on August 13, 1971.

As we all know, those regulations were most unwise. They would have halted the fight to end childhood hunger in America and they would have served notice on the American people that the day had not yet come to "put an end to hunger in America for all time" as the President pledged 2 years ago.

This resolution is a firm rebuttal to those proposals by USDA. It is a firm answer by the Congress which says that we intend to keep our pledge to America's poor children. It is an answer which will not in itself end hunger in a final sense, but which will allow us to stay on course in this most important domestic effort.

On August 13, the Department, in a vain effort to save money, reduced the reimbursement rate which the States could pay for a free or reduced price lunch from a possible 60 cents per lunch to a mandatory statewide average of 35 cents per lunch. Forty-four Senators then sent a strong letter of objection on this point to President Nixon, and the distinguished chairman of the Agriculture Committee, Senator TALMADGE, introduced Senate Joint Resolution 157 to instruct the Department to use a higher reimbursement rate for the purpose of feeding the needy. The Department, in turn, announced that it would itself raise the reimbursement rate to a statewide average of 45 cents, which was recently modified to 46 cents.

At the same time, however, the Department decided that it would attempt to ignore the clearly expressed congressional intent of Public Law 91–248 by declaring that the national eligibility level set by Congress would henceforth be a maximum standard rather than a minimum. Last year 44 States either set a statewide minimum which was higher than the national minimum or they allowed the cities or local school districts to do so. This is what Congress intended when it passed Public Law 91–248 and USDA honored those State and local levels and reimbursed accordingly. Who could deny that a child from a family of four whose income is $4,500 a year in New York City is poor and in need of a free or reduced price lunch? This is the absurd length USDA tried to go to in the name of fiscal responsibility. This action would have eliminated from 1.3 to 1.5 million eligible children from the school lunch program.

House Joint Resolution 923 addresses itself to this problem as well as the reimbursement rate issue. Since USDA's proposal to restrict eligibility was not brought home to the Senate when it voted on Senate Joint Resolution 157, it becomes essential for us to accept the House version in full.

House Joint Resolution 923 provides that the Secretary shall reimburse for free and reduced price meals during fiscal year 1972 "pursuant to eligibility standards established prior to October 1, 1971." This means that those levels which either the States themselves set or which they allowed the local school districts to set shall be in force for this entire school year. No eligibility requirements in any district will be rolled back for the present fiscal year. States shall use the levels which they instituted for the State or the local school district standard which were approved by the States prior to October 1, 1971.

In short, Mr. President, this resolution is essential if we are to keep our promise to America's poor children. It is regretable that Congress must take such action to force USDA to do the job which Congress has mandated it to do, but apparently we must do so. This resolution represents our willingness to put the USDA back on the right track of feeding needy children.

Mr. MANSFIELD. Mr. President, in view of the fact that one of the members of the Committee on Agriculture and Forestry asked to be here, and is not here at the present time, I ask unanimous consent with the approval of the distinguished chairman that, pending the arrival of the distinguished Senator who is not here because of official business, when he arrives there be a period for the further consideration of this measure of not to extend beyond 10 minutes, at which time the Senate will give its final approval to the pending measure.

Mr. TALMADGE. Mr. President, that is entirely agreeable to the Senator from Georgia.

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

Mr. MANSFIELD. Of course, Mr. President, the Senator will be notified at that time, too.

Mr. TALMADGE. I thank the distinguished majority leader.

U.S. PARTICIPATION IN INTERNATIONAL DEVELOPMENT ASSOCIATION

The Senate continued with the consideration of the bill (S. 2010) to provide for increased participation by the United

States in the International Development Association.

Mr. MANSFIELD. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is S. 2010.

Mr. MANSFIELD. Mr. President, the distinguished chairman of the Committee on Foreign Relations is absent momentarily on official business, so, on his behalf, I deliver a statement to the Senate covering the pending business.

Mr. President, I rise to urge my colleagues to give favorable consideration to S. 2010, a bill to provide for U.S. participation in the third replenishment of the resources of the International Development Association, or IDA. As Members are aware, the IDA is an affiliate of the World Bank designed to extend loans to the almost 90 less-developed countries which are members of the IDA, the World Bank and the International Monetary Fund. It should be added that the World Bank furnishes all the personnel and facilities required to conduct the business of the Association, which has no staff of its own. By the same token, World Bank criteria for worthwhile lending projects are equally applied to the projects undertaken through the IDA.

Briefly, the bill would authorize total appropriations of $960 million, to be made available in three equal, annual installments of $320 million each during the fiscal years 1972 through 1974. This contribution would be the U.S. share in an overall replenishment of IDA resources amounting to roughly $2.4 billion over those 3 years.

The details of this proposal are contained in the committee report and need not be given in detail at this point. On the other hand, there is one issue which should be stressed: namely, the fact that the U.S. contribution, which on its face appears to be about 40 percent of the total, in fact really is at least one percentage point less because of additional contributions made by New Zealand and three so-called less-developed countries—that is, Ireland, Spain, and Yugoslavia. The reason for stressing this matter is that we can feel some gratification that countries which are moving slowly from the less developed to the developed status are displaying a readiness to join in this global effort to help the poorest regions of the world. Furthermore, this point highlights the fact that the relative share of the U.S. contribution is slowly moving downward, even though not as rapidly as we might wish.

The main fact that we should confront in dealing with this proposal is that the IDA represents the world's largest single source of development financing from multilaterally pooled funds for lending on the most flexible or concessional terms. IDA standardized credit terms involve a 50-year maturity, including a 10-year grace period and no interest charge, but only a three-quarters of 1 percent service charge in convertible currencies to meet administrative costs. On the other hand, all credits are repayable in convertible currency. No one could argue that these credits are not the easiest possible burden on the developing countries.

At the same time, it should be stressed that the World Bank has made a powerful case for helping the poorest countries in this fashion. The debt-servicing problems of the developing countries have been analyzed with painstaking care by the World Bank. And it is clear that if we are really serious about helping the poorest countries in the world with their economic and social development tasks, this kind of global effort is an essential one. From the point of view of the United States, we have to look very carefully at the fact that other developed countries are putting up slightly more than $3 for every $2 designed to be contributed by the United States. This ratio is of enormous importance to our country and we have every expectation that the process of reducing our relative contribution will continue in future years.

One reason for expressing this confidence is the fact that, while the United States has been tardy in signifying its readiness to participate in the third replenishment of IDA resources, other developed countries have not stood idly by. On the contrary, six countries have already formally committed over $162 million in advance contributions, even though the proposed replenishment cannot take effect until the United States has acted. Moreover, amounts totaling over $152 million additional have been pledged by four countries within the last several weeks. It is clear, therefore, that other developed nations believe wholeheartedly in the value of the International Development Association and the vital character of its work in helping the poorest countries of the world.

Another reason for gratification is that the IDA and the World Bank are placing increasing emphasis on agricultural development in the poorer regions of the world, and that increasing resources are being made available for education and other social purposes. This process derives from two main factors: First, much has already been accomplished in building up the so-called infrastructure of the less developed countries and, second, it is being increasingly seen that agriculture, rather than industry, is the sector which needs the greatest emphasis and assistance.

A further reason for encouragement about the activities of the IDA derives from the increasing willingness of the World Bank to transfer a larger portion of its annual profits to its soft-loan affiliate. Indeed, the Bank acted in advance of its annual meeting in order to make $110 million available to IDA from annual net earnings. As my colleagues know, the distinguished senior Senator from Missouri and others of us have made a special effort to encourage the World Bank in this direction, and we hope that these contributions will continue and increase in the future.

At this point I think we have to deal squarely with one problem which has been raised time and again in committee and on the Senate floor regarding the geographic distribution of IDA lending. In the first 7 years of IDA's operations India and Pakistan received roughly 75 percent of the Association's credits. Over the past 4 to 5 years, however, a special effort has been made within the World Bank and IDA to achieve a more diversified pattern of geographic lending. In consequence, the share of India and Pakistan in IDA credits has dropped to roughly 50 percent. It may be that there are those who believe these two countries, which have experienced so many difficulties with each other, should receive even less assistance from the IDA. But the fact remains that on a per capita basis of income and on the basis of relative population the resources are not excessive in terms of the needs of those areas. It should also be noted that there are many ongoing projects dating some years back which are proving their value and which can be fruitfully supported. Unlike some bilateral foreign aid measures, World Bank and IDA projects do not permit money to be diverted to other purposes.

The last point I would make in these introductory comments is to note that, while the Committee on Foreign Relations did not have an opportunity to hold public hearings on S. 2010, it did have the advantage of access to extensive documentation provided to the committee and contained in the July hearing record of the House Banking and Currency Subcommittee, which has already approved a companion bill. Beyond this, we had the comprehensive annual report issued by the World Bank and the IDA on their operations. And, lastly, the very fact that this is the third replenishment of the IDA attests to the fact that the committee has been making itself totally familiar with these IDA operations over the past decade.

Mr. President, I do not believe that we can belittle the fact that there is an annual average adverse impact of about $30 million on our balance of payments because of our contributions to the IDA. However, I would submit to my colleagues that no one has ever claimed that we could help the poorest countries of the world without any expense to ourselves. And I believe it of the highest importance that we sustain these costs in the context of a multinational effort. The IDA is an institution through which all the other developed countries of the world are increasing their share in the burden of making such assistance available. The advantages of the multilateral approach are fully set forth on pages 7 and 8 of the committee report, and I recommend them to my colleagues for careful consideration.

Mr. President, I would stress to my colleagues the fact that the Committee on Foreign Relations by a vote of 14 to 1 gave overwhelming support to the third replenishment of the IDA, and I hope the Senate as a whole will sustain this committee view by an equally overwhelming vote in favor of S. 2010.

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

The yeas and nays were ordered.

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

Mr. MANSFIELD. Does the Senator from Virginia have any questions to ask at this time on this bill?

Mr. BYRD of Virginia. First, Mr. President, I would like the floor in my own

right, and then I should like to address questions to the manager of the bill.

Mr. President, the pending legislation calls for utilizing nearly $1 billion of tax funds for the purpose of replenishing the funds of the International Development Association.

As the distinguished Senator from Montana pointed out in his introductory remarks, this is the third replenishment sought by the International Development Association.

Mr. President, this is a grant, pure and simple.

It is a give-away program, pure and simple.

It is a 50-year so-called loan, without interest except for a three-quarters of 1 percent service charge. No repayment is required for the first 10 years, 1 percent per year for the second 10 years, and 3 percent per year during the last 30 years. So, as a practical matter, the American people are being called upon to contribute approximately $1 billion in additional funds for the World Bank. Any repayments go to the World Bank—not, and this is important to understand—not to the U.S. Treasury.

The World Bank and the International Development Association are one and the same. As the distinguished Senator from Montana pointed out in his opening remarks, the World Bank furnishes all the personnel; IDA has no staff. So when we are speaking of IDA or the International Development Association, we are simultaneously speaking of the World Bank.

Mr. President, for all of the multilateral financial organizations—and there are many of them—the United States has already contributed $11.5 billion.

I might point out that that is entirely exclusive of the $125 billion—or more nearly $130 billion—that the United States has given in foreign aid over the last 25 years. And on that $130 billion, the United States has paid $60 billion in interest.

Yesterday and today, the Senate has been considering three pieces of legislation dealing with multilateral financial institutions. The total amount of money sought from the United States for these three multilateral institutions approximates $2 billion. One billion dollars of that—or $960 million, to be accurate—is in the pending bill.

Mr. President, I wonder whether this is the proper time to be pouring more money—nearly $1 billion—into the International Development Association.

Let us review the situation facing the United States.

One would suppose, with all of these money requests, all of these bills that have been put into the legislative hopper seeking funds for the multilateral financial institutions, that the United States has a big surplus in its Treasury.

Mr. President, nothing could be further from the truth. For the last fiscal year, which ended this past June 30, the United States had a Federal funds deficit of $30 billion. During the current fiscal year, the United States will have a Federal funds deficit of at least $33 billion.

In the last 26 years, since the ending of World War II, there have never been any 2 years in the history of our Nation when we have run such gigantic Federal deficits.

I think it is desirable to try to help other countries in a proper way. I do not object to some of the funds that have been expended in foreign aid in the past. I doubt the wisdom of the extent to which the United States has gone in providing aid to other countries—$125 billion. Some of it has been very helpful, and some has been well spent.

But some of it has not been helpful, and some of it has been misspent.

Today, the Senate is being asked to authorize approximately a billion dollars to go to the World Bank. As I have said, this billion dollars will be used for grants to nations around the world.

None of this comes back into the Federal Treasury. Any repayments—I do not think there will be any repayments—will stay in the treasury of the World Bank. They do not come back to the U.S. Treasury.

I want to emphasize that, with the Government running the smashing deficit that it is running—a back-to-back deficit in 2 years of at least $63 billion—somewhere along the path Congress is going to have to call a halt to these reckless and wild spending programs.

Do you know what the interest on the national debt is—just the interest? The taxpayers are paying this particular year $22 billion in interest—just in interest—on the national debt.

Yet, we are adding to the national debt all the time. The national debt is now $409 billion.

It is such a gigantic sum that the Senator from Virginia cannot comprehend it, and I doubt that many of our fellow citizens can comprehend just how much $409 billion is. One way to look at it is that if we were to attempt to pay off that debt in $1 bills, it would take our printing presses, operating at our present capacity, 171 years just to print those dollar bills.

Let us talk about interest for a moment. The taxpayers are paying $22 billion in interest on that debt in this fiscal year. How much is $22 billion. It is a gigantic sum. In order to visualize what this means, one could say that 17 cents of every dollar paid in personal and corporate income taxes goes for one purpose—namely, to pay the interest on the national debt.

Mr. President, this country is in serious condition financially. It was not until August 15, however, that anyone in the executive branch of Government—of either administration or any administration—would recognize just how serious our economic condition is and how serious the financial situation of our Government is.

President, Nixon, on August 15, enunciated a very drastic program. In the main, I approve of what the President did on August 15. I think it is something that needed to be done.

The main advantage of it—perhaps a psychological advantage, but a very important one—is that, for the first time, our Government said to the people of our Nation, "We are in a difficult fix."

Mr. President, we are in a much more difficult fix than the average American realizes. A 10-percent surcharge has been put on imports, and I approve of that. It was necessary to do it. I hope it is a temporary surcharge, but it was necessary to do something in regard to the immense balance-of-payments deficits we have been running.

Yet, the pending bill goes directly counter to the effort to reduce our balance-of-payments deficit. This adds, as the distinguished Senator from Montana pointed out in his introductory remarks, $30 million a year to our balance-of-payments deficit. So this bill is going in the opposite direction, in many respects, from what the President's program called for on August 15.

On August 15, the President put a freeze on all wages in this country, put a freeze on all prices, asked for sacrifices on the part of the individual citizen; and the American people, being the patriotic citizens they are, have responded.

But just asking the American people to sacrifice, asking the wage earner to sacrifice, is not going to solve our problem of inflation.

The major cause of inflation is the continued huge Government deficits re-additional replenishment, or additional contribution, to the World Bank. This further aggravates a very bad situation facing the Treasury of the United States. and the taxpayers of the United States.

Unfortunately, the question of Government finance is not what we might call a politically attractive or politically sexy matter. As a result, very little attention is paid to it.

But I know of nothing that more deeply and more directly affects the American people than does the spending of the Federal Government, because there is only one place from which taxes can come, and that is from the pockets of the hard working men and women of our Nation.

There is no place else to get the money. If you do not pay for these programs in taxes, you pay for them in another way—inflation. Actually, you pay for them in both ways. That which is not paid for in taxes is paid for in inflation.

The President made clear in his remarks to the Nation on August 15, when he froze the wages and the prices in this country, that we have to get inflation under control.

Why? Because inflation is eating into the grocery money of every housewife; it is eating into the paycheck of every wage earner. That is how you are paying for these great programs when you run these great deficits.

You are paying for them through inflation. You are paying for them by reducing the purchasing power of the working man's dollar and the housewives' dollar.

Mr. President, we do not get something for nothing these days. We never have gotten something for nothing. We cannot get something for nothing.

If we could get something for nothing, every government in the world would be rich because all they would need to do would be to print more and more money,

or run higher and higher deficits, such as this Government has been doing.

But we cannot solve our problems that way. Someone has to pay for it, and the people who are going to have to pay for it, the only people who can pay for it, and the only place the Government can get the money is out of the pockets of the individual citizens of America—the wage earners.

I submit that the pay checks of America's working men and women are being eaten into by the Government very heavily in withheld taxes for the work they do for the companies they work for.

Taxes are high in this country. Inflation is also high in this country.

Taxes are going to get higher; and inflation is going to get worse in this country, unless the Government does something about putting its own financial house in order and stops running huge and smashing deficits.

Mr. President, I wish I could point out that things have improved in recent years, but the Government has been running deficits for a long time now. Governments can run deficits for awhile.

This country has balanced its budget only seven times in 40 years. That is a bad record. But, that is not the worst of it. The worst of it is that in recent years—and by recent years I mean the past 6, 7, or 8 years—deficits have grown greater. That is why inflation has grown greater.

During the last 3 years of President Johnson's administration, the accumulated Federal funds deficit totaled $49 billion, a smashing, gigantic deficit.

When President Nixon was campaigning for the Presidency he said that the deficits of the Johnson administration were the major couse of inflation.

I agree with that.

Now let us see what has happened during the first 3 years of President Nixon's administration.

