stated with utmost candor in the Kerner Report:

"This is our basic conclusion: Our nation is moving toward two societies, one black, one white—separate and unequal."

"Reaction to last summer's disorders has quickened the movement and deepened the division. The riots and disorders, we have long permed much of American life; they now threaten the future of every American."

The deepening racial division is not inevitable. The movement apart can be reversed. Choice is still possible. Our principal task is to define that choice and to press for a national resolution."

Forty-three men, both black and white, prisoners and guards, died at Attica this September. Attica was emphatically not a racial confrontation so far as the relationship of the inmates with each other was concerned. White prisoners were as deeply involved as were blacks and Puerto Ricans. There was unparalleled unity * * * the prisoners. But to the extent that a very large number of the inmates were black, and most, certainly, came from disadvantaged backgrounds, regardless of race or ethnic background, the problems analyzed in the Kerner Report are the ones which explain how these inmates came to be in prison, and why their feeling of utter frustration and degrading loss of human dignity erupted into the confrontation which cost so many lives.

The lessons of the Kerner Report cannot be ignored much longer.

SENATE—Monday, December 6, 1971

(Legislative day of Saturday, December 4, 1971)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. Elledge).

PRAYER

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

O Thou King of Kings and Lord of Lords, our Creator and our Judge, we thank Thee for the season of great expectation and for Thy first advent. Keep us ready in our worship and our work for any sudden divine appearance when Thou shalt come to judge the world. O Lord make us strong but gentle, thorough in purpose, impatient with evil, and merciful toward all people. Keep alive the radiant hope when all men shall seek first the kingdom of God and His righteousness. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Saturday, December 4, 1971, be approved.

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

COMMITTEE MEETINGS DURING SESSION

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

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

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations under the Department of the Treasury, as reported to the Senate last Friday. They have evidently been cleared all the way around. There is no "hold" on them, so I call them up.

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

The President pro tempore. The nominations on the Executive Calendar, under the Department of the Treasury, will be stated.

The second assistant legislative clerk read the nomination of Romana Acosta Banuelos, of California, to be Treasurer of the United States.

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

The second assistant legislative clerk read the nomination of Edgar R. Fiedler, of New York, to be an Assistant Secretary of the Treasury.

The President pro tempore. Without objection, the nomination is considered and confirmed; and, without objection, the President will be immediately notified of the confirmation of these two nominations.

LEGISLATIVE SESSION

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

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

WEATHER MODIFICATION REPORTING

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 519, H.R. 6893.

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

The assistant legislative clerk read as follows:

H.R. 6893, to provide for the reporting of weather modification activities to the Federal Government. The President pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to the consideration of the bill, which had been reported from the Committee on Commerce with amendments on page 1, line 10, after the word "nonprofit", strike out "which" and insert "who"; in the same line, after the word "is", strike out "not"; on page 2, line 1, after the word "activities" insert "except where acting solely"; in line 3, after the word "any", strike out "intentional, artificially produced change" and insert "activity performed with the intention of producing artificial changes"; at the top of page 3, insert:

(c) In carrying out the provisions of this section, the Secretary shall not disclose any information referred to in section 1905 of title 18, United States Code, and is otherwise unavailable to the public, except that such information shall be disclosed—

(1) to other Federal Government departments, agencies, and officials for official use upon request;

(2) in any judicial proceeding under a court order formulated to preserve the confidentiality of such information without impairing the proceeding; and

(3) to the public if necessary to protect their health and safety.

And, at the beginning of line 14, insert "the activities relate to weather modification."

The amendments were agreed to. The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that I have printed in the Record an excerpt from the report (No. 92-537), explaining the purposes of the measure.

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

PURPOSE

The purpose of the legislation is to require all persons engaged in nonfederally sponsored weather modification activities in the United States to report those activities to the Secretary of Commerce.

BACKGROUND AND NEED

We are in the midst of a scientific weather modification era. Weather modification activities first attempted in 1946. During the past 25 years basic research in the field has brought scientific weather modification to an operational level in the areas of precipitation augmentation and supercooled fog dispersal. The areas of destructive storm modification, hail and lightning suppression, warm fog dispersal, and more accurate weather prediction methods have also progressed dramatically.