The accumulated Federal funds deficit for the first 3 years of the Nixon administration, including the current year, will total at least $76 billion. That compares with the accumulated Federal funds deficit of $49 billion for the last 3 years of the Johnson administration.

Thus, instead of its getting better, it has grown worse. But now we come along with this program—three bills, one last night and two today, three pieces of legislation—which will give away another $2 billion of American taxpayers' money.

Many Members of Congress seem to feel that these funds just grow on trees or can be obtained by the printing press process or some other procedure such as that.

But, I submit, these funds can be obtained from only one source; namely, the pockets of the hard-working men and women of our Nation.

Mr. President, America is a nation of men and women who want to work, who want to earn their own living. But I think they have a right to expect that the funds the Government takes from them for tax purposes will be handled as a public trust. I submit that we are not handling those funds as a public trust when, in this period of ever mounting Federal deficits, we are planning now to give away to other countries another $2 billion.

Mr. HANSEN. Mr. President, will the distinguished Senator from Virginia yield?

Mr. BYRD of Virginia. I yield.

Mr. HANSEN. Mr. President, I regret very greatly that there are so few Senators in the Chamber at the present time. I say that because I think that what the distinguished Senator from Virginia is saying is very important, that it is of critical importance to our country.

I, for one, have deplored the seeming lack of appreciation, increasingly evident throughout the world, for what America has tried to do since the close of World War II, when we went in with our substance, with our material means, with our money, and with our know-how, in order to help to rebuild those countries which were laid waste by World War II.

I supported completely the Marshall plan because I thought that of all the foreign aid projects we had had, that certainly was the most successful because it did help to rebuild many countries throughout the world, particularly the developed countries, those with economies not unlike ours.

Following the conclusion of that program, I have become increasingly disappointed with the results that can be chalked up on the credit side of foreign aid. I compliment those in Government who believe it would be well to provide for whatever else may be done in the field of foreign affairs and can be done in a way so as to demand some accountability from the countries receiving this aid.

Of course, in that context, it makes sense to move away from direct grants to a kind of operation where loans might reasonably be expected to be repaid. But, I must say that there is great merit in what the distinguished Senator from Virginia now says. He is so right. We are at a critically significant point insofar as fiscal affairs go in this country today. We are trying to fight inflation. We all recognize that the depreciating and eroding value of the dollar places undue and unfair burdens upon many Americans, particularly on those least able to support those burdens.

I think it is time now to heed the remarks and the advice of the distinguished Senator from Virginia. It is time for us to look at the needs of the country, of the need to protect the value of the dollar, so as not to make even more unbearable the burdens we have placed on those least able to support them.

It is important also to ask for some accounting from the nations of the world that have been receiving our help. I am distressed by the attitudes of many nations that have been recipients of America's aid for a long time. With callous disregard for all the rules of international law, they expropriate American property, they unilaterally declare what value will be attached to a particular piece of property in their country and then, by their own machinations, determine how much it is worth and whether, over the past years we have been paying our fair share. So often they come up with a balance sheet which will reflect that they do not owe us anything but, rather, we owe them something.

In light of that situation, I think it is time for us now to take a look at the wisdom of further funding of these programs when there seems to be so much lack of appreciation and so little willingness to assume responsibility as one of the nations in the world today, that each of them should, I think, be willing to assume.

Mr. President, the admonitions that have been given to us on this floor today by the distinguished Senator from Virginia are wise. I think that we will rue the day that we fail, if we do, to heed his advice. It seems to me that help and aid ought to be a two-way street. And though we do not expect return in kind for the kind of support we have been giving many countries of the world, I do not believe it is unfair or unreasonable that we might expect appreciation and a willingness to cooperate under the rules of international law and a desire to have further good will among nations.

Mr. President, I regret that those characteristics that I should think ought to be evident and obvious all of the time are lacking in all too many instances.

I compliment the distinguished Senator from Virginia for his great leadership, for his ability to see further ahead than many of us do, and for his courage in calling to the attention of the Members of this body a situation that he thinks demands our attention at this time.

Mr. BYRD of Virginia. Mr. President, I am very grateful for the remarks of the able Senator from Wyoming. I do not know of anyone in the Congress who is more dedicated or more able than is the distinguished Senator from Wyoming.

I have the privileged of serving with the Senator from Wyoming on the Finance Committee. I see daily the very valuable contributions that he is making to the Senate and to his fellow citizens.

Mr. TALMADGE. Mr. President, will the distinguished Senator from Virginia yield?

Mr. BYRD of Virginia. Mr. President, I yield to the able Senator from Georgia.

Mr. TALMADGE. Mr. President, I compliment the distinguished senior Senator from Virginia on the points he is making with respect to this matter. I associate myself with his remarks.

Since the conclusion of World War II, we have acted as Santa Claus and banker and policeman for the rest of the world. We have spent ourselves into bankruptcy. According to a very distinguished Representative, Representative PASSMAN of Louisiana, who has worked diligently in this field, we have spent in principal and interest and borrowed money since the conclusion of World War II about $212 billion and have given it to virtually every nation on the face of the earth—Communist countries, neutralist countries, allied countries, and indifferent countries.

In fact, over half of the national debt of the United States of America today is attributable to the fact that we have continued our aid programs, our gift pro-

grams, and various other programs throughout the world. We have gone far beyond the call of duty and far beyond the capacity of our country in its present economic situation.

We have only about 6 percent of the world's population. The rest of the world has about 94 percent of the world's population. It is beyond the capability of this Nation to look after the interests of all other countries. We have been spending and spending and spending money that we did not have and have been borrowing it from the American citizens until we have reached the chaotic condition that our country is in today.

I commend the Senator from Virginia. I will certainly vote against the pending bill.

Mr. BYRD of Virginia. Mr. President, I thank the distinguished and able Senator from Georgia for the facts he has brought out in regard to our foreign aid program.

The Senator from Georgia mentioned the borrowing that the Government has made from the American people. That brings to mind the fact that we are also borrowing from foreign governments. I have in mind the fact that some few months ago our Government borrowed $5 billion from the West German bank at 7 percent interest.

That is almost the identical amount of money that has been recommended for our foreign aid program. What we are doing is borrowing money from other nations to give it away.

I think the Senator from Georgia hit the key points in his remarks. I am so pleased to associate myself with the distinguished and able Senator from Georgia in this matter of attempting to point out the very difficult situation in which our country finds itself financially.

Mr. President, I have made some general remarks. I want to make additional remarks later. However, at the moment, I would like to ask the acting manager of the bill a few questions.

Mr. MANSFIELD. Surely.

Mr. BYRD of Virginia. Mr. President, when we talk about IDA, we are talking about the World Bank? That is a fair statement, is it not?

Mr. MANSFIELD. The Senator is correct.

Mr. BYRD of Virginia. What is the total compensation of the president of the World Bank?

Mr. MANSFIELD. Mr. President, it is $50,000, plus an expense allowance. I understand that the expense allowance is $16,000.

Mr. BYRD of Virginia. Is the $50,000 the compensation before taxes or after taxes?

Mr. MANSFIELD. That is before taxes. He pays taxes as they do in the U.N. However, they are reimbursed by the bank. In that way he bears his share of the tax burden, but he is compensated for that sum which he pays to his government, which happens to be our own.

Mr. BYRD of Virginia. The bank pays his taxes.

Mr. MANSFIELD. The Senator is correct.

Mr. BYRD of Virginia. That is a very important point. Is the $50,000 after the bank pays his taxes or before the bank pays his taxes?

Mr. MANSFIELD. The $50,000 is before the bank reimburses him for taxes.

Mr. BYRD of Virginia. So he has a net after taxes of $50,000.

Mr. MANSFIELD. That is correct.

Mr. BYRD of Virginia. Plus $16,000 for an expense account.

Mr. MANSFIELD. That is correct.

Mr. BYRD of Virginia. I wonder if the Senator has the number of employees of the World Bank?

Mr. MANSFIELD. Roughly 2,500, I am informed by the staff.

Mr. BYRD of Virginia. Could the Senator inform the Senator from Virginia how many of those employees receive a total compensation in excess of $25,000?

Mr. MANSFIELD. That figure is not available. We will try to get it for the Senator but we just do not have it at our disposal at the present time.

Mr. BYRD of Virginia. The Senator from Virginia would appreciate it if the committee were able to ascertain that figure.

Mr. MANSFIELD. We will.

Mr. BYRD of Virginia. Does the Senator have the cost of administration, or the administrative cost of the World Bank?

Mr. MANSFIELD. The 1971 estimate is $55.5 million, compared to the 1970 figure of $45.5 million.

Mr. BYRD of Virginia. Is that the cost of administration?

Mr. MANSFIELD. That is correct; the administrative expenses for the 2 fiscal years for which I have just given the Senator the figures.

Mr. BYRD of Virginia. May I have those figures again? That is $55.5 million for 1970?

Mr. MANSFIELD. For 1971 that is the estimate; the fiscal year just concluded. For 1970 it was $45.5 million.

Mr. BYRD of Virginia. In other words, the cost of administration increased precisely $10 million, which is a little more than 20 percent.

Mr. MANSFIELD. The Senator is correct.

Mr. BYRD of Virginia. I am wondering what is the oversight of the World Bank. Is there any agency of Congress that delves into the operation of the World Bank?

Mr. MANSFIELD. There are a number of committees which delve into their operations. The Committee on Foreign Relations handling this bill has a large degree of responsibility. The Committee on Banking and Currency, under the chairmanship of the distinguished Senator from Alabama, I believe has a degree of responsibility, and I think the Committee on Finance, of which the distinguished Senator from Virginia is a member, likewise may have some degree of responsibility. Clearly, the Appropriations Committee is also involved in the process.

With that final remark, I will now turn the matter over to the distinguished chairman of the Committee on Foreign Relations to answer the remainder of the questions.

Mr. BYRD of Virginia. I thank the Senator from Montana.

First, I will restate several figures. It is my understanding, in response to a query by me, that the cost of administration for the World Bank for the fiscal year 1971 was $55.5 million; and for the fiscal year 1970 it was $45.5 million.

I am wondering if the chairman of the Committee on Foreign Relations has information to suggest why there should be more than a 20-percent increase. I did not figure it out exactly but there has been a $10 million increase in administrative costs and that figures to 22- to 23-percent increase in that 1 year.

Can the chairman of the Committee on Foreign Relations give any facts as to why there should be such a substantial increase?

Mr. FULBRIGHT. It is my information that the Bank is growing. The Bank, I think, made net profits last year of over $200 million, of which about $110 million is being transferred to the IDA. It is growing. There have been increases in all activities. My figures show $55.5 million for the 1971 estimate.

Mr. BYRD of Virginia. That is correct.

Mr. FULBRIGHT. For 1970 it was $45.5 million.

Mr. BYRD of Virginia. That is correct. It is a $10 million increase.

Mr. FULBRIGHT. That is an increase. I am not sure that is out of line with other governmental activities. This is the Bank and not IDA.

Mr. BYRD of Virginia. The bank and IDA, it is fair to say, are the same.

Mr. FULBRIGHT. IDA shares the direction, overhead, personnel, policymaking, and all of that of the Bank. IDA does not have a separate organization. It is a department of the Bank, in effect.

Mr. BYRD of Virginia. That is why I am making inquiry in regard to the World Bank and not IDA.

Mr. FULBRIGHT. There are no secrets about it. We are perfectly glad to give the Senator the information. It is a big operation. Bank officials engage in quite a lot of loans. They have prided themselves in making very thorough investigations of all applications. They pride themselves on never having had a default. There has been a very limited number of rollovers. They do a great deal of investigating and make recommendations which do not necessarily result in loans, but guidelines to the recipients.

I also think of the Aswan Dam project in the 1950's. The Bank made the first proposal and was the manager of the consortium which was going to build the Aswan Dam in the beginning. They spent hundreds of thousands of dollars in money for engineering and perfecting that plan. It fell through because of a political judgment on the part of our country. All of that investment was lost.

Bank officials are the managers in connection with the Indus Basin. That took a lot of planning and engineering. They think they do a very thorough job. It is not a slap-dash organization which makes a loan because somebody promises to vote in the United Nations or someone has a friend of a friend back home. They think they apply the best methods in investigating and approving loans.

There has been an increase in costs in this kind of activity. Everybody knows about inflation being very high, especially in this country. That is the basic explanation. I have nothing further in the way of secret information as to why the overhead has gone up. I think all comparable organizations have gone up in cost in this period.

Mr. BYRD of Virginia. Those that have gone up 23 percent, I assume, would be in pretty bad shape financially.

Mr. FULBRIGHT. In the United States the deficit has gone up a lot more than 23 percent in the last few years.

Mr. BYRD of Virginia. That is one of the reasons I am complaining about it.

Mr. FULBRIGHT. The Senator has the same kind of vote the rest of us have. I hope the Senator speaks on some of the other matters such as the Sanguine project, the C–5A, and bilateral foreign aid, as vigorously as he does on IDA. Our point is if we are going to do anything at all in this area, this is the best bargain we have. We pay only 40 percent of the IDA contribution.

Mr. BYRD of Virginia. I am glad the Senator mentioned 40 percent.

Mr. FULBRIGHT. I say it is the best bargain we have. It would be easy for me, if I thought it practicable, to say: cut these programs down. I would cut the bilateral programs where we pay 100 percent. That would be my first priority. Cutting back on this kind of activity would be my last choice, because I think it is our best bargain.

What about the 40 percent?

Mr. BYRD of Virginia. Before I get to the 40 percent, I want to mention last night's bill, in which the amount that the United States put up was 77 percent.

Mr. FULBRIGHT. Not in the bill. I pointed out that that is not so in the bill we voted on. That is the accumulated average from the beginning, but the bill we voted on last night was not 77 percent.

Mr. BYRD of Virginia. I am well aware of that, but the accumulated amount that the Federal Government has put up is 77 percent. I say that is not a very multilateral program, when the Federal Government puts up 77 percent and the other countries put up the other 23 percent.

Mr. FULBRIGHT. It has moved from 8 to 1 down to 2 to 1. That is an improvement. I may say that this is not my favorite way to spend the taxpayers' money. I did not initiate the programs.

This is not my favorite way to spend the taxpayers' money, but we are faced with the problem of helping the world's poorest countries. If we could do it by reordering this through other agencies, or minimizing it, that might be one way.

Mr. BYRD of Virginia. It is because we are faced with the situation that I think it is not wise to put up another $1 billion for this program. It is not wise when we are faced with a very drastic situation here at home. We are faced with a drastic situation when the Government ran a $30 billion deficit last year and will run a $33 billion deficit this year.

Mr. FULBRIGHT. I am not contesting that. I think the Senator is right in stating the facts about the U.S. financial position. I do not disagree with him on that.

Mr. BYRD of Virginia. On the 40 percent, I wonder if the Senator has figures showing how much Japan is putting up.

Mr. FULBRIGHT. The report has all the figures, of course. The Senator knows I do not keep these kinds of figures in my head. We have the report here, and I will put it into the RECORD. It gives all of them. Japan is putting up 6 percent. The whole list is on page 5 of the report.

Mr. BYRD of Virginia. Japan put up 4.6 percent, and Germany 7.8 percent. Those are the two countries with the strongest currencies in the world.

Mr. FULBRIGHT. That is probably true regarding the currency question.

Mr. BYRD of Virginia. The strongest currencies in the world.

Mr. FULBRIGHT. Well, they are no stronger than Kuwait's.

Mr. BYRD of Virginia. There has been a run on the dollar in Japan, there has been a run on the dollar in Germany, and we are putting up 40 percent; yet the two countries with the strongest currency in the world are putting up a very minor share—4.6 percent for Japan and 7.8 percent for Germany.

I submit that it is time that some of us in the Congress give consideration to the American people and the American dollar.

Mr. FULBRIGHT. The first place to start is on our bilateral foreign aid, in which Japan does not put up one penny, nor does Germany put up one penny, nor does anybody else. We put up 100 percent. That is the argument I have been making.

Mr. BYRD of Virginia. Those countries have the strongest currency because they are not as foolish as the United States.

Mr. FULBRIGHT. I say amen to that. I say a double amen. There has been no country as foolish as the United States in the last 10 years.

Mr. BYRD of Virginia. I commend the Senator for that statement.

Mr. FULBRIGHT. The Senator is not too surprised, is he?

Mr. BYRD of Virginia. I am not surprised. What we are trying to do is buy friends. I do not think we can buy friends.

The distinguished Senator from Arkansas has said that we have been foolish. Now is the time to stop being foolish. We have gotten into a desperate financial situation, and we are not going to get out of it if we do not cease expanding the programs. That is what we are doing in this bill. We are expanding the program to the extent of $1 billion. How long are we going to keep expanding these programs? It is time to reduce them, not to expand them.

I wish the Senator would follow out his philosophy by joining with me in opposing the bill, because, as he says, we have been very foolish in the past. We are still being foolish. Why not get the reverse situation?

Mr. FULBRIGHT. I certainly did not mean to say that the most foolish thing we have done is our participation in the original proposal for IDA. The most foolish thing is that we have been wasting our resources on a war in Southeast Asia in which we had no business. That has been the No. 1 foolish act. This has led to the proliferation of commitments in other parts of the world.

I do not mean to imply that our participation in IDA was foolish. In fact, one of the better things, one of the more constructive things, has been our participation in the International Bank, which started away back, as the Senator knows, with Bretton Woods, and which has accomplished a great deal of good. It has an accumulated surplus of over $1 billion, about $1.3 billion of earnings. So I would not say it is a foolish thing. It is one of the best, most successful undertakings in the area.

I do agree with what the Senator says about our overall policy, and I know that has created a situation that is causing him to want to restrict this program.

I also want to conclude by saying this does not provide for $1 billion in 1 year. It is for $320 million per year for 3 years. It is a commitment for 3 years. That is a good deal less than the Senator is going to be called upon to vote in a few days for supporting assistance, for example, in the foreign aid bill. It is less than he is going to probably vote to give one little country in the Middle East, Israel. We will have to give them more money than is provided for in this entire annual appropriation.

When these comparisons are made, they must be made carefully. I only say that if we are going to do anything in the international field to help any country, if we recognize any obligation in that area, this is probably the best bargain. If we are going to cut programs, this should be the last one to cut.

Obviously the Senator from Virginia, being only one Senator, cannot do it by himself, but when I see the country continue bilateral aid, where we put up everything, and not cutting down on the military, the situation is bad. I think we have to cut down somewhere else, but I think this is one of the poor places to cut, because it is one of the operations we have been engaged in that has been most effective. It has generated a most substantial profit. It has committed fewer administrative errors. There is no scandal affecting it, as there has been in nearly every program, including bilateral aid. There have been some scandals there and serious corruption. I have not heard anything bad about this program. I am sure some things in it have not gone right, but they have been minor.

Mr. BYRD of Virginia. Does the Senator say that the World Bank has a surplus of $1 billion?

Mr. FULBRIGHT. An accumulated surplus from earnings of over $1 billion. I think it was $1.3 billion.

Mr. BYRD of Virginia. That fact makes me all the more interested and curious as to why the World Bank would be seeking to get from the American taxpayers $960 million, practically $1 billion, when it has accumulated earnings, as the Senator from Arkansas has pointed out, of well over $1 billion.

Mr. FULBRIGHT. These earnings have not just sat there. They are reloaned and also contributed to IDA. IDA is not the World Bank. It is not the earning part of it. It is the soft loan part. It is as nearly charity as we can make it

without calling it charity. These are virtually grants in some respects.

Mr. BYRD of Virginia. I call it a giveaway program.

Mr. FULBRIGHT. I do not greatly object to the Senator's calling it that, if he wishes, because in the long run it may be. The Senator can call the bilateral program that. Very little, if any, of that will be repaid.

What do we call a local drive by local churches? Do we call that a giveaway program? We usually call it a very Christian act to help those in need in the community. That is the way it is referred to. One does not say, "I am contributing to a giveaway program." It comes to the same thing. One is on an international scale; the other on a local scale. But this program has been relatively well managed. That is the reason why it deserves support, if we are going to do anything in this area.

Mr. BYRD of Virginia. I think the Senator from Arkansas is about as skeptical about the foreign aid program as is the Senator from Virginia; only we vote differently. I am going to vote against the foreign aid program. I do not think this is any time to be expanding the foreign aid program.

I was most interested in the letter which the Senator from Arkansas put into the CONGRESSIONAL RECORD yesterday, signed by six former Secretaries of the Treasury.

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

The PRESIDING OFFICER. The Senate will be in order.

Mr. BYRD of Virginia. I was interested in the letter which the Senator from Arkansas inserted in the RECORD yesterday, addressed to him as chairman of the Committee on Foreign Relations, signed by six former Secretaries of the Treasury, all of whom I know, all of whom are excellent men, and all of whom were outstanding public servants and men in whom I have great confidence and for whom I have a very high regard.

I am somewhat disturbed, however, about the letter. I wish to read a part of it. It says:

> However, for the first time since the United States began participating in the international financial institutions Congress failed to appropriate funds necessary to meet authorized subscriptions. Appropriations requests for the Inter-American Development Bank were cut by almost half and World Bank requests were eliminated.

I continue to quote:

> It is no exaggeration to say that unilateral cuts in authorized subscriptions could destroy the international financial institutions and set international financial cooperation back twenty-five years. We feel impelled to warn of the consequences of such a development.
>
> It must be recognized that a failure to meet authorized subscriptions for a multilateral endeavor is a unilateral action by the United States inconsistent with the joint decisions taken by the numerous member governments.

Does that mean, may I ask the Senator from Arkansas, what it appears to me that these distinguished men are saying: That this authorization in itself commands the appropriation of these funds, whether or not the Appropriations Committee feels that the appropriations are justified?

Mr. FULBRIGHT. No, it does not. We went all through that. The report itself states that of course it is understood that this money has to be appropriated. That is our system.

But you have to make some kind of plans, some kind of agreements, in order to allocate these contributions, and determine what our people would contribute.

It is, of course, expected that we would do it, but it is not illegal, unconstitutional, or immoral if our condition is such that we ultimately decide we cannot put that money up. It will be very embarrassing, as such a thing would be embarrassing any time.

In the same way, the President can go out, and does, and say, "We are going to help you," and then come back and report it. That is not a commitment, and if Congress does not provide everything he says, it may be an embarrassment, but it is not unconstitutional, illegal, nor immoral to give the President what he asks.

All they are saying here is that it involves many other countries—as the Senator knows, there are about 116 members, I believe, of the Bank—and they have to negotiate these matters. It is a practical matter.

As a matter of fact, we put into the report, and I read and stressed yesterday, the following language:

> It should be stressed—in the event there are foreign governments still not aware of the fact—that a final commitment of funds by the United States does not exist prior to completion of the appropriations process.

That is as plain as you can be. If the Senator can persuade the Appropriations Committee that we are so broke we ought not to give this, that we ought to give all the money to the Armed Services Committee and none of it to the IDA, the Congress can change the situation. It is a matter of persuading the Appropriations Committee and the Congress where the priorities come.

I will grant that some of these priorities do not sit well with me, and I am sure some do not with the Senator from Virginia, but that is a fact of life. There is no commitment other than the traditional one, plus the important fact that we have negotiated with many foreign countries. It is a good deal more embarrassing than when, having negotiated with the State of Arkansas—as we did once—Congress agreed and the authorization was made to put up the money to help with the Arkansas River, and then President Truman impounded the funds and said, "No, we will not do it," and the project was delayed about 5 or 6 years.

I am in favor of an amendment before the committee—I do not know whether it has been adopted—to the bilateral foreign aid bill which says that until the appropriated funds for domestic projects, for the State of Virginia, for example, are released, funds appropriated for foreign assistance projects should not be released.

I agree with the principle of that. But again I come back to the fact that this particular program, if we are going to do anything in the international field, is the best bargain we have.

Mr. BYRD of Virginia. I think it is important that it be made clear, because these distinguished former Secretaries of the Treasury say, quoting again:

> We feel impelled to warn of the consequences of such a development.

What do they mean by that? They mean that if Congress were to authorize, and yet Congress then later decides not to appropriate, they feel it would destroy these multilateral financial institutions.

I do not agree with them on that, either. I think that we must not give up the appropriating process in Congress.

But I think it is worth pointing out what these foreign countries are being told by our representatives, apparently—and as a matter of fact one of the arguments made earlier in the day was that someone had made some commitments on the part of our Government, and we had some obligation to look after them.

Be that as it may, I think that basically the problem we face, as I see it, is whether the time has not come where we, the Congress, should call a halt to some of the huge expenditures that are being made of American tax dollars.

We have to meet the issues one by one as they come up. We have had three bills on this floor in the last 2 days. The total of those three bills is roughly $2 billion—$1 billion in this one, or $960 million to be more accurate, but roughly a billion dollars, for an expansion of this foreign giveaway program, with 50-year loans and no interest—a three-quarter percent service charge is the only thing approaching an interest rate. Thus, there is a billion dollars going to foreign countries, a grant on a 50-year basis, with no interest, and I might say if any of those loans are paid back, they will not be paid back to the American taxpayers. They are paid back to the World Bank, and they stay in the World Bank; they never come back to the U.S. Treasury.

That is a part that is frequently overlooked. Even if these loans are all repaid, they are repaid to the Bank, and not to the U.S. Treasury.

So in summary, Mr. President, I as one Senator wish to say that I am deeply concerned about the Government's financial situation.

I think it is getting worse.

The deficits that the country has been running are getting heavier every year. The interest on the national debt is more and more each year, to the extent that at the present time 17 cents out of every income tax dollar paid into the Federal Treasury goes to pay the interest on the national debt.

Somewhere along the line, we are going to have to give some consideration to the American taxpayer.

Mr. STENNIS. Mr. President, will the Senator yield briefly, for a question or two?

Mr. BYRD of Virginia. I yield.

Mr. STENNIS. I arrived in the Chamber a short time ago. I think the Senator is rendering a very distinct service in the debate by bringing out these facts.

The Senator from Virginia just mentioned an item of three bills totalling approximately $2 billion for the current

fiscal year. My question is this: Is that in addition to what we call the usual and regular foreign aid bill?

Mr. BYRD of Virginia. Yes. This is in addition to the usual and regular foreign aid bill, of which amount I am not certain, but it runs approximately $3.5 to $4 billion. Whatever that amount is, this $2 billion is in addition.

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

Mr. BYRD of Virginia. I yield.

Mr. MANSFIELD. I think that sum would cover, overall, several years—3 years under the present bill and 2 years under the two bills to which the Senate has already agreed. Is that right? Three years on this bill at $320 million a year; and the other two bills, the Asian Bank and the Inter-American Bank, were for 2 years.

Mr. BYRD of Virginia. The Senator from Mississippi asked whether these items are included in the normal and regular foreign aid bill which is now before the Senate Foreign Relations Committee.

Mr. MANSFIELD. No. They are separate and apart.

Mr. BYRD of Virginia. The answer is that this is entirely separate.

Mr. STENNIS. So this is an additional amount?

Mr. BYRD of Virginia. This is additional.

Mr. STENNIS. That means, then, that for fiscal 1972, this sum of money in the three bills will be on top of what we appropriated last year for foreign aid.

Mr. BYRD of Virginia. Not for the single year. That is the total involved in the bills—roughly $2 billion. But the amount for fiscal 1972 will be $830 million.

Mr. STENNIS. Anyway, this is the additional program.

Does the Senator have in mind the figure for the fiscal year that has just closed, wherein our budget was overspent and in a deficit? Does the Senator recall those figures?

Mr. BYRD of Virginia. Yes. I say to the Senator from Mississippi that the Federal funds deficit for fiscal 1971, the year which ended this past June, was exactly $30 billion.

Mr. STENNIS. Does the Senator have in mind an estimated deficit for the current fiscal year that is running now, if it continues at the present rate?

Mr. BYRD of Virginia. That is more difficult to ascertain.

Mr. STENNIS. What is the figure that is used?

Mr. BYRD of Virginia. Let me first give the Senator my figure. Being somewhat conservative, I keep my figures on the conservative side. I have been saying that the deficit would be $33 billion in the current fiscal year, but a Member of the Senate who is far better informed than I am on the matter of appropriations and on the matter of taxes says that the deficit will be $40 billion. But I am certain that the deficit will be at least $33 billion in the current fiscal year.

Mr. STENNIS. So the estimate for the current year, under present conditions, is $33 to $40 billion?

Mr. BYRD of Virginia. That is correct.

Mr. STENNIS. Does the Senator know of any bill or any pending plan for a bill to increase the taxes in order to take care of part of that deficit and the additional money we are talking about here today?

Mr. BYRD of Virginia. No. The recommendation has been made to reduce taxes, which will have a further reducing effect on the revenues and will add to the deficit total.

Speaking of taxes, however, my belief is—my conviction is—that when January or February of 1973 gets here, whoever might be elected President will come here and ask Congress for a smashing tax increase. No one is going to do it before the election—but just wait until the election is over.

Mr. STENNIS. So the Senator sees nothing in view between now and January 1973, so far as recommendations are concerned, with reference to getting any closer to a balanced budget?

Mr. BYRD of Virginia. No. I say to the Senator from Mississippi that I do not see that in the offing at all. As a matter of fact, I see it going in the opposite direction; and the deficit, which last year was $30 billion, undoubtedly will be substantially greater than that this year, and possibly for the succeeding year.

Mr. STENNIS. Is it not true that governments, as do individuals, just keep on going further and further in debt, year after year, and that finally sometime, in some way, payday will come and there will be a calamitous situation? There is no way to take care of it. That is true with an individual; is it not?

Mr. BYRD of Virginia. It is certainly true with an individual, and it is certainly true with a government. It takes a government—certainly a government as large and as strong as the United States—more years to get to that point; but I am convinced that we are getting very near that point now.

Mr. STENNIS. As one who is chairman of a subcommittee that handles appropriation bills for home use, it is always a question of priorities. We heard proof all this year about moneys that Congress appropriated last year and were withheld from our own people, and these were projects whose validity and worth no one disputed. These were projects for which people at the State level were unable to get the money. Perhaps some of it was justly withheld. At any rate, all of it was withheld; every penny over the budget that Congress appropriated was withheld and was deemed to be unworthy for expenditure then.

On top of this, we are about to authorize and appropriate these additional billions of dollars for these programs, some of which, of course, have validity, and I would not try to stop all of them. But we are asked to continue with the withholding of funds for our own people, continue to greatly increase by billions of dollars programs in this field, on top of the fact that—without claiming any special credit—in the last 25 years we have been more generous and have done more for others under the circumstances than any other government in all recorded time.

I thank the Senator for calling attention to these facts and for putting up a stop-look-and-listen signal. I hope it will be partly heeded. I am certainly going to stand with him.

Mr. BYRD of Virginia. I thank the Senator from Mississippi. I agree thoroughly with his appraisal.

Mr. President, I will conclude by saying again that it is a question of whether or not the time has come to give consideration to the American taxpayer and whether we want to continue to shovel more and more tax funds overseas in these projects, some of which, as the Senator from Mississippi has said, are worthy.

But we must remember that many, many billions of dollars already have gone overseas, from the pockets of the taxpayers, and we are running very severe deficits.

Mr. KENNEDY. Mr. President, I want to take this opportunity to indicate my full support for this additional U.S. contribution to the IDA of the World Bank.

I believe that over the past 10 years the International Development Association has been the single greatest force for the economic and social development of the third world nations. It has provided the most important source of development funds to these nations, extending 274 loans totaling $3.3 billion to some 58 countries.

And I am particularly impressed by the new leadership and new directions for the World Bank initiated by Robert McNamara since his accession to the World Bank presidency only a few short years ago.

In seeking to increase the number of recipients and to focus more loans on the areas of social investment he has significantly strengthened and furthered the purpose for which the Bank was established.

Now some 107 nations are members of the IDA and it is widely recognized as the single best hope for meeting the needs of the developing nations. It also is the primary model for the success of the multilateralization of development assistance.

And I believe it is important to recognize the advantages that the multilateral concept holds in the area of economic and social development.

Multilateral agencies provide the best medium for sharing the burdens of development assistance.

Multilateral agencies provide a resource of international expertise in the problems of development assistance, expertise that no single nation can match.

Multilateral agencies provide an opportunity for development programs to be evaluated almost solely on the basis of economic and social needs without the political pressures that often accompany bilateral assistance decisionmaking.

Multilateral agencies provide the dual function of offering assistance to nations in economic planning and at the same time offering standards and discipline which developing nations must meet in their economic decisionmaking.

Multilateral agencies, free from the specific foreign policy restraints of individual nations, can establish firm loan criteria and program requirements.

Multilateral agencies provide an im-

portant stimulus to developing nations, encouraging them to fix program performance requirements within comprehensive long-range economic development plans which are essential for their long-term economic and social development.

It is for these reasons that I believe that the multilateral concept is extremely important and should be the major source for the channeling of U.S. development assistance funds to the developing nations. We have a major responsibility to continue to play a leadership role in assisting the development of the nations of Asia. Africa, and Latin America and we can best meet this responsibility by supporting the international lending agencies such as the World Bank, the Inter-American Development Bank, and the Asian Bank.

Mr. MANSFIELD. Mr. President, in view of the fact that the debate seems to be concluded, I wonder if the distinguished Senator from Virginia would agree with the joint leadership that a vote occur on the pending bill at 3:15 p.m., so that in the meantime we can dispose of the joint resolution on the school lunch program, which we have held up for a number of reasons.

Mr. BYRD of Virginia. Mr. President, would the Senator from Montana be willing to let the vote come now and then immediately thereafter take up the joint resolution?

Mr. MANSFIELD. All right. Immediately after this vote, the Senate will turn to the consideration of the school lunch program.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Michigan (Mr. HART), the Senator from Iowa (Mr. HUGHES), the Senator from Utah (Mr. Moss), the Senator from Rhode Island (Mr. PELL), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Alaska (Mr. GRAVEL), are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Massachusetts (Mr. BROOKE), the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from Maryland (Mr. MATHIAS), and the Senator from Ohio (Mr. SAXBE), are necessarily absent.

The Senator from Iowa (Mr. MILLER) and the Senator from Oregon (Mr. PACKWOOD) are absent because of death in their respective families.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

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

The result was announced—yeas 49, nays 34, as follows:

[No. 264 Leg.]