In 1958 the National Science Foundation was given the authority by Public Law 85-510 to require persons engaging in weather modification activities to report such activities. They were also given the responsibility to set up a program of research and evaluation in weather modification and make annual reports on their findings to the Congress and the President. Ten years later in 1968, Congress enacted Public Law 90-467, which repealed the powers of the National Science Foundation to require persons to report all weather modification activities. Since then, no other Federal department or agency had been given that authority.

At present there exists no central information source to provide a complete picture of the "state of the art" in weather modification. Since the expertise in this field, like so many other fields, goes through an eclectic process, a central information source to which all scientists and environmentalists can refer to in order (1) to compare their results against those of others, (2) to prevent unnecessary duplication of re-
December 6, 1971

CONGRESSIONAL RECORD—SENATE 44787

search, (3) to check undesirable atmospheric changes against records of weather modification activities, and (4) to prevent territorial overlapping of weather modification operations. The committee order of May 16, 1971, would help solve these problems by allowing the Department of Commerce to keep records of all weather modification activities in the United States.

This legislation in no way attempts to control or regulate substantial weather modification activities (e.g., cloud-seeding) at this time. The committee action was taken on November 12, 1971, the Department of Commerce in its letter of the 20x82 acting of Commerce), terms

The first unnumbered section defines the terms “Secretary” (which means the Secretary of Commerce) and “United States.”

The first committee amendment redefined the term “Secretary” to mean “any person engaging or attempting to engage in weather modification activities in the United States.”

The main concern of this legislation is to create an information-gathering mechanism. Such an information source will also provide means for assisting in the administration and enforcement of State statutes. At present, with no reporting requirement in existence, it is possible that large sums of money are being expended on research that could not be accurately assessed if the data were more easily accessible on other research projects that may possibly be teritorially overlapping or duplicative. In order to modify atmospheric conditions successfully it is imperative that long-range “mapping” of those conditions be based on development of new theories of air quality, be done. For a scientist to predict his results accurately he must be “in the know” of the data in his equations. While many of those vari­ables remain unknown, his percentage of error remains large. If we are to establish guidelines that will affect environmental protection and damage control in weather modification, we must now construct an archive to recover, analyze, and discover these data.

The United States, as the most advanced technological country in the history of the world, is in the process of changing but the desire to facilitate some form of social management of its technology. As scientific expertise and operational capabilities grow in the field of weather modification we must develop responsible, and yet not unduly represive, public policies therein. An accurate and complete database is essential in the the­matic element in the construction of such pol­icy.

LEGISLATIVE BACKGROUND

Recognizing the need to report records of weather modification activities to the Federal Government, Senator Magnuson introduced H.R. 1258, on March 16, 1971, at the request of the Department of Commerce. The bill was re­ferred to the Committee on Commerce. No action was taken on S. 1258 while awaiting hearings, debate, and passage of the companion bill in the House or Representatives. After the House passed H.R. 6893, on March 16, 1971, the committee held no hearings, but discussed the bill in two executive sessions of the full committee. The committee voted favorably, with amendments, on No­vember 30, 1971. Most of these amendments were submitted by the General Counsel of the Department of Commerce in his letter of November 12, 1971, a copy of which appears hereunder.

COMMITTEE AMENDMENTS AND SECTION-BY-SECTION ANALYSIS

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SECOND COMMITTEE AMENDMENT

Under section 2 the Secretary is required to keep records of weather modification activity in the United States, and periodically to publish such records. The record is also required to make all reports, documents, and other information he receives under this act available to the public to the fullest practical extent as required in section 3(b). The subsection relates to trade secrets and other proprietary information, and is intended to clarify and protect the legitimate rights of commerce in information and to provide for full use of such material within the Federal Government. The purpose of this subsection is to pro­vide that any information that shall be disclosed (1) to other Federal Gov­ernment departments, agencies, and officials for use in any judicial proceeding under a court order formulated to preserve the confidentiality of such information without disclosing the pro­ceedings; and (3) to the public if necessary to protect their health and safety.