YEAS—49

Aiken	Griffin	Proxmire
Allott	Harris	Ribicoff
Bayh	Hartke	Roth
Beall	Humphrey	Schweiker
Bellmon	Inouye	Scott
Bennett	Jackson	Smith
Bentsen	Javits	Sparkman
Boggs	Kennedy	Spong
Buckley	McGee	Stafford
Case	McGovern	Stevenson
Chiles	Metcalf	Taft
Church	Mondale	Tower
Cooper	Muskie	Tunney
Cranston	Nelson	Weicker
Dole	Pastore	Williams
Fong	Pearson	
Fulbright	Percy	

NAYS—34

Allen	Ellender	McClellan
Bible	Ervin	McIntyre
Brock	Fannin	Montoya
Burdick	Gambrell	Randolph
Byrd, Va.	Gurney	Stennis
Byrd, W. Va.	Hansen	Stevens
Cannon	Hruska	Symington
Cook	Jordan, N.C.	Talmadge
Cotton	Jordan, Idaho	Thurmond
Dominick	Long	Young
Eagleton	Magnuson	
Eastland	Mansfield	

NOT VOTING—17

Anderson	Hart	Moss
Baker	Hatfield	Mundt
Brooke	Hollings	Packwood
Curtis	Hughes	Pell
Goldwater	Mathias	Saxbe
Gravel	Miller	

So the bill (S. 2010) was passed, as follows:

S. 2010

An act to provide for increased participation by the United States in the International Development Association

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the International Development Association Act is amended by adding at the end thereof the following new section:

"SEC. 11. The United States Governor is hereby authorized to agree on behalf of the United States to contribute to the Association three annual installments of $320,000,000 each as recommended in the 'Report of the Executive Directors to the Board of Governors on Additions to IDA Resources: Third Replenishment,' dated July 21, 1970. There is hereby authorized to be appropriated, without fiscal year limitation, the amounts necessary for payment by the Secretary of the Treasury of three annual installments of $320,000,000 each for the United States share of the increase in the resources of the Association."

Mr. HUMPHREY. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD of West Virginia. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 9844) to authorize certain construction at military installations, and for other purposes.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 2082. An act to provide for the conveyance of certain public lands in Wyoming to the occupants of the land;

H.R. 2828. An act for the relief of Mrs. Rose Scanio;

H.R. 4485. An act for the relief of Estelle M. Fass;

H.R. 4497. An act for the relief of Lloyd B. Earle;

H.R. 4779. An act for the relief of Nina Daniel;

H.R. 5318. An act for the relief of Mrs. Fernande M. Allen;

H.R. 6739. An act for the relief of Corporal Michael T. Kent, United States Marine Corps Reserve; and

H.R. 6998. An act for the relief of Salman M. Hilmy.

ENROLLED BILLS SIGNED

The message further announced that the Speaker had affixed his signature to the following enrolled bills:

S. 74. An act to provide for the conveyance of certain real property of the United States to the University of North Dakota, State of North Dakota;

S. 414. An act to authorize and direct the Secretary of the Interior to convey certain property in the State of North Dakota to the Central Dakota Nursing Home; and

S. 654. An act for the relief of Frederick E. Keehn.

HOUSE BILLS REFERRED

The following bills were severally read twice by their titles and referred, as indicated:

H.R. 2082. An act to provide for the conveyance of certain public lands in Wyoming to the occupants of the land; to the Committee on Interior and Insular Affairs.

H.R. 2828. An act for the relief of Mrs. Rose Scanio;

H.R. 4485. An act for the relief of Estelle M. Fass;

H.R. 4497. An act for the relief of Lloyd B. Earle;

H.R. 4779. An act for the relief of Nina Daniel;

H.R. 5318. An act for the relief of Mrs. Fernande M. Allen;

H.R. 6739. An act for the relief of Corporal Michael T. Kent, United States Marine Corps Reserve; and

H.R. 6998. An act for the relief of Salman M. Hilmy; to the Committee on the Judiciary.

FREE OR REDUCED-PRICE LUNCHES FOR NEEDY SCHOOLCHILDREN

The Senate resumed the consideration of House Joint Resolution 923, a joint resolution 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.

The PRESIDING OFFICER. The question now recurs on the passage of House Joint Resolution 923. Pursuant to the previous order the Senator from Minnesota is recognized for not to exceed 10 minutes, to be followed by a vote on the joint resolution.

Mr. HUMPHREY. I thank the Presiding Officer.

I wish to ask the distinguished chairman of the Committee on Agriculture and Forestry one or two questions. My remarks will be brief and to the point.

It is my understanding that this resolution we are voting on today prohibits USDA from requiring a school district to reduce the number of children for this current school year who are benefiting from the free or reduced lunch program provided under section 11 of the School Lunch Act.

Over 5,000 children in our Minneapolis schools were forced out of the section 11 program after school began in September as a result of regulations issued by USDA on August 13, which have since been retained. Most of these children are attending schools which are located in low-income areas of the city.

Is it the understanding of the chairman that the resolution we are voting on today will enable the Minneapolis board of education to restore eligibility to all those children who were in the program at the beginning of the year, but who are now out as a result of these USDA regulations?

Mr. TALMADGE. The answer is affirmative. If they were enrolled in the program and eligible under State and local regulations on October 1 they will continue.

Mr. HUMPHREY. I thank the Senator. I have one other question. Is it the understanding of the chairman of the committee that if a State accepts an eligibility standard of an individual school district which is different from that established by the State that such standards will be acceptable by USDA?

Mr. TALMADGE. The answer is affirmative for the current fiscal year.

Mr. HUMPHREY. I thank the distinguished chairman of the committee.

Mr. President, the House resolution we are voting on today contains provisions to cope with the drastic changes in school lunch regulations—changes which were announced by the Department of Agriculture between the time the Senate passed its earlier resolution and House consideration of the measure.

After the Senate passed its resolution, calling for USDA to pay 46 cents per meal for each needy child—as opposed to USDA's proposed 35 cents—it appeared that the Department concurred, but they then offered new proposals which would have eliminated more than 600,000 children from participation in free and reduced price lunches. The House resolution restores these children to participation. I hope the Senate will adopt the House language by unanimous consent so that we can meet the needs of the Nation's hungry schoolchildren.

I am pleased that the White House, after repeated requests from Congress, decided to ask the Department for clarification of what would have been the crippling USDA regulations. I am also pleased that the clarification which the President received led him to encourage the Department to relent in its efforts to save a few pennies at the expense of American schoolchildren.

Had he taken such action in August, he could have saved everyone involved a lot of frustration and time consuming effort.

Mr. President, I thank the distinguished chairman for the splendid leadership he has given on the school lunch program. I think the entire Nation is indebted to the distinguished Senator from Georgia for the work he has done in calling this matter to our attention. It has been a special joy for me to be associated with him in this effort.

Mr. TALMADGE. I thank the Senator from Minnesota.

Mr. PASTORE. Mr. President, will the Senator from Minnesota yield?

Mr. HUMPHREY. I yield to the Senator from Rhode Island.

Mr. PASTORE. Mr. President, I wish to associate myself with everything the Senator from Minnesota said, especially in commendation of the Senator from Georgia (Mr. TALMADGE). As in the case of his State, we had the same problem in our State. It caused tremendous consternation and disappointment. I am happy to see the matter has been straightened out.

Mr. JORDAN of North Carolina. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. JORDAN of North Carolina. Mr. President, I associate myself with the remarks that have been made regarding the school lunch program. I am a member of the Committee on Agriculture and Forestry, under the chairmanship of the distinguished Senator from Georgia. I am happy that there has been concurrence in this matter, and that we will have an opportunity to vote again, so that there will be no doubt in connection with the children in any State that they will be included in the school lunch program as it was before the Agriculture Department cut back on the eligibility of some children. I am glad this will be changed.

Mr. HUMPHREY. Mr. President, I yield back my time.

Mr. TALMADGE. Mr. President, I desire to express my deep appreciation to the distinguished Senator from Rhode Island and the distinguished Senator from North Carolina for the generosity of their comments.

If no other Senator desires to speak or propound an inquiry I am prepared to yield back the remainder of my time, and I move the adoption of the bill.

Mr. PERCY. Mr. President, this resolution is of utmost importance. It makes sure that there will be absolutely no reductions in any school district in the provision of federally reimbursable free and reduced price lunches. The resolution guarantees that the poor children of America will eat federally subsidied nutritious meals, rather than unfulfilled promises.

I think it is of utmost importance to emphasize our intent that all needy children receive free and reduced price lunches pursuant to standards set by local districts and approved by the States. The phrase "pursuant to eligibility standards established by State agencies prior to October 1, 1970" in section 5 of the resolution refers to our intent that standards set by the district, and approved by the State before October 1, be precisely the standards pursuant to which Federal reimbursement is required. If a school district has set free lunch standards—even where these standards are higher than the ones suggested or recommended by the State—it is such local district's standards that will be federally reimbursable as long as they were approved by the States before October 1. As a practical matter, I understand that all of the standards set by the districts were approved by the respective States prior to October 1.

With this resolution, therefore, we will at least hold the line in every school district in the provision of federally reimbursable free and reduced price lunches. It is my hope that this resolution will also bring about substantial progress in the school lunch program so that there will no longer be a hungry schoolchild.

Mr. SCHWEIKER. Mr. President, the school lunch resolution we are considering today is one of vital importance to the needy schoolchildren of Pennsylvania. I vigorously support its passage.

The resolution has several important provisions. It establishes 40 cents as the minimum per meal Federal reimbursement for free and reduced price lunches. It establishes 6 cents as the required average rate of Federal reimbursement for all lunches. It prohibits the Secretary of Agriculture from cutting off Federal reimbursement for lunches served to children now receiving free and reduced price lunches whose families' incomes exceed the Secretary's "income poverty guideline." And it authorizes the Secretary to transfer funds from section 32 of the act of August 24, 1935, to assist schools which need additional funds for the school breakfast program.

All of these provisions are important. In Pennsylvania, thousands of needy children from families with incomes higher than the Secretary's "income poverty guideline" might have lost their free and reduced price lunches were it not for this resolution. Both Pittsburgh and Philadelphia, for example, set their income eligibility scales at levels higher than the Secretary's $3,940 "income poverty guideline." Philadelphia's is $4,000 annually for free lunches for children from a family of four, and $4,165 annually for reduced price lunches for children from a family of four. Pittsburgh's standard is $4,000 for free lunches and $7,000 for reduced price lunches. These standards were set by Philadelphia and Pittsburgh and approved by the State agency. The State agency recommends a standard of $4,000 for both free and reduced price lunch eligibility, but it has approved higher local standards where local districts have set such to reach all the needy children in their area. This resolution, by requiring the Secretary to provide reimbursement for lunches served pursuant to "eligibility standards established by State agencies," includes within its terms the standards set by districts like Philadelphia and Pittsburgh. These local districts set the standards. The State agency approved them. Thus, technically speaking, it is the State agency that "establishes" the local standards, not the local school authorities. Therefore, Federal reimburse-

ment must be provided for lunches served pursuant to the higher levels established by local school districts that were approved by the State agency, provided only that such standards were established prior to October 1, 1971. Although the State agency recommends a standard of $4,000 for providing Federally-reimbursable free and reduced price lunches, it has permitted Pittsburgh, as an example, to establish a $7,000 reduced price lunch standard and, consequently, we direct the Secretary in this resolution to federally subsidize lunches pursuant to the $7,000 standard.

As to section 7 of the resolution, the authority vested in the Secretary to transfer section 32 funds for the breakfast program, I wish to note my wholehearted support and affirm that it is the will of Congress that this authority be used generously by the Secretary.

Mr. WILLIAMS. Mr. President, I wish to declare my strongest support for this resolution, House Joint Resolution 923, that we are considering today. I do not regret that we are taking the time from our busy schedule to pass this measure. I do regret that it is necessary once again to inform the Department of Agriculture that Congress is ardently committed to insuring that no needy child in this Nation shall go without a nutritious noon meal even if the child is unable to pay for his lunch.

In my State, Newark has determined that it must set its income eligibility standard at $7,500 for reduced price lunches for children from families of four persons. Newark decided that any lower standard would exclude children from families who, although they had incomes above the Secretary's "income poverty guideline," were unable to pay a full price for their lunches. By the Secretary's announcement on October 6, 1971, all of those children in Newark with family incomes above $3,940 annually would have been denied federally reimbursed lunches.

Today's resolution requires the Secretary to provide reimbursement for all free or reduced price lunches served pursuant to income eligibility standards established by New Jersey's State agency. Since 1943 the State agency has had the duty of approving the standards set by local authorities. Many local school authorities in New Jersey set their standards at a level that the State agency had suggested; such locally set standards are then subsequently approved by the State agency and have thus been "established" by the State agency. Other districts—such as Newark, Camden, Trenton, Elizabeth, Jersey City, and Paterson—set their standards higher than those suggested by the State agency. These higher standards were also approved by the State agency and thus became "established" by the State. Under this resolution all of the lunches served pursuant to each of the above examples would receive Federal reimbursements.

We cannot allow the Department to ignore Federal law and cut off New Jersey's hungry, needy schoolchildren. This resolution will prevent further illegal acts by the Department and guarantee the noontime nutrition of all our children.

Mr. KENNEDY. Mr. President, in expressing my support for this resolution, allow me to concentrate on one particular point of which I am sure we are all aware.

Mr. President, so frequently we have passed legislation and set up programs providing that they would result in the feeding of needy children, and then have allowed standards which prohibit many poor people from participating in these programs. Many times we have been at fault simply because in outlining participation qualifications we have neglected to account for the higher cost of living in urban areas that results in a working man in a big city being less able to feed his children than a farmer making several thousands of dollars less than his urban counterpart. In many cases, we have not accounted for additional expenses in certain areas of the country or a State which result in a family in that locality being unable to qualify for food program benefits although his earnings could not reasonably cover his food costs.

That is why we must be sure to continue the wise precedent we have set with the school lunch program. In this program, we give local school districts the right to determine which children are needy in their locality. The local districts prescribe eligibility standards for free or reduced priced meals. It should be clear, then, that section 5 of this resolution does not curtail that right of the local school districts, as long as the district has promulgated its eligibility standards prior to October 1, 1971, and those guidelines have been accepted by the State.

If, for instance, a local school district, such as a large city school authority, has set eligibility standards prior to October 1, 1971, in excess of the standards recommended generally by the State, that school district will still use its own eligibility standards and receive Federal reimbursement for all free and reduced price lunches served pursuant to its eligibility standards.

This must be the meaning of our newly amended section 9, through section 5 of House Joint Resolution 923. If that provision is interpreted any other way, it will jeopardize the firm commitment we have made that all needy children, in cities, towns, and farms will be fed pursuant to such areas' needs.

Mr. MONDALE. Mr. President, I support House Joint Resolution 923 and recommend its approval by the Senate.

On October 1, 1971, by a vote of 75 to 5, we passed a resolution to provide nutritious lunches for every needy child. At that time we were primarily concerned with regulations issued by the Agriculture Department in August which would have severely cut back on payment rates to schools.

Less than a week after the Senate resolution was adopted, the Department announced it would raise payment rates but strictly limit school lunch eligibility. This step would deny meals to an estimated 1.5 million needy children who have been served free and reduced price lunches under previous guidelines.

As Dr. Jean Mayer, the President's own expert on hunger, remarked last week:

No one who has followed the issue would have expected the Administration to interpret "needy" to exclude people who are poor, but not quite that destitute.

Fifty-nine Members of the Senate, including the leadership of both parties, wrote the President last Friday urging that he intervene to restore full eligibility to children who were served free or reduced price meals before the Department's October 6 announcement.

This Monday, the House of Representatives unanimously approved a joint resolution to assure that no needy child will be forced out of the program and that free and reduced price lunch service will be expanded to include all deserving youngsters.

A few hours before the House vote, the administration released word that it would drop a regulation which would have eliminated 1.5 million children from the school lunch program. Despite this announcement, the House was unanimous in its recognition of the need for additional congressional action.

As reported in the New York Times, October 19, 1971, there are several important differences between the administration's press release position and the House-passed bill.

First, the House bill provides for a minimum reimbursement rate of 46 cents per meal for meals served to needy children, while the administration would provide an average payment of 46 cents.

Since 46 cents is substantially less than the cost to schools to produce and serve a free lunch, we ought to concur with the House in making this the minimum, not the average, payment.

A second distinction is that the House measure would lift Agriculture Department restrictions on the school breakfast program. The administration has said only that it will deal with this question apart from school lunch regulations. The Senate is already on record in favor of the House position of providing adequate funds to maintain the vital school breakfast program.

Finally, there is some confusion over whether local school districts would be able to set a flexible income standard which is more lenient than statewide standards. Since the Department's October 18 press release was unclear on this subject, Assistant Secretary Lyng acknowledged it "will be clarified soon."

This is not very promising news for more than a hundred thousand children in Minneapolis, Philadelphia, New York, Portland, Oreg., and 19 other major cities.

However, section 5 of House Joint Resolution 923 would require the Secretary of Agriculture to reimburse State agencies and local school authorities for free and reduced cost meals served to these children. Reimbursement would be made during fiscal year 1972 according to eligibility standards established by State agencies prior to October 1, 1971.

Well before October, Minnesota and many other States adopted flexible eligibility criteria in order to assist especially needy schools in metropolitan and other low-income areas. Under these criteria some schools in Minneapolis and at least 22 other cities in the United States have been permitted to

serve free and reduced cost lunches to children whose parents' incomes are slightly higher than statewide income maximums.

It is clear not only under section 5, but also under section 6 of House Joint Resolution 923, that States would be able to continue reimbursing schools for meals served to these children. Section 6 provides that the Secretary of Agriculture shall not lower minimum eligibility standards nor require a reduction in the number of children served in any school district during the current fiscal year.

Lest there be any misunderstanding, I would further point out that the House bill uses the phrase "eligibility standards" and not "income standards" in order to permit State agencies to continue their flexible policies for assistance to needy schools. And to avoid the confusion and dislocations caused by recent Agriculture Department announcements, the House bill also calls for a roll back of eligibility criteria to those in effect prior to October 1, 1971. I believe the term "prior to" is important. The House bill does not say on October 1, or on September 30, but prior to October 1. It is the intent of Congress to acknowledge that some States and schools might have restricted school lunch participation during the last few months because of all the uncertainties regarding funding and eligibility limitations imposed by the Agriculture Department.

Since we have had so many difficulties in recent weeks with misinterpretations of the National School Lunch Act by officials in the Department, I think it is essential for the Senate to stress—indeed, to make unmistakably clear—exactly what the law does mean.

In summary, with acceptance of House Joint Resolution 923, the law will mean that eligibility levels which either the States themselves set or which they allowed local school districts to set shall be in force for this entire school year and that no eligibility requirements in any school districts will be rolled back for the present fiscal year.

I urge that my colleagues swiftly approve the House resolution to guarantee that no child will be arbitrarily excluded from the free and reduced price lunch program, if the States agree that he is needy, and to extend benefits to all children who qualify for meals under State eligibility guidelines.

Mr. MANSFIELD. The senior Senator from Michigan (Mr. HART) is necessarily absent today. At his request, I ask unanimous consent that his statement on the school lunch resolution (H.J. Res. 923) be inserted in the RECORD at this point.

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

STATEMENT BY SENATOR HART

The Resolution now before the Senate is necessary to carry out the Congressional intent that all needy children be fed. The Resolution provides a promise to all concerned that no cutbacks in our commitment to provide Federally-subsidized meals to the poor will be tolerated. It is unfortunately necessary because of recent events that caused many of us to fear that the Agriculture Department intended to circumvent our clear purposes when we passed the 1970 School Lunch Act amendments.

On August 13, the Department of Agriculture proposed regulations that established new reimbursement rates for school lunches. Pursuant to those proposed regulations, states would have received a maximum of five cents out of general cash-for-food assistance for every lunch served; in addition, States would have received a maximum of 30 cents in special cash assistance for every free or reduced price lunch served.

Immediately after the publication of those regulations the Congress was deluged with protests from State School Lunch Program Directors from around the country. They assured us that it was impossible to continue the Program under present levels—let alone get the necessary job done of expanding the Program to all children in all schools—with such a reimbursement system. They felt it necessary to obtain, as a minimum, 40 cents from special cash assistance for every free and reduced price lunch, and at least five cents for every lunch from general cash-for-food assistance.

On October 6, 1971, the Assistant Secretary of Agriculture announced the Department's intention to promulgate new regulations that would convert the nationally-minimum "income poverty guidelines" into a ceiling over which no free or reduced price lunches could be provided under the Act. Pursuant to the Department's declared intentions, school districts would not be reimbursed for any free or reduced price meals served to needy children whose incomes exceeded the "income poverty guideline." The effect of this regulation, if promulgated in final form, would be to reduce eligibility standards in 44 States, thereby eliminating over one million needy children from the School Lunch Program.

The proposed regulations that were announced on October 6 would wholly frustrate Congressional intentions of feeding all needy schoolchildren. Since 1946, when the School Lunch Act was passed, local school authorities and State agencies have been mandated to establish free and reduced price lunch standards for the purpose of assuring that no child would be denied a meal because of the family's inability to pay. The determination as to what those standards should be was exclusively left up to the local school authorities and State agencies so that they would establish free and reduced price lunch standards that covered all needy children in their area.

In 1970, with the passage of P.L. 91-248, we placed one limitation on the free and reduced price lunch standards established by the local school authorities and State agencies. The 1970 legislation established the "income poverty guideline" that was to be used as a minimum floor for free and reduced price lunch standards. No school district could establish standards below this "income poverty guideline" that was equivalent to the HEW-OEO poverty line.

Although an "income poverty guideline" was established under the 1970 amendments, Congress made it clear that local school authorities and State agencies were mandated to establish higher eligibility standards to reflect the varying needs of all children in their areas. Such considerations as cost of living, geographical factors, and local economic conditions would, therefore, be taken into consideration by such State agencies and local school authorities. In so doing, the Congress rejected a uniform national standard and reaffirmed the principle that State agencies and local school districts had the right to determine the varying needs of children in their areas.

Therefore, their mandate, to establish free and reduced price lunches for all needy children, remained intact except that their standards could not fall below the "income poverty guideline." Funding under the Act was to be made available to such districts and agencies so that they could fulfill the statutory mandate.

If the Department should promulgate the regulations it announced on October 6, it would do so contrary to the intentions of Congress and the legislation passed in 1946 and 1970. To make this clear—and to make sure that no cutbacks in the provision of free and reduced price lunches to needy children will be permitted—I urge that we act favorably on this Resolution. It accomplishes several important objectives, all of which are necessary to fulfill our commitment to feed all poor schoolchildren.

Three provisions of this Resolution are vitally necessary to maintain and improve our efforts under the child feeding programs. Under the Resolution, the Secretary of Agriculture would provide an absolutely minimum Federal reimbursement rate of 40 cents to every school district, out of special assistance funds, for every free and reduced price lunch served. In addition, the Secretary must provide a State average reimbursement rate of six cents—out of general cash-for-food assistance—for each fully paid, reduced price and free meal served in the Program.

The Resolution also requires that the Secretary continue to provide Federal reimbursement for all the free and reduced price lunches served pursuant to income eligibility standards set by local school authorities even if those local standards are higher than the Secretary's "income poverty guideline." The Resolution states that reimbursements must be provided for all lunches . . . "served pursuant to eligibility standards established by State agencies prior to October 1, 1971." In practice, a few States require all local school districts to set their eligibility standards at levels prescribed by the State. The State of West Virginia is one of those few States that requires local districts to implement a state-prescribed eligibility standard.

All of the other States recommend or suggest one or more standards but permit the districts to establish higher eligibility standards than the ones suggested by the State. In fact, some of those States set statewide minimum standards that may be increased, but not decreased, by the local districts. With this Resolution, we make it clear that Federal reimbursement must be provided pursuant to the district's higher standards, as long as the State approved those higher standards before October 1, 1971. In fact, it is clear that all of the standards established by the local districts around the country were already approved at the beginning of the school year.

Consequently, the following would be required under Section 5 of this Resolution. Where a State has required every district to implement a State-prescribed eligibility standard and has left no discretion to local school districts, it is that standard that will be supported with Federal reimbursements. As I said, there are only a handful of States for which this would apply. For all of the other States, Federal reimbursement will be provided pursuant to eligibility standards set by the local school districts. We use the term "standard established by State agencies . . ." in this context to denote that the State permitted districts to establish free lunch eligibility standards; the districts did in fact establish their own eligibility standards; and the State approved those currently-operating eligibility standards. Technically, therefore, the State "established" those eligibility standards although, in fact, the local districts set up those standards.

Finally, this Resolution instructs the Agriculture Secretary to allow Section 32 funds that have been and will be allocated to the States to be used for the School Breakfast Program as well as for the School Lunch

Program. Section 32 funds shall, therefore, continue to be fully transferable for the purposes of implementing and administering the School Breakfast Program.

The Resolution we have before us today will help protect the needy children throughout the country. I am pleased to support it.

The PRESIDING OFFICER. Is all time yielded back?

Mr. HUMPHREY. All time is yielded back.

The PRESIDING OFFICER. The question is on the third reading of the joint resolution.

The joint resolution was read the third time.

The PRESIDING OFFICER. The question is, Shall the joint resolution pass?

The joint resolution (H.J. Res. 923) was passed.

The preamble was agreed to.

Mr. HUMPHREY. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

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

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, for the information of the Senate there will be no more rollcall votes today.

DISCONCERTING TRENDS IN SUPPLY OF ECONOMIC INFORMATION

Mr. PROXMIRE. Mr. President, I am concerned by the continuing comments by respectable economists and reporters covering the economic scene raising questions of the credibility of Federal statistical reports and the management of economic news.

Because of this concern, I have, as Chairman of the Joint Economic Committee, called on Dr. George Shultz, Director of the Office of Management and Budget, to review before the committee actions being taken to reorganize Federal statistical agencies and to reshape the flow of economic information.

In this context, I was particularly disturbed by the announcement yesterday that the Bureau of Labor Statistics is discontinuing its quarterly review of the employment situation in urban poverty neighborhoods. This was reported in a Washington Post story which appeared today and which I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. PROXMIRE. Mr. President, the BLS action means that this valuable release, showing the terrible plight of the poor in urban poverty neighborhoods will not be available in the critical year of 1972. Over 14 percent of the blacks in these areas were unemployed last summer, compared with 11 percent the year before and 7 percent in the summer of 1969.

One may well wonder whether this is another step by this administration to eliminate poverty by dropping this word from the directory. Is it that this administration wants the ugly fact of poverty to be covered over in the forthcoming election year?

The excuses given by the administration for the dropping of these vital data on poverty just do not hold water. The data have long been recognized by experts as being far from perfect and in need of major repair. But many questions remain to be answered. Why are these data being dropped now? Why not undertake steps to improve the statistics? Does there have to be a gap of over a year—until sometime in 1973, after the election?

The Census Bureau which, I am told, is immediately responsible for the decision to discontinue this series at this time must be asked to answer these and other questions. For example, how many persons were working in the provision of this information? What were some of the higher priority tasks which apparently caused the decision to discontinue this work?

I intend to ask the Census Bureau Director to supply the Congress with answers to these questions. Meanwhile, Mr. President, I ask unanimous consent that the BLS report be printed in the RECORD.

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

(See exhibit 2.)

EXHIBIT 1

[From the Washington Post, Oct. 20, 1971]

BLACK JOBLESS RATE RISES IN GHETTOS; STATISTICS ON POOR AREAS SUSPENDED

Black unemployment in the nation's ghettos rose from 12 to 14 per cent during the third quarter of this year. The white rate fell from 8 to 6.6 per cent.

In announcing this, the Bureau of Labor Statistics also said it would suspend these statistics after the fourth quarter in order to change over from 1960 to 1970 census data.

Commissioner of Labor Statistics Geoffrey H. Moore and his chief public relations officer were out of town and couldn't be reached for comment. Other BLS officials vigorously denied that there was any political motivation behind discontinuance of the statistics, however.

The Bureau said it would take until "sometime in 1973" before the statistical series could be resumed.

BLS has been under fire since last spring for allegedly allowing its data on unemployment, prices and wages to become subject to political pressures. First it abandoned its long-standing monthly briefings on these figures and more recently it removed Assistant Commissioner Harold Goldstein from the sensitive job of explaining the statistics to the press.

A BLS spokesman said yesterday the poverty neighborhood figures were being abandoned temporarily because they were no longer reliable, based as they are on 1960 standards.

Before the briefings were discontinued, Goldstein had explained to reporters that, historically, black unemployment has risen slowly during the early stages of a recession but increased rapidly later.

Nationally the black unemployment rate was 10.5 per cent in September compared to 5.4 per cent for whites. Yesterday's report said that the rate for blacks in 100 urban poverty neighborhoods rose from 11.9 per cent in the April-June period to 14.1 per cent last quarter.

The rate for all persons in these areas increased from 10.1 to 10.4 per cent during the period, BLS said. The rate for whites declined slightly.

EXHIBIT 2

[U.S. Department of Labor News Release, Oct. 19, 1971]

THE EMPLOYMENT SITUATION IN URBAN POVERTY NEIGHBORHOODS: THIRD QUARTER 1971

Employment and unemployment in the poverty neighborhoods of the Nation's 100 largest metropolitan areas were essentially unchanged between the second and third quarters of 1971, the U.S. Department of Labor's Bureau of Labor Statistics reported today. The unemployment rate for urban poverty neighborhoods was 10.4 percent in the third quarter of 1971 (seasonally adjusted), virtually the same as in the second quarter (10.1 percent). The rate for other urban neighborhoods (5.9 percent) was also about unchanged over the quarter as was the rate for the Nation as a whole (6.0 percent).

LABOR FORCE AND EMPLOYMENT

The civilian noninstitutional population in poverty neighborhoods declined slightly between the second and third quarters of 1971, while the labor force remained unchanged. These poverty neighborhoods account for approximately 7½ percent of the country's population and labor force.

Employment in poverty neighborhoods averaged 5.5 million in the third quarter, seasonally adjusted, the same as in the first 2 quarters of the year. In contrast, employment in the other urban neighborhoods rose substantially for the second straight quarter.

UNEMPLOYMENT

Although the overall unemployment rate in urban poverty neighborhoods was unchanged, the rate for adult women declined on a seasonally adjusted basis in the third quarter of 1971, while that for adult men increased. The rate for adult women fell from 8.9 to 7.7 percent between the second and third quarters, marking the first decline since the third quarter of 1969. On the other hand, the adult male rate rose from 8.3 to 9.4 percent, the second straight quarterly advance. The unemployment rate for teenagers, at 26.0 percent, was not significantly changed over the quarter.

The jobless rate for whites in urban poverty neighborhoods was 8.0 percent (seasonally adjusted) in the third quarter, down from 9.1 percent in the previous quarter. In contrast, the rate for Negroes rose from 11.9 to 14.1 percent between these 2 quarters. As a result, the ratio of Negro-to-white jobless rates in these neighborhoods increased substantially from 1.3 to 1 to 1.8 to 1—the same ratio as in the Nation as a whole.

The decline in the white jobless rate reflected declines over the quarter in the seasonally adjusted rates for both adult women (from 8.3 to 5.0 percent) and teenagers (from 23.8 to 19.0). The rise in the Negro rate, in contrast, was due to increased joblessness among adult men, whose rate rose from 9.8 to 12.1 percent (seasonally adjusted).

OVER-THE-YEAR DEVELOPMENTS

Between the third quarters of 1970 and 1971, both the population and the labor force in urban poverty areas were virtually unchanged. As a result, the proportion of the population 16 years of age and over in the labor force was about the same (57.0 percent). In other urban neighborhoods, the labor force participation rate also remained unchanged, as the labor force increase in these areas over the year was proportional to the population increase. Employment in poverty neighborhoods decreased by 110,000 over the year (not seasonally adjusted), while unemployment rose by a comparable amount.

IMPORTANT NOTICE

Publication of statistics on urban poverty neighborhoods will be discontinued temporarily following the next release on fourth quarter 1971 developments. Beginning in January 1972, identification of poverty areas

on a basis consistent with previously published data will not be possible because the sampling and estimation procedures for the Current Population Survey (CPS), from which the poverty area data are derived, will at that time be adjusted to reflect the introduction of 1970 decennial census data and materials.

Delineation of poverty areas in the current series, which began in 1967, utilizes 1960 decennial census tracts, and the criteria for the selection of poverty neighborhoods are based on data from the 1960 census. (See note at end of release.) The introduction into the CPS of 1970 census data and 1970 criteria for defining poverty areas will significantly alter the identification of poverty areas, and it will not be possible to continue the current series using the 1960 poverty area designations.

After the CPS redesign is completed, and the necessary Census data are available to delineate the new poverty area boundaries, publication of poverty neighborhood data will be resumed, probably sometime in 1973. The new series will also then be extended to cover all poverty areas in the United States, with breakouts available for metropolitan and nonmetropolitan areas. For these reasons, the poverty area data that will be published following this transition period will not be directly comparable with those published covering the 1967–71 period.

(NOTE.—The data presented in this release are derived from the Current Population Survey, which is conducted by the Bureau of the Census for the Bureau of Labor Statistics. The poverty neighborhood classification was developed by the Bureau of the Census and is based on a ranking of census tracts according to 1960 data on income, education, skills, housing, and proportion of broken families. The poorest one-fifth of these tracts in the Nation's 100 largest metropolitan areas are considered poverty neighborhoods. The poverty neighborhood statistics probably include some middle- and upper-income families and also exclude some poor families who live in other urban neighborhoods. In 1967, for example, only about one-third of the Negro families living in poverty neighborhoods had incomes below the poverty level as defined by the Social Security Administration. These data, therefore, do not represent the exact dimensions of the employment problems of all poor people but are instead minimal estimates of the adverse conditions of residents in these specific poverty neighborhoods.)