Section 4 defines the processes the Secretary may undertake in the development of weather modification activities. The fifth and final committee amendment applies the provisions of the section to any person whose activities relate to weather modification. Under this amendment the Secretary would be able to make additional reports of persons who are collaboratively involved in weather modification, such as suppliers of equipment and chemicals to a weather modi­fication unit. On the other hand, it would place bounds on the power of the Secretary by requiring that there be some reasonable rela­tionship between the records and weather modification activities.

Section 5 sets a maximum fine of $10,000 for knowing the violation of section 2 of any rule issued under the act. Section 6 authorizes $150,000 to be appro­priated for the fiscal years ending June 30, 1972, and $200,000 each for the fiscal years ending June 30, 1973, and June 30, 1974, to carry out the provisions of the act.
NOTICE OF PHOTOGRAPH TO BE TAKEN OF THE SENATE IN SESSION ON THURSDAY, DECEMBER 9, 1971, AT 3 P.M.

Mr. SCOTT. Mr. President, for the benefit of all Senators and staff, Thursday next, December 9, a photograph will be taken of the Senate Chamber, with the Senators in attendance at that time.

It is hoped that Senators will make their plans accordingly in order to be present for this photograph.

I make this statement at this time on the record so that all Senators may be duly apprised and may proceed accordingly.

I thank the Chair.

THE U.N. SECURITY COUNCIL VETO BY THE SOVIET UNION

Mr. BYRD of West Virginia. Mr. President, last Wednesday, December 1, I expressed apprehension that the Indian Punjab government seemed to be headed in the direction of all-out war, and I called for positive action by the United Nations to avert what promised to be a bloodbath.

Though reports from India and Pakistan are still conflicting, it seems certain that my worst fears have been realized and caution on both sides has been thrown to the winds. According to radio reports this morning, the Government of India has officially recognized the Bangla Desh as the government of East Pakistan—a move certain to infuriate the Pakistanis and add fuel to the fires of war.

The attempt last night by the Security Council of the United Nations to adopt a resolution calling for a cease-fire was vetoed by the Soviet Union. While it is by no means certain that India and Pakistan would have heeded such a resolution, it seems certain that my worst fears have been realized and caution on both sides has been thrown to the winds.

I can only express the hope, Mr. President, that this negative action by the Russians will be regarded by the world body as the obstructionism that it is and that further efforts will be made to persuade India and Pakistan to stop the bloodletting and settle their differences by intelligent negotiation.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. SPONG. Mr. President, I ask unanimous consent that the quorum call be rescinded.

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

(The remarks of Mr. Curtis when he introduced S. 2822 are printed in the Record on Statements on Introduced Bills and Joint Resolutions.)

(The remarks of Mr. Curtis when he submitted Senate Resolution 208 are printed in the Record under Submission of a Senate Resolution.)

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of calendar order Nos. 518, 520, 522, and 524.

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

AUTHORIZED FOR RESTORATION, RECONSTRUCTION, AND EXHIBITION OF THE GUNBOAT "CAIRO"

The Senate proceeded to consider the bill (S. 1475) to authorize the Secretary of the Interior to provide for the restoration, reconstruction, and exhibition of the gunboat Cairo, and for other purposes.

This historic vessel, with its many artifacts, will be a unique exhibit of great historic value. The vast numbers of Americans, from all areas of our country, who visit it in the years to come will have a highly interesting and educational experience in viewing this chapter from our Nation's past.

Mr. President, I am informed by persons expert in this field that the gunboat Cairo and its artifacts constitute new source material to such a degree that it could be essential references for students and historians working in the fields of naval history, naval architecture, and the history of the War Between the States.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Record contain the excerpt from the report (No. 92-333), explaining the purposes of the measure.

PURPOSE

To display, for the benefit and education of the visiting public, a restoration of the original gunboat, using as much of the original wood and metal as possible, and certain significant artifacts recovered in the salvage operation. The gunboat and artifacts will be displayed in a visitor-center type complex near the Vicksburg National Military Park, on the Park's one-way tour route, almost within sight of the spot from which it was recovered. The building in addition to the display room, storage space to house and protect the extensive and valuable collection of artifacts with the vessel, an office for the curator and interpretive staff, rest rooms for the public, and a small auditorium for presentation of a short motion picture relating the Cairo to the war on the Mississippi and to Vicksburg, as well as such other areas as Shiloh and Port Deseonel.