TABLE 1.—EMPLOYMENT STATUS OF PERSONS 16 YEARS AND OVER IN URBAN POVERTY AND OTHER URBAN NEIGHBORHOODS [1] BY COLOR

[Number in thousands]

Employment status	3d quarter 1971	3d quarter 1970	Seasonally adjusted: 3d quarter 1971	2d quarter 1971	1st quarter 1971	4th quarter 1970	3d quarter 1970	2d quarter 1970	1st quarter 1970	4th quarter 1969	*3d quarter 1969*
ALL PERSONS											
Urban poverty neighborhoods:											
Civilian labor force	6,192	6,180	6,137	6,119	6,071	6,161	6,146	6,255	6,271	6,230	6,360
Employment	5,560	5,668	5,522	5,501	5,525	5,605	5,630	5,812	5,876	5,908	6,008
Unemployment	632	511	636	618	546	556	516	443	395	322	352
Unemployment rate	10.2	8.3	10.4	10.1	9.0	9.0	8.4	7.1	6.3	5.2	5.5
Other urban neighborhoods:											
Civilian labor force	41,676	40,781	41,325	40,917	40,634	40,717	40,464	40,258	40,221	39,764	39,092
Employment	39,148	38,812	38,903	38,545	38,296	38,351	38,575	38,455	38,675	38,410	37,841
Unemployment	2,528	1,970	2,421	2,372	2,338	2,366	1,889	1,803	1,546	1,354	1,251
Unemployment rate	6.1	4.8	5.9	5.8	5.8	5.8	4.7	4.5	3.8	3.4	3.2
WHITE											
Urban poverty neighborhoods:											
Civilian labor force	3,757	3,725	3,742	3,713	3,686	3,799	3,700	3,752	3,749	3,693	3,758
Employment	3,465	3,479	3,444	3,375	3,403	3,501	3,451	3,526	3,552	3,541	3,595
Unemployment	292	247	298	338	283	298	249	226	197	152	163
Unemployment rate	7.8	6.6	8.0	9.1	7.7	7.8	6.7	6.0	5.3	4.1	4.3
Other urban neighborhoods:											
Civilian labor force	37,712	37,151	37,362	37,181	37,048	37,160	36,856	36,723	36,758	36,399	35,801
Employment	35,540	35,421	35,286	35,148	35,009	35,059	35,198	35,167	35,398	35,203	34,720
Unemployment	2,172	1,730	2,076	2,033	2,039	2,101	1,658	1,556	1,360	1,196	1,081
Unemployment rate	5.8	4.7	5.6	5.5	5.5	5.7	4.5	4.2	3.7	3.3	3.0
NEGRO AND OTHER RACES											
Urban poverty neighborhoods:											
Civilian labor force	2,435	2,454	2,427	2,411	2,383	2,367	2,446	2,505	2,526	2,540	2,596
Employment	2,095	2,190	2,085	2,124	2,121	2,106	2,180	2,284	2,324	2,368	2,407
Unemployment	340	264	342	287	262	261	266	221	202	172	189
Unemployment rate	13.9	10.8	14.1	11.9	11.0	11.0	10.9	8.8	8.0	6.8	7.3
Other urban neighborhoods:											
Civilian labor force	3,964	3,631	3,959	3,728	3,587	3,559	3,624	3,530	3,462	3,363	3,300
Employment	3,609	3,391	3,607	3,391	3,288	3,287	3,389	3,284	3,278	3,203	3,130
Unemployment	355	240	351	336	299	272	235	246	184	160	170
Unemployment rate	9.0	6.6	8.9	9.0	8.3	7.6	6.5	7.0	5.3	4.8	5.2

[1] Pertains only to the 100 largest SMSA's.

TABLE 2.—UNEMPLOYMENT RATES IN URBAN POVERTY AND OTHER URBAN NEIGHBORHOODS [1] BY COLOR, SEX, AND AGE

Color, sex, and age	3d quarter 1971	3d quarter 1970	Seasonally adjusted: 3d quarter 1971	2d quarter 1971	1st quarter 1971	4th quarter 1970	3d quarter 1970	2d quarter 1970	1st quarter 1970	4th quarter 1969	3d quarter 1969
URBAN POVERTY NEIGHBORHOODS											
Total	10.2	8.3	10.4	10.1	9.0	9.0	8.4	7.1	6.3	5.2	5.5
Males, 20 years and over	8.3	6.2	9.4	8.3	7.1	7.7	7.0	6.0	4.7	3.4	3.6
Females, 20 years and over	8.2	6.8	7.7	8.9	7.8	6.5	6.4	5.0	5.0	4.8	4.9
Both sexes, 16 to 19 years	27.5	24.9	26.0	27.8	28.9	28.5	24.4	22.2	22.5	18.0	21.2
White	7.8	6.6	8.0	9.1	7.7	7.8	6.7	6.0	5.3	4.1	4.3
Males, 20 years and over	6.9	5.1	7.9	7.4	6.6	7.6	6.0	5.3	4.6	3.2	3.2
Females, 20 years and over	5.6	5.9	5.0	8.3	7.3	5.3	5.2	4.5	4.4	3.7	3.7
Both sexes, 16 to 19 years	20.4	17.7	19.0	23.8	18.1	19.8	16.6	16.6	13.5	11.9	15.6
Negro and other races	13.9	10.8	14.1	11.9	11.0	11.0	10.9	8.8	8.0	6.8	7.3
Males, 20 years and over	10.9	7.9	12.1	9.8	7.8	8.1	8.8	7.3	4.9	3.7	4.3
Females, 20 years and over	11.5	8.0	11.4	10.0	8.4	8.1	7.9	5.7	6.0	6.3	6.5
Both sexes, 16 to 19 years	37.5	34.9	37.1	36.2	44.9	42.8	35.9	31.5	35.9	26.7	28.6

Footnote at end of table.

TABLE 2.—UNEMPLOYMENT RATES IN URBAN POVERTY AND OTHER URBAN NEIGHBORHOODS [1] BY COLOR, SEX, AND AGE—Continued

Color, sex, and age	3d quarter 1971	3d quarter 1970	Seasonally adjusted: 3d quarter 1971	2d quarter 1971	1st quarter 1971	4th quarter 1970	3d quarter 1970	2d quarter 1970	1st quarter 1970	4th quarter 1969	3d quarter 1969
OTHER URBAN NEIGHBORHOODS											
Total	6.1	4.8	5.9	5.8	5.8	5.8	4.7	4.5	3.8	3.4	3.2
Males, 20 years and over	4.1	3.4	4.2	4.3	4.2	4.5	3.4	3.1	2.5	2.2	2.0
Females, 20 years and over	6.3	4.7	5.8	5.6	5.3	5.4	4.4	4.4	3.8	3.5	3.4
Both sexes, 16 to 19 years	17.0	14.3	17.6	17.0	17.4	16.5	14.9	14.1	13.2	11.4	11.2
White	5.8	4.7	5.6	5.5	5.5	5.7	4.5	4.2	3.7	3.3	3.0
Males, 20 years and over	3.9	3.3	4.0	4.1	4.0	4.4	3.3	3.0	2.4	2.1	1.8
Females, 20 years and over	6.1	4.6	5.5	5.3	5.1	5.3	4.2	.42	3.7	3.5	3.3
Both sexes, 16 to 19 years	15.8	13.4	16.5	15.8	16.6	15.8	14.2	13.0	12.5	10.7	10.2
Negro and other races	9.0	6.6	8.9	9.0	8.3	7.6	6.5	7.0	5.3	4.8	5.2
Males, 20 years and over	6.6	4.7	6.9	6.5	6.6	5.9	4.9	4.4	3.5	3.1	3.4
Females, 20 years and over	7.8	5.6	7.6	8.2	6.9	6.7	5.5	6.3	4.7	4.0	4.1
Both sexes, 16 to 19 years	30.4	24.5	31.5	30.7	27.9	26.0	25.1	27.2	19.5	20.3	23.2

[1] Pertains only to 100 largest SMSA's.

TAMPERING WITH THE BUREAU OF LABOR STATISTICS REPORTING

Mr. HUMPHREY. Mr. President, I am pleased to be here when the Chairman of the Joint Economic Committee (Mr. PROXMIRE) commented in reference to the reorganization of the statistical information from the Bureau of Labor Statistics. I wish to make comment of my own because I am very much concerned about what is happening in that agency. I served with the distinguished chairman of the committee, the Senator from Wisconsin (Mr. PROXMIRE), on the Joint Committee on the Economic Report. I consider the work of that committee to be particularly of importance during these weeks and months now as we are going through phase I and phase II of the new economic program. That committee will give a good deal of time and attention to developments under broad outlines laid down by the President and the details of the economic program, particularly phase II.

Mr. President, I have taken the floor twice now to urge that the administration return the Bureau of Labor Statistics to its formerly unchallenged position as a reporting agency of competence and credibility.

The present controversy involves the press reporting of unemployment statistics.

These statistics were formerly released at a press conference staffed by the BLS technicians. The technicians, as one would expect, reported the facts occurately and fully, even though the facts showed the failure of the economic game plan. The administration discontinued the press conferences.

Now, the reorganization has been ordered, apparently to assure that policy analysts, rather than statistical analysts, will be in the highly sensitive job of reporting unemployment statistics.

Thus, a new group—the analysts—would be interposed between the public and the men who compile the facts.

Mr. President, I ask unanimous consent to have three articles printed in the RECORD. The first, by Alexander Uhl, contains the story on the BLS reorganization; the second is a Press Associates backgrounder on Politics and Statistics; and the third, by Duane Emme, relates to the questioning of Commissioner Moore by Senator PROXMIRE, the chairman of the Joint Economic Committee.

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

STATISTICAL HANKY-PANKY?—NIXON ADMINISTRATION ORDERS DRASTIC REORGANIZATION OF ECONOMIC REPORTING

(By Alexander Uhl)

WASHINGTON.—Six months ago the Nixon Administration, in a dramatic and much criticized move, abolished the traditional briefings to the press by career economists of the Bureau of Labor Statistics who interpreted such key statistics as the unemployment situation and the cost of living.

It was clearly annoyed because the professionals weren't interpreting the figures as optimistically as the Nixon "Game Plan Number One" required.

Since then the press and in turn the public have been getting briefings by Administration spokesmen to the effect that unemployment isn't as bad as it looks and that the rate of inflation is slowing down even when the BLS statistics themselves gave scant support to the claims.

But apparently, the Nixon Administration wasn't satisfied with this new arrangement. Press Associates, Inc. has learned that the Administration is now in the process of carrying out a major reorganization of the Bureau of Labor Statistics itself. As has happened in many other areas, business-oriented officials will be taking over from the career professionals in key posts dealing with statistical "analysis."

The reorganization is sending visible tremors through the whole structure of the BLS, which for almost a century has built up a reputation for statistical integrity and, above all, for absolute nonpartisanship.

For the BLS is the fountain-head of statistical information on unemployment, the cost of living, and a host of other economic subjects of vital importance to the American public.

The Commissioner of Labor Statistics, for example, has responsibility for the Labor Department's economic and statistical research activities. He renders technical advice and interpretations to the Secretary of Labor, the Office of Management and Budget, the Council of Economic Advisers, the Joint House-Senate Economic Committee, officials of Federal and State agencies, and representatives of labor and business, industry and the academic community concerning all aspects of the research and analysis conducted by the Bureau.

On the basis of information from a number of sources, Press Associates, Inc. has learned that the reorganization of the Bureau was ordered by the Office of Management and Budget under former Secretary of Labor George Shultz and is scheduled to take effect November 1. It would put into effect a section of the Administration's Executive Branch reorganization plan which, for the most part, has run into strong opposition in Congress and is being opposed by organized labor.

The BLS reorganization was first announced to high Bureau officials on September 3 by BLS Commissioner Geoffrey H. Moore.

Under the new setup, a new Office of Data Analysis will be established which will be responsible for the analysis and interpretation of such key indexes as the Consumer Price Index, the employment and unemployment reports and productivity.

This office will be headed by an unnamed University of Texas economist who was promoted for the job by Senator John Tower, ultra-conservative Texas Republican.

Another important figure being brought into the Bureau is John Myers, an economist for the National Industrial Conference Board. NICB is financed by business, particularly the National Association of Manufacturers, and its economic output is designed for business use.

Myers will be responsible for analysis in the Office of Manpower and Employment Statistics. This office, which is currently headed by Harold Goldstein, is being split in two with Goldstein being pushed off to deal with long range analysis.

It was Goldstein who precipitated the briefing switch of six months ago when he interpreted a slight drop in the unemployment rate for February as "sort of mixed" at the same moment that Secretary of Labor James Hodgson was hailing it as "favorable hopeful," and "indeed heartening."

Actually, the unemployment rate last February was 5.8 percent. It is now running at a 6.1 percent rate which makes its own commentary on the analytical powers of the two men.

Peter Henle, a former economist for the AFL–CIO who has been serving as chief economist in charge of analysis, is scheduled to leave the Department for a post with a private research foundation. He has refused to comment on the reports of his leaving the BLS.

PAI sources report that the coming reorganization dates back to the move to eliminate the press briefings by BLS technicians on the Consumer Price Index and employment-unemployment figures. There was great unhappiness in the Nixon Administration over the neutral, non-political briefings of the technicians who by their interpretations of the statistics, did not make Administration policies look very good.

After the briefings were abolished, Secretary Hodgson began to analyze the reports with a heavy political bias designed to show that Administration policies were working.

Even the collapse of the old Nixon "Game Plan" has not deterred Hodgson from putting the best interpretation possible on the very statistics which presumably led to that col-

lapse. He is still painting the same rosy picture of the economy as he did before.

Some of this recently came to a head at a Consumer Price Index briefing of the press by Hodgson and BLS Commissioner Moore on September 22. Frustrated by Hodgson's uncertainty about the details of the report, reporters kept pleading with him to "bring back the technicians." Hodgson said that he would not bring them back, but that reporters were free to talk to them on the telephone.

Under the new setup, even this access to the technicians may be of little use, if the new technicians turn out to be "analysts" with a built-in analysis favorable to whatever Nixon "game plan" may be in effect at the moment. It is significant that Henle had the responsibility for data analysis, a job it is reported he will be leaving.

Data collection, which is largely mechanical, apparently will not be materially affected by the structural change scheduled for November. The Office of Statistical Research and Standards will continue under Leon Greenberg. The Office of Administrative Management, too, will continue under Donald L. Keuch, Jr., while the Office of Publications will still be headed by Herbert C. Morton.

But the highly important data analysis will be in the hands of Nixon men.

MOORE CONFIRMS BLS REORGANIZATION, BUT DENIES IT WILL BE IN "SUBSTANCE"

WASHINGTON.—Commissioner Geoffrey H. Moore of the Bureau of Labor Statistics has told Press Associates, Inc. that the BLS is indeed going through a reorganization of its operations, but declared that it was largely limited to staff changes.

He confirmed that there will be a separation of analysis and data gathering functions, but said that this already pretty much exists. He said that a similar reorganization of statistical gathering was going on in the Commerce Department and the Housing, Education and Welfare Departments at the request of the Office of Management and Budget.

He declined "at this time" to announce what staff changes will be made.

POLITICS AND STATISTICS

If the study of economics is the "dismal" science as has been frequently proclaimed, surely the study of the very "statistics" that play so large a role in that pursuit must be even more "dismal."

Yet, that is far from the truth as is being illustrated in the current flak over the program of the Nixon Administration to "reorganize" the collection and interpretation of statistics gathered by the Departments of Labor, Commerce and Health, Education and Welfare.

Under the plan, these statistics would be treated in two separate ways—analysis—read interpretation—and data collecting for the benefit of the analysts. Obviously the analysts are going to be in the driver's seat when the moment of truth arrives—that is the interpretation of the numbers for the country which includes the general public, Congress and a vast array of public agencies and private groups dependent upon them.

On the basis of the Nixon proposal a new group—the analysts—would be interposed between the final product and the men who do the chore of gathering it. Obviously, the identity of these men is of vital concern to the country. And on the basis of what staff changes are now in the wind, the new group will be made up of strictly Nixon men.

This is in startling contrast to the stubborn efforts of American economists over the last century to keep the gathering and interpretation of national statistics on the highest, career level. This has been notably true of the Labor Department's Bureau of Labor Statistics which was founded in 1884 and today has about as high a standard of statistical integrity as can be expected in any human institution.

Political appointments out of the blue do not fit into the traditional pattern of the BLS. A BLS "Handbook of Methods for Surveys and Studies", published in 1966, has this to say about staff training and recruitment:

"The Bureau's work extends beyond the initial collection and processing of data. Over the years, it has developed a staff of professional analysts, trained in the discipline of economics and other social sciences, to search out the implications of survey findings for the welfare of workers and to present them as cogently and as promptly as possible in written and oral form."

It is this staff of professional analysts, developed "over the years" under more than one Administration and schooled in the absolute goal of maintaining the highest professional standards in un-biased and non-political analysis that is now to be dumped in favor of Nixon appointees.

The Nixon Administration, of course, is deeply hurt that outside economists, and especially those in the labor movement, should be highly skeptical of the purity of its motives in seeking to "improve the organization of Federal statistical activities."

Commissioner of Labor Statistics Geoffrey H. Moore, on publication in the press of what was in the works, issued a lengthy statement insisting that the Bureau's "high standards of objectivity and impartiality in the Bureau's analysis of its data" will be maintained.

Nevertheless, he confirmed that outside economists will be called in by the Administration to head the "new Office of Data Analysis" for economic and social research, and for the new office of current employment analysis. The old heads of these departments, thus, are being replaced by Nixon men.

The hard fact is that the history of what the Nixon Administration already has done to the dissemination and interpretation of Federal statistics is far from reassuring. Last February, the Department of Labor abruptly cancelled the traditional briefing of the press by Bureau analysts because the BLS spokesman did not quite see the politically heartwarming improvement in the unemployment statistics that the Nixon Administration did.

Ever since then, the press has been briefed by Secretary of Labor James D. Hodgson who repeatedly has seen in the BLS statistics complete proof of the success of the Nixon "Game Plan Number 1" at the very time that it was clearly failing and "Game Plan Number 2" was in the works.

Moreover, it is highly unfortunate that the Nixon Administration did not see fit to inform its Labor Research Advisory Committee about the reorganization plans that it had in mind. This Committee consists of the Research Directors of some 30 unions and the AFL–CIO. Its job is to advise on the methodology of the BLS in gathering and analyzing government statistics.

The last meeting of the Committee was in May of this year. It was not told about the upcoming reorganization proposals. It has not yet been officially apprised of the plan. When it next meets in November, the reorganization will have been put into effect. Under these circumstances, its November meeting will represent an exercise in futility.

Keeping politics out of Government statistical agencies has been a century-old struggle. It is obvious that the struggle still goes on.

MOORE ON THE SPOT—PROXMIRE PROBE SHEDS NEW LIGHT ON SHAKEUP AMONG BLS PERSONNEL

(By Duane Emme)

WASHINGTON.—A top career official in the Bureau of Labor Statistics, whose interpreting of job statistics displeased the Nixon Administration, opposed his "demotion" contrary to an implication that he welcomed a new assignment.

Statistical releases that formerly were prepared in Bureau offices, with a representative of Labor Secretary James D. Hodgson sometimes looking in, now go to Hodgson who can and does change opinions of technicians.

Those were two of several revelations that emerged from some persistent questioning directed to Commissioner of Labor Statistics Geoffrey H. Moore by Senator William Proxmire (D–Wisc.), chairman of the Joint Economic Committee of Congress.

Proxmire had Moore before him to probe the Administration's forthcoming "reorganization" of the Bureau, which involves a shakeup among key personnel and the interposing of some new "analysts" into the shaping of statistical reports.

The questioning generally reaffirmed details of the shakeup and reorganization, which were first brought to light by Press Associates, Inc. The changes are scheduled to take place November 1.

The latest happenings are part of a story that goes back six months to the Administration's abolishment of traditional briefings of the press by career economists of BLS who interpreted statistics on unemployment and the cost of living.

The Administration was clearly annoyed, and several times embarrassed, because the professional experts said things contrary to the euphorism with which the Administration portrayed its now-abandoned "Game Plan I" for the economy.

The issue came to a head when Assistant BLS Commissioner Harold Goldstein in March told the press that the February job picture was "sort of mixed" almost at the moment Hodgson was issuing a release viewing developments as "indeed heartening".

Moore told Proxmire that the Office of Manpower & Employment Statistics, which Goldstein heads, is being cut in half with Goldstein shifted to head its trend section instead of employment figures "because his chief interest lies in trends."

However, under questioning, Moore conceded that when he offered Goldstein the analysis of trends post he had asked instead that he might continue to work with the monthly job figures. "I told him he did not have that option," Moore said.

The trends and statistics sections will be under a new office of Data Analysis to be headed by Dr. Daniel Rathbun, a statistician who has headed a White House commission on statistics. Moore identified Rathbun as an "economist," but he is not so listed with the American Economics Association.

John Myers, an economist for the business-financed National Industrial Conference Board, was reported to be in line for the job Goldstein wanted, but he was withdrawn from consideration. The post has not been filled yet. In any case, Proxmire concluded that the shift "can only be looked upon as a demotion for Goldstein."

Questioning also concerned the fate of Peter Henle, chief economist of the Bureau, who has been given a leave of absence. When his leave is up he will return to the Labor Department in some other "suitable post," Moore said. During the reorganization planning, "I concluded I wanted a new chief economist," he added.

After at first contending that he had final authority on BLS statistical releases, Moore admitted that they get final clearance from Hodgson, who does make changes. Apparently, this avoids any "language" that might conflict with Hodgson's own press releases of interpretation.

Hodgson has taken to holding his own press conferences upon the release of statistics. At a recent one, he said he might not con-

tinue the practice. Most of the conference was taken up with reporters' calls for return to the format of meeting with the career economists.

Proxmire has been trying to fill the void by calling BLS specialists to interpret statistics. He pressed Moore on the meaning of September job figures. Moore declined to answer some questions, said he would get the answers to others. At one point, he said he couldn't answer "because I don't have the technicians with me."

"That's just what this is all about," Proxmire snapped back.

URBAN POVERTY AND THE BUREAU OF LABOR STATISTICS

Mr. HUMPHREY. Mr. President, on Monday of this week we learned that the Bureau of Labor Statistics would suspend publication of statistics on urban poverty neighborhoods for the year 1972, and it is to this announcement that the Senator from Wisconsin directed his commentary.

The ostensible reason given for this suspension is that the sampling and estimation procedures for the current population survey from which the poverty data are derived will be adjusted to reflect the 1970 census data.

Yet, regardless of how this temporary discontinuance is officially explained, it is just one more step in undermining the credibility of an agency that once had an impeccable professional reputation. It casts aspersions on all further statistical reports, and it calls into question the motives of those who bear the responsibility for providing the fundamental data for urban policy decisions.

The fact is, Mr. President, that this temporary discontinuance indicates that the Nixon administration is unwilling to announce anything but rosy economic news in the election year of 1972.

It has assumed a posture that all news must be good news, and that there will be no bad tidings in the future. It amounts to shooting the messenger.

It raises a further question: What can we expect next from this administration as far as statistical reports are concerned?

Let me venture a few guesses. The Agriculture Department will revise and suspend all farm announcements. The Commerce Department will eliminate its surveys of business conditions; the Department of Health, Education, and Welfare will eliminate its welfare statistical reporting; the Bureau of Labor Statistics will eliminate its consumer price index and wholesale price index; the Census Bureau will eliminate all of its reports except those showing an increase in per capita income; and, finally, the weather bureau will eliminate the weather report if the weather is to be bad.

I ask today: Of what is the administration afraid?

And I answer that this administration is afraid to talk facts to the American people.

This latest move by the administration has implications far beyond the establishment of new poverty benchmarks. It is discriminatory against the poor, against blacks, against the chicanos, and against other minority groups in our Nation. We need to know what the unemployment figures are—particularly in the urban poverty areas where the jobless rates run so high—so we can target our efforts for economic recovery. We need to know if any of our programs are making an improvement in the condition under which people live.

We should have these data—even if it is an interpolation—an interpolation that can be revised with more accurate and more comprehensive statistics.

I have no doubt that the inclusion of more up-to-date data will provide better basis for policymaking. But I am concerned that without a continuous monitoring of urban poverty areas—with an entire 1-year gap and no urban poverty publications—new programs aimed to benefit the poor will go astray, that formulas for the return of Federal money to the cities will be inaccurate and incomplete, and that the allocations of that money at the local level will not produce the best results possible.

Mr. President, I find this latest attempt at data managing disappointing but not surprising. But what this administration will learn is this: Poverty, like unemployment, will not go away merely by changing the procedures of reporting.

Hiding the facts will not feed the hungry nor provide jobs for the unemployed.

Hiding the facts will not lift the spirits of people who have little; it will not bring new hope to the poor. But it will increase the frustration and bitterness. It will signify that once more the problems of the urban poor will be officially invisible, and I think that becomes intolerable.

Mr. President, I ask unanimous consent that the news release from the Bureau of Labor Statistics be printed at this point in the RECORD.

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

THE EMPLOYMENT SITUATION IN URBAN POVERTY NEIGHBORHOODS: THIRD QUARTER 1971

Employment and unemployment in the poverty neighborhoods of the Nation's 100 largest metropolitan areas were essentially unchanged between the second and third quarters of 1971, the U.S. Department of Labor's Bureau of Labor Statistics reported today. The unemployment rate for urban poverty neighborhoods was 10.4 percent in the third quarter of 1971 (seasonally adjusted), virtually the same as in the second quarter (10.1 percent). The rate for other urban neighborhoods (5.9 percent) was also about unchanged over the quarter as was the rate for the Nation as a whole (6.0 percent).

LABOR FORCE AND EMPLOYMENT

The civilian noninstitutional population in poverty neighborhoods declined slightly between the second and third quarters of 1971, while the labor force remained unchanged. These poverty neighborhoods account for approximately 7½ percent of the country's population and labor force.

Employment in poverty neighborhoods averaged 5.5 million in the third quarter, seasonally adjusted, the same as in the first 2 quarters of the year. In contrast, employment in the other urban neighborhoods rose substantially for the second straight quarter.

UNEMPLOYMENT

Although the overall unemployment rate in urban poverty neighborhoods was unchanged, the rate for adult women declined on a seasonally adjusted basis in the third quarter of 1971, while that for adult men increased. The rate for adult women fell from 8.9 to 7.7 percent between the second and third quarters, marking the first decline since the third quarter of 1969. On the other hand, the adult male rate rose from 8.3 to 9.4 percent, the second straight quarterly advance. The unemployment rate for teenagers, at 26.0 percent, was not significantly changed over the quarter.

The jobless rate for whites in urban poverty neighborhoods was 8.0 percent (seasonally adjusted) in the third quarter, down from 9.1 percent in the previous quarter. In contrast, the rate for Negroes rose from 11.9 to 14.1 percent between these 2 quarters. As a result, the ratio of Negro-to-white jobless rates in these neighborhoods increased substantially from 1.3 to 1 to 1.8 to 1—the same ratio as in the Nation as a whole.

The decline in the white jobless rate reflected declines over the quarter in the seasonally adjusted rates for both adult women (from 8.3 to 5.0 percent) and teenagers (from 23.8 to 19.0). The rise in the Negro rate, in contrast, was due to increased joblessness among adult men, whose rate rose from 9.8 to 12.1 percent (seasonally adjusted).

OVER-THE-YEAR DEVELOPMENTS

Between the third quarters of 1970 and 1971, both the population and the labor force in urban poverty areas were virtually unchanged. As a result, the proportion of the population 16 years of age and over in the labor force was about the same (57.0 percent). In other urban neighborhoods, the labor force participation rate also remained unchanged, as the labor force increase in these areas over the year was proportional to the population increase. Employment in poverty neighborhoods decreased by 110,000 over the year (not seasonally adjusted), while unemployment rose by a comparable amount.

IMPORTANT NOTICE

Publication of statistics on urban poverty neighborhoods will be discontinued temporarily following the next release on fourth quarter 1971 developments. Beginning in January 1972, identification of poverty areas on a basis consistent with previously published data will not be possible because the sampling and estimation procedures for the Current Population Survey (CPS), from which the poverty area data are derived, will at that time be adjusted to reflect the introduction of 1970 decennial census data and materials.

Delineation of poverty areas in the current series, which began in 1967, utilizes 1960 decennial census tracts, and the criteria for the selection of poverty neighborhoods are based on data from the 1960 census. (See note at end of release.) The introduction into the CPS of 1970 census data and 1970 criteria for defining poverty areas will significantly alter the identification of poverty areas, and it will not be possible to continue the current series using the 1960 poverty area designations.

After the CPS redesign is completed, and the necessary Census data are available to delineate the new poverty area boundaries, publication of poverty neighborhood data will be resumed, probably sometime in 1973. The new series will also then be extended to cover all poverty areas in the United States, with breakouts available for metropolitan and nonmetropolitan areas. For these reasons, the poverty area data that will be published following this transition period will not be directly comparable with those published covering the 1967–71 period.

(NOTE.—The data presented in this release are derived from the Current Population Survey, which is conducted by the Bureau of the Census for the Bureau of Labor Statistics.

The poverty neighborhood classification was developed by the Bureau of the Census and is based on a ranking of census tracts according to 1960 data on income, education, skills, housing, and proportion of broken families. The poorest one-fifth of these tracts in the Nation's 100 largest metropolitan areas are considered poverty neighborhoods. The poverty neighborhood statistics probably include some middle- and upper-income families and also exclude some poor families who live in other urban neighborhoods. In 1967, for example, only about one-third of the Negro families living in poverty neighborhoods had incomes below the poverty level as defined by the Social Security Administration. These data, therefore, do not represent the exact dimensions of the employment problems of all poor people but are instead minimal estimates of the adverse conditions of residents in these specific poverty neighborhoods.)

TABLE 1.—EMPLOYMENT STATUS OF PERSONS 16 YEARS AND OVER IN URBAN POVERTY AND OTHER URBAN NEIGHBORHOODS[1] BY COLOR

[Number in thousands]

Employment status	3d quarter 1971	3d quarter 1970	Seasonally adjusted: 3d quarter 1971	2d quarter 1971	1st quarter 1971	4th quarter 1970	3d quarter 1970	2d quarter 1970	1st quarter 1970	4th quarter 1969	3d quarter 1969
ALL PERSONS											
Urban poverty neighborhoods:											
Civilian labor force	6,192	6,180	6,137	6,119	6,071	6,161	6,146	6,255	6,271	6,230	6,360
Employment	5,560	5,668	5,522	5,501	5,525	5,605	5,630	5,812	5,876	5,908	6,008
Unemployment	632	511	636	618	546	556	516	443	395	322	352
Unemployment rate	10.2	8.3	10.4	10.1	9.0	9.0	8.4	7.1	6.3	5.2	5.5
Other urban neighborhoods:											
Civilian labor force	41,676	40,781	41,325	40,917	40,634	40,717	40,464	40,258	40,221	39,764	39,092
Employment	39,148	38,812	38,903	38,545	38,296	38,351	38,575	38,455	38,675	38,410	37,841
Unemployment	2,528	1,970	2,421	2,372	2,338	2,366	1,889	1,803	1,546	1,354	1,251
Unemployment rate	6.1	4.8	5.9	5.8	5.8	5.8	4.7	4.5	3.8	3.4	3.2
WHITE											
Urban poverty neighborhoods:											
Civilian labor force	3,757	3,725	3,742	3,713	3,686	3,799	3,700	3,752	3,749	3,693	3,758
Employment	3,465	3,479	3,444	3,375	3,403	3,501	3,451	3,526	3,552	3,541	3,595
Unemployment	292	247	298	338	283	298	249	226	197	152	163
Unemployment rate	7.8	6.6	8.0	9.1	7.7	7.8	6.7	6.0	5.3	4.1	4.3
Other urban neighborhoods:											
Civilian labor force	37,712	37,151	37,362	37,181	37,048	37,160	36,856	36,723	36,758	36,399	35,801
Employment	35,540	35,421	35,286	35,148	35,009	35,059	35,198	35,167	35,398	35,203	34,720
Unemployment	2,172	1,730	2,076	2,033	2,039	2,101	1,658	1,556	1,360	1,196	1,081
Unemployment rate	5.8	4.7	5.6	5.5	5.5	5.7	4.5	4.2	3.7	3.3	3.0
NEGRO AND OTHER RACES											
Urban poverty neighborhoods:											
Civilian labor force	2,435	2,454	2,427	2,411	2,383	2,367	2,446	2,505	2,526	2,540	2,596
Employment	2,095	2,190	2,085	2,124	2,121	2,106	2,180	2,284	2,324	2,368	2,407
Unemployment	340	264	342	287	262	261	266	221	202	172	189
Unemployment rate	13.9	10.8	14.1	11.9	11.0	11.0	10.9	8.8	8.0	6.8	7.3
Other urban neighborhoods:											
Civilian labor force	3,964	3,631	3,959	3,728	3,587	3,559	3,624	3,530	3,462	3,363	3,300
Employment	3,609	3,391	3,607	3,391	3,288	3,287	3,389	3,284	3,278	3,203	3,130
Unemployment	355	240	351	336	299	272	235	246	184	160	170
Unemployment rate	9.0	6.6	8.9	9.0	8.3	7.6	6.5	7.0	5.3	4.8	5.4

[1] Pertains only to the 100 largest SMSA's.

TABLE 2.—UNEMPLOYMENT RATES IN URBAN POVERTY AND OTHER URBAN NEIGHBORHOODS[1] BY COLOR, SEX, AND AGE

Color, sex, and age	3d quarter 1971	3d quarter 1970	Seasonally adjusted: 3d quarter 1971	2d quarter 1971	1st quarter 1971	4th quarter 1970	3d quarter 1970	2d quarter 1970	1st quarter 1970	4th quarter 1969	3d quarter 1969
URBAN POVERTY NEIGHBORHOODS											
Total	10.2	8.3	10.4	10.1	9.0	9.0	8.4	7.1	6.3	5.2	5.5
Males, 20 years and over	8.3	6.2	9.4	8.3	7.1	7.7	7.0	6.0	4.7	3.4	3.6
Females, 20 years and over	8.2	6.8	7.7	8.9	7.8	6.5	6.4	5.0	5.0	4.8	4.9
Both sexes, 16 to 19 years	27.5	24.9	26.0	27.8	28.9	28.5	24.4	22.2	22.5	18.0	21.2
White	7.8	6.6	8.0	9.1	7.7	7.8	6.7	6.0	5.3	4.1	4.3
Males, 20 years and over	6.9	5.1	7.9	7.4	6.6	7.6	6.0	5.3	4.6	3.2	3.2
Females, 20 years and over	5.6	5.9	5.0	8.3	7.3	5.3	5.2	4.5	4.4	3.7	3.7
Both sexes, 16 to 19 years	20.4	17.7	19.0	23.8	18.1	19.8	16.6	16.6	13.5	11.9	15.6
Negro and other races	13.9	10.8	14.1	11.9	11.0	11.0	10.9	8.8	8.0	6.8	7.3
Males, 20 years and over	10.9	7.9	12.1	9.8	7.8	8.1	8.8	7.3	4.9	3.7	4.3
Females, 20 years and over	11.5	8.0	11.4	10.0	8.4	8.1	7.9	5.7	6.0	6.3	6.5
Both sexes, 16 to 19 years	37.5	34.9	37.1	36.2	44.9	42.8	35.9	31.5	35.9	26.7	28.6
OTHER URBAN NEIGHBORHOODS											
Total	6.1	4.8	5.9	5.8	5.8	5.8	4.7	4.5	3.8	3.4	3.2
Males, 20 years and over	4.1	3.4	4.2	4.3	4.2	4.5	3.4	3.1	2.5	2.2	2.0
Females, 20 years and over	6.3	4.7	5.8	5.6	5.3	5.4	4.4	4.4	3.8	3.5	3.4
Both sexes, 16 to 19 years	17.0	14.3	17.6	17.0	17.4	16.5	14.9	14.1	13.2	11.4	11.2
White	5.8	4.7	5.6	5.5	5.5	5.7	4.5	4.2	3.7	3.3	3.0
Males, 20 years and over	3.9	3.3	4.0	4.1	4.0	4.4	3.3	3.0	2.4	2.1	1.8
Females, 20 years and over	6.1	4.6	5.5	5.3	5.1	5.3	4.2	4.2	3.7	3.5	3.3
Both sexes, 16 to 19 years	15.8	13.4	16.5	15.8	16.6	15.8	14.2	13.0	12.5	10.7	10.2
Negro and other races	9.0	6.6	8.9	9.0	8.3	7.6	6.5	7.0	5.3	4.8	5.2
Males, 20 years and over	6.6	4.7	6.9	6.5	6.6	5.9	4.9	4.4	3.5	3.1	3.4
Females, 20 years and over	7.8	5.6	7.6	8.2	6.9	6.7	5.5	6.3	4.7	4.0	4.1
Both sexes, 16 to 19 years	30.4	24.5	31.5	30.7	27.9	26.0	25.1	27.2	19.5	20.3	23.2

[1] Pertains only to 100 largest SMSA's.