HISTORICAL BACKGROUND

One month before Virginia and Monitor were commissioned, and seven weeks before they fought their epic battle in Hampton Roads, the first seven ironclads built in the Western Reserve were commissioned at Cairo, Illinois. They were the "city class" gunboats, one of which was the Cairo. On February 6, 1863, five weeks before the Hampton Roads battle, they proved their worth by bombarding the Confederate stronghold of Port Henry into surrender.

In the following months, the Mississippi Squadron, of which these ironclads were the core, cooperated closely with General Grant's army at Port Deseone, Shiloh, and Corinth. This double-pronged attack of these campaigns was to regain control of the lower Mississippi and split the Confederacy.

The second assistant legislative clerk proceeded to call the roll.

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

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

(The remarks of Mr. Brown when he introduced S. 2822 are printed in the Record on Statements on Introduced Bills and Joint Resolutions.)

Mr. President, for the benefit and education of the visiting public, a restoration of the original gunboat, using as much of the original wood and metal as possible, and certain significant artifacts recovered in the salvage operation. The gunboat and artifacts will be displayed in a visitor-center type complex near the Vicksburg National Military Park, on the Park's one-way tour route, almost within sight of the spot from which it was recovered. The building in addition to the display room, storage space to house and protect the extensive and valuable collection of artifacts with the vessel, an office for the curator and interpretive staff, rest rooms for the public, and a small auditorium for presentation of a short motion picture relating the Cairo to the war on the Mississippi and to Vicksburg, as well as such other areas as Shiloh and Port Deseone.

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Cairo and her sister ships, along with other vessels of the Mississippi Squadron, insured the success of General Grant's campaign. Without them, and had it been impossible to supply his army as it moved through the Confederacy, and hammered at Vicksburg.

The manner by which Cairo was sent to the bottom of the Yazoo helps to illustrate Winston Churchill's statement that the Civil War was the first mass production war. Major technological innovations were introduced in the Civil War, and two of the more important of these were the ironclad warships and the submarine mine or torpedo, as it was called in the 1860s. On December 6, 1862, the Union's first warship in history to be sunk by mines. For 93 years the Cairo lay buried in the mud of the Yazoo River. Then in 1956, after several previous efforts had failed, the boat was located, and thereafter raised. Not only was the sinking itself an event of historic significance, but the degree of preservation of the boat, and the artifacts and relics aboard it have afforded an outstanding opportunity for the study and presentation of naval history and practices. No other armored gunboat survives to illustrate the exact nature of this unique and important development in naval warfare, and documentation is both incomplete and inaccurate.

The boat was located through the offices of the State of Mississippi, the City of Vicksburg and Warren County. Initially, it was believed that the boat could be restored and displayed at Vicksburg. However, studies were unsuitable for such an undertaking and, in 1958, the remains of the boat were shipped to the United States Naval Historical Building Corporation, Pascagoula, Mississippi. Since that time, the State of Mississippi has been providing a sizable amount of operational support for the proposed restoration of the monument. Pursuant to a 1965 agreement with the Warren County Board of Supervisors, the Vicksburg Park Service has had custody of the artifacts, some of which are at Vicksburg National Military Park, and some of which are at the museum facility at Springfield, Virginia. In 1969, the State, which had obtained title to the boat from the Treasury Department, determined that it had neither funds nor facilities to effect the restoration, and thereafter offered it to the United States.

**NEED**

Cairo is the only one of the first seven ironclads which is still in existence.

"The ... gunboat ... and the objects recovered from her ... are a unique document for the study and presentation of naval history and practices. No other armored gunboat survives to illustrate the exact design and construction of this important innovation in naval warfare, and the written and pictorial documentation is both incomplete and inaccurate. The artifacts found aboard the boat offer the first time the opportunity to visualize and comprehend in depth the history and practices and abound a commissioned vessel of the period. Some of these objects are well known and immediately recognizable. Many of these objects have survived from other sources. Other objects can be recognized because their existence was known from documentary sources even though no actual specimens had been found prior to the recovery of those aboard the Cairo.