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

Mr. HUMPHREY. I am glad to yield to the chairman of the committee.

Mr. PROXMIRE. First, Mr. President, I warmly commend the Senator from Minnesota on his excellent statement. I think it is so important that this situation be called to the attention of the Senate and the American people.

The fact is that the Bureau of Labor Statistics has won a wonderful reputation. It has had people who served Republican and Democratic administrations with distinction, with complete nonpartisanship, with no bias, with no expectation that they would be influenced by the positions of the administration. That was true in the Eisenhower administration. That was true in the Johnson and Kennedy administrations. It was true in the first years of the Nixon administration.

Mr. Goldstein, for example, who is a man of extraordinary ability and who did so much in the Bureau of Labor Statistics to helpfully and carefully and expertly interpret complicated economics statistics to the press, has been demoted. His position has been reduced. The agency which he headed has been cut almost in half. He has been given an assignment which appears, on the basis of the interrogation I conducted with Commissioner Moore before our committee a few days ago, to be clearly a demotion. He will no longer be available to make interpretations of current statistics and long-term trends. Mr. Goldstein was given no choice or given no option in which he would have an opportunity to head the agency, or of which divided bureau he would be in charge. Now, Mr. President, I want to make it clear that I have complete respect for the integrity, the professional ability and the honesty of Commissioner Moore. Furthermore, it is perfectly proper and desirable to have other administration spokesmen speak out very vigorously whatever interpretations of statistics they develop on unemployment, on inflation, and so forth, and explain them in any way they wish. But it is appalling to see any administration, Republican or Democratic, bring into question the tradition of nonpartisan experts who brief the press and make the kind of explanation which is essential to an understanding of economic data which we all know is so complicated and so subject to partisan political interpretation.

I thank the Senator from Minnesota, in giving us an excellent and terse analysis of the problem that confronts us, has made a real contribution to this body and to the country. I thank him.

Mr. HUMPHREY. I want to thank the Senator.

Mr. President, I think when we put this in focus, we see the dangers involved here. First of all, with the canceling of the press conference on the monthly report of the Bureau of Labor Statistics, it means that the interpretive aspect of that body of statistics is lost, except insofar as handouts from the Government are concerned. In other words, the members of the press—the free-inquiring press—are no longer to be included in the process of interpreting the statistical evidence. So what you get is a handout that says, "Here is what is said. This is what the statistics mean, and that is what you print." That, by the way, violates a pattern of many, many years.

Second, I do not oppose changes in the structure of an agency. I think there are structural changes that may be required, and I do not want my remarks to be interpreted as remarks against Mr. Moore as an individual or as a public official. I simply say, first, when you deny a press conference or abandon it, and, second, when you remove from a given role or given position an official or officials who have never been criticized, who have professional competence, who are respected for their objectivity, who have never dabbled in partisan politics, I think that puts the specter of suspicion and doubt upon an instrumentality of government that ought to be beyond doubt.

We ought to look to the Bureau of Labor Statistics simply for statistical information, for factual information.

Finally, where is the unemployment to be found? Most of it is to be found in the regions and areas of the poor. It is to be found in the inner cities. Go to Detroit and find 14 percent unemployment. Go to Los Angeles and find 11 percent unemployment. Find out where it is. Find the teenagers in the areas of the poor, and in the inner cities. Teenager blacks, over 40 percent unemployed. Teenager whites, approximately 30 percent unemployed in the inner city. That is where they live. And those areas, I think, need to have the objective statistical analysis and reporting of a professional, respected instrumentality of government.

When we cut out, for a full year—and whether we like it or not, it is the election year of 1972—all reporting, all statistical information on unemployment in the ghetto areas and the inner city areas of the great cities of America, I think it tells us only one thing: That somebody does not want to hear the bad news.

I am hopeful that there will be some good news. But I think, good or bad, we ought to know it. We have known it for years, and I see no reason to change that. When I add to this the fact that we are going to have a redefinition of the word poverty, with a task force appointed, and when I add also the fact that the administration is trying to get a new parity formula, so that farm prices will not look so bad, I think there is reason to be concerned, because surely the Government of the United States ought to level with the people on statistical information. We have enough credibility problems in the Government without jimmying up the statistics and the figures. Credibility generally comes with interpretation, but the statistical evidence ought to be solid, constructive, informative, and beyond question.

Mr. PROXMIRE. Mr. President, if the Senator will yield, let me stress one aspect of what he is talking about.

Economic policy has often been a doubtful area, both with Democratic Congresses and Presidents and Republican Congresses and Presidents. We know that. It is a very uncertain kind of field in which to operate. How good that policy is depends very largely on the validity of the statistics that are available, and on the intelligent and thoughtful, dispassionate analysis of those data. If you do not have that, your prospects for developing effective policies are very poor.

The Senator from Minnesota has pointed to one particular area where all of us have to be concerned if we are human beings, and that is the terrible situation in our ghettos, in our inner cities, and the very high unemployment we suffer, especially on the part of minority groups, but on the part of everyone, white and black. It is tragic that this is exactly the area where we ought to have more information.

Much of the information we have been getting is not as up to date or as satisfactory as we would like it to be. But to stop it entirely, to say we will have nothing until 1973, is to make it almost sure that the policies we follow are going to be inadequate.

As the Senator from Minnesota has indicated, we just do not know what we are doing. We will not know whether these programs we adopt are working or not. We will not know if more is called for or not. We will not know if we should change the policy and move in a different direction, because the best way to adopt policies in this imperfect world we live in is to try one and see if it will work, and if it does not, to stop it and try something else. But now we are just put in the dark on how these policies are working. There is no way we can tell, in this vital area.

Furthermore, we have the overall situation to which the Senator from Minnesota and I have alluded that there will be the growing question of validity of interpretation of Government statistics, on which many Government policies are planned, on which many business plans are predicated, and on which our economy so heavily depends.

Mr. HUMPHREY. I would hope that what the administration, and indeed Congress, might consider is the establishment of a modern system of data control, whereby we could put it on a computer. Information on almost a monthly basis is really needed here, for policy purposes, in both the Congress of the United States and the executive branch.

It is interesting that the military, the Defense Department, has a splendid computer system, the most modern and up-to-date. In fact, they are constantly getting new and better equipment, which is to their credit, not to their criticism. But when it comes to social questions, to problems of health, of economics and of poverty, to problems that relate to human beings, housing—all the matters that relate to social services—this Congress, like other legislative bodies throughout the country, is operating on information that is sometimes 2, 3, 4, or 5 years old, or operating on surveys that have been taken by unofficial or non-official bodies.

I hope the day will come when we in Congress will have data banks from which we can get instantaneously the information that we need, not only as to population but to population shifts, to in-

come, to income changes, to health and health services delivery and costs, to the number of children in school—for example, we do not even have the latest information on the number of young people we are going to have to take care of under the school lunch program we just passed. We are guessing all the time. It is nothing but a guess.

May I say that most businesses do not operate that way. They try to keep pretty well up to date. Even in a little, small town business we keep a monthly inventory. We know what we have in stock, and we use computer services to do it. One of these days we will get a computer service for our information purposes here. But the last thing we need to do is take the Bureau of Labor Statistics and pull down the blind, turn off the lights, and say, "We will see you in 1973." I suggest that we need a little more light on the subject between now and then.

MILITARY CONSTRUCTION AUTHORIZATION, 1972—CONFERENCE REPORT

Mr. STENNIS. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 9844) to authorize certain construction at military installations, and for other purposes.

Mr. President, I do not ask for its disposition now, but I ask unanimous consent that the Senate proceed to the consideration of the report.

The PRESIDING OFFICER (Mr. FANNIN). Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of October 13, 1971, at pp. 36047–36056.)

Mr. STENNIS. When the consideration of the conference report is resumed, it will be handled by the Senator from Missouri (Mr. SYMINGTON).

Mr. BYRD of West Virginia. Mr. President, action on the pending conference report on the Military Construction Act will be resumed and completed tomorrow.

ORDER FOR ADJOURNMENT UNTIL 12 NOON TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 12 o'clock noon tomorrow.

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

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. BYRD of West Virginia. I ask unanimous consent that tomorrow, immediately following the remarks of the distinguished Senator from Oklahoma (Mr. BELLMON), there be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements therein limited to 3 minutes, and that at the conclusion thereof, the Chair lay before the Senate the then unfinished business, the conference report on the military construction bill.

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

ADJOURNMENT OF THE TWO HOUSES FROM OCTOBER 21 TO OCTOBER 26, 1971

Mr. BYRD of West Virginia. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on House Concurrent Resolution 429, and ask for its immediate consideration.

The PRESIDING OFFICER laid before the Senate House Concurrent Resolution No. 429, which was read, as follows:

H. CON. RES. 429

Resolved by the House of Representatives (the Senate concurring), That when the two Houses adjourn on Thursday, October 21, 1971, they stand adjourned until 12 o'clock meridian, Tuesday, October 26, 1971.

The PRESIDING OFFICER. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the Senate proceeded to the consideration of the concurrent resolution.

Mr. BYRD of West Virginia. Mr. President, I send to the desk an amendment, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 1, line 3, strike out the word "they" and insert the words "the House".

On line 4, strike out the period after "1971" and insert "and the Senate until 11 a.m. on the same day."

The amendment was agreed to.

The concurrent resolution (H. Con. Res. 429), as amended, was agreed to, as follows:

H. CON. RES. 429

Resolved by the House of Representatives (the Senate concurring), That when the two Houses adjourn on Thursday, October 21, 1971, the House stand adjourned until 12 o'clock meridian, Tuesday, October 26, 1971, and the Senate until 11 a.m. on the same day.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON TUESDAY, OCTOBER 26, 1971

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

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

AUTHORIZATION FOR REPORTS TO BE FILED, MESSAGES TO BE RECEIVED, AND DULY ENROLLED BILLS AND JOINT RESOLUTIONS TO BE SIGNED DURING THE ADJOURNMENT OF THE SENATE

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that during the adjournment of the Senate, from the close of business tomorrow until 11 a.m. on Tuesday next, all Senate committees may be authorized to file reports; that the Secretary of the Senate may be authorized to receive messages from the House of Representatives and the President of the United States; and that the Vice President of the United States, the President pro tempore of the Senate and the Acting President pro tempore be authorized to sign duly enrolled bills and joint resolutions.

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

QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum. I assume that this will be the final quorum call of the day.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

PROGRAM

Mr. BYRD of West Virginia. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 12 o'clock noon. Immediately after the recognition of the two leaders under the standing order, the following Senators will be recognized, each for not to exceed 15 minutes, and in the order stated:

Mr. SCHWEIKER and Mr. BELLMON.

Routine morning business will then ensue, for a period of not to exceed 30 minutes, with statements therein limited to 3 minutes.

At the conclusion of routine morning business, the Senate will resume consideration of the pending business, the then unfinished business, the conference report on the Military Construction Act, 1971, H.R. 9844.

If I may have the attention of the distinguished Senator from Mississippi (Mr. STENNIS), it is my understanding that it is not anticipated there will be any rollcall vote on the adoption of the conference report on the Military Construction Act, 1971.

Mr. STENNIS. If the Senator from West Virginia will yield, I think that is correct. As I said, I am not handling that conference report, but it was a unanimous report, signed by all the conferees, and I think that Senator SYMINGTON will want to present it and explain it for the RECORD. There will be no rollcall vote on it.

Mr. BYRD of West Virginia. Very well. I thank the distinguished Senator from Mississippi.

Mr. President, it is not anticipated, therefore, that there will be any rollcall votes tomorrow.

When the Senate completes its business tomorrow, it will stand in adjournment, under House Concurrent Resolution 429 until 11 a.m. on Tuesday, October 26, 1971.

Mr. President, the distinguished majority leader has asked me to state that beginning on Tuesday next, there will be plenty of work, long days and long hours. The Senate will keep its nose to the grindstone in its efforts to meet the objective of adjournment by November 15 or certainly not later than December 1, 1971.

ADJOURNMENT

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

The motion was agreed to; and (at 4 o'clock and 5 minutes p.m.) the Senate adjourned until tomorrow, Thursday, October 21, 1971, at 12 o'clock noon.

NOMINATION

Executive nomination received by the Senate October 20, 1971:

DEPARTMENT OF DEFENSE

Albert C. Hall, of Maryland, to be an Assistant Secretary of Defense.

HOUSE OF REPRESENTATIVES—*Wednesday, October 20, 1971*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

With Thee is the foundation of life: in Thy light shall we see light.—Psalms 36: 9.

O Thou who art ever revealing Thyself to Thy children and who dost seek to guide the affairs of men in ways good for all, deepen within us the sense of Thy presence and lead us with Thy wisdom as we set out upon the tasks of this day.

When our worries would weary us help us to put our trust in Thee and not be afraid. When the road is rough and the going tough give us to know that Thou art with us and that with Thee is strength sufficient for our need. When the spirit is willing and the flesh weak grant unto us Thy grace that we may not stumble but continue steadfast unto the end.

O Thou source of light and hope draw us and our Nation to Thee that we may not wander from Thy way but may find in Thee healing for our hurts, strength for our day, and peace for our world. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 8629) entitled "An act to amend title VII of the Public Health Service Act to provide increased manpower for the health professions, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 8630) entitled "An act to amend title VIII of the Public Health Service Act to provide for training increased numbers of nurses."

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 215. An act to provide procedures for calling constitutional conventions for proposing amendments to the Constitution of the United States, on application of the legislatures of two-thirds of the States, pursuant to article V of the Constitution; and

S. 748. An act to authorize payment and appropriation of the second and third installments of the U.S. contributions to the Fund for Special Operations of the Inter-American Development Bank.

DIRECTING THE SECRETARY OF STATE TO FURNISH TO THE HOUSE OF REPRESENTATIVES CERTAIN INFORMATION CONCERNING THE ROLE OF OUR GOVERNMENT IN THE EVENTS LEADING TO AN UNCONTESTED PRESIDENTIAL ELECTION IN SOUTH VIETNAM ON OCTOBER 3, 1971

Mr. MORGAN. Mr. Speaker, I call up House Resolution 632 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 632

Resolved, That the Secretary of State is directed to furnish to the Committee on Foreign Affairs of the House of Representatives, not later than fifteen days following the adoption of this resolution—

(1) all documents and other pertinent information available to him, including instruction sheets, relative to the conduct of public opinion surveys which were financed by the United States in South Vietnam and concern the election scheduled for Sunday, October 3, 1971, in South Vietnam;

(2) all documents and other pertinent information available to him relating to the use by the authorities of South Vietnam, with respect to that election, of radio and television facilities financed by the United States;

(3) all press releases by officials of the United States in Saigon relating to that election;

(4) all communications between officials of the Governments of South Vietnam and the United States relating to that election; and

(5) all representations made to the participants in that election by officials of the United States concerning the desire of the United States that the election be free and contested.

The SPEAKER. The Chair recognizes the gentleman from Pennsylvania.

Mr. MORGAN. Mr. Speaker, I intend to move to table this resolution. Although I understand that the motion to table is not debatable, I will yield briefly for the sponsor of the resolution to make a statement.

I will not debate the resolution myself. The action of the committee and the report of the committee speak for themselves. I will take a minute, however, to present some additional information.

I direct your attention to page 3 of the committee report, the last two paragraphs of Assistant Secretary of State Abshire's letter of October 8, which read as follows:

The United States Information Agency has informed us that the Joint United States Public Affairs Office in Vietnam has not conducted any polls or surveys, formal or informal, concerning or involving the Vietnamese election.

We have also sent a telegram to our Embassy in Saigon requesting further documentation on these matters. I will be pleased to forward these additional materials to you when received.

The Department of State has received additional information from Vietnam.

There were polls conducted that related to the forthcoming presidential election in October 1970, November 1970, January 1971, and February 1971. Copies of these polls have been sent to the Committee on Foreign Affairs, and they, together with the other documents which have been supplied, are available for inspection by Members of Congress in the Foreign Affairs Committee room in the Rayburn Building.

I believe that anyone who sees the questions asked and the answers received will not feel that they had any impact on the results of the election or on the decision of any candidate not to run.

They asked whether people knew that there was going to be an election. Over 60 percent did.

They asked what kind of man the people wanted to see run in the election.

The two most popular qualities were—

First, that the candidates should be virtuous, unselfish, and work hard; and

Second, that they should be willing to do something for the people.

The voters were asked whether in the last few weeks the Government of Vietnam had done anything they liked or approved of. Most of them said "No."

Another question was whether the Government of Vietnam had done anything they disliked or disapproved of. About three-fourths of them said "No."

Mr. Speaker, I believe that the Secretary of State is trying to cooperate with the committee and the Congress, and has been and is trying to dig out and make available the information called for by the resolution, except for communica-