**Costs**

The Senate Subcommittee on Parks and Recreation took the position that a full-size replica of the gunboat "Cairo" would be the most appropriate restoration manner in which to display this spectacular Civil War memorial. Their reasoning was that a controlled cost contribution to the construction and operation of the Cairo would involve the education of Indian students at federally operated institutions of the same type. The Navajo Community College is the first college established on an Indian reservation, and it is the only college established and operated by an Indian tribe.

The bill also authorizes the appropriation of an annual sum as a grant to the Navajo Tribe to assist in the operation and maintenance of the college. The latter sum may not exceed the average amount of the per capita contribution by the tribe for the education of Indian students at federally operated institutions of the same type.

The Navajo Community College is the first college established on an Indian reservation, and it is the only college established and operated by an Indian tribe.

The annual cost of operation will vary with the number of students that are enrolled. The tribe has asked the Bureau of Indian Affairs to authorize $4,200,000 based on an enrollment of 400 students, and $3,360,000 based on an enrollment of 1,500 students. Both of these figures are within the formula established for the college. The estimated per capita cost for Indian students attending three schools of higher learning that are operated by the Bureau of Indian Affairs is $3,700.

The Office of Economic Opportunity contributed the major portion of the funds used for the operation of the college to the present time. The grants totaled $2,392,899, and they were made as a part of a demonstration and research program. The OEO's evaluation is that the demonstration was a success, that the college is functioning, and that it should be continued on a permanent basis.

The Navajo Community College is different from the ordinary college. It is tailored to meet the unique needs of the Navajo people, adults as well as children. The first body includes the adults, and the curriculum includes academic, vocational, and adult education subjects. The college is intended to supplement, and not be a substitute for, other college opportunities. Some students may prefer to attend off-reservation colleges. Some of them may prefer to start at the community college and continue elsewhere. Others will not wish to leave the reservation and will want an education that is tailored to their needs.

Enactment of the bill will involve the appropriation of $5,500,000 for construction money in fiscal years 1973 and 1974, and the appropriation of annual sums for the operation of the college that would not exceed $4,500,000 per year on the basis of present enrollment figures. For purposes of comparison, it should be noted that in connection with the elementary and secondary educational programs on the Navajo Reservation, the Federal Government has spent more than $117,- 500,000 for construction during the past 10 years. In the current fiscal year, the appropriation is more than $83 million per year. The proposed expenditures for the Navajo Community College are a small portion of this total.

**AMENDMENT**

The final cost figure arrived at in the bill ($2,461,000) was the result of discussions and deliberations on the part of the Committee and representatives of the National Park Service. Again, the Committee concluded that the original figure of $4,490,000, including over $2 million for the exhibit storage building, was excessive.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

**NAVAJO COMMUNITY COLLEGE ACT**

The bill (H.R. 5068) to authorize grants for the Navajo Community College, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 44789), explaining the purposes of the measure.

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

**PURPOSE**

The purpose of H.R. 5068 is to authorize a Federal financial contribution to the construction and operation of the Navajo Community College, which is a college established and operated by the Navajo Tribe. The Committee also considered a similar bill, S. 2320, introduced by Senators Anderson, Fannin, Goldwater and Montgomery.

**EXPLANATION**

The bill as amended by the committee authorizes the appropriation of $5.5 million as a grant to the Navajo Tribe to assist the college in the operation and maintenance of the college. The latter sum may not exceed the average amount of the per capita contribution by the tribe for the education of Indian students at federally operated institutions of the same type.

The Navajo Community College is the first college established on an Indian reservation, and it is the only college established and operated by an Indian tribe.

The bill would be in operation since January 1969. It is presently using available space in the Many Farms High School building on the Navajo Reservation. Construction of the college buildings has begun, however, and construction is the time may be taken in three stages as funds are available.

The total estimated cost of construction, and the anticipated sources of funds, are as follows:

<table>
<thead>
<tr>
<th>Housing and Urban Development</th>
<th>$2,600,000 presently committed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bureau of Indian Affairs</td>
<td>45,500,000</td>
</tr>
<tr>
<td>Navajo Tribe</td>
<td>1,000,000</td>
</tr>
<tr>
<td>Economic Development Admin.</td>
<td>3,000,000</td>
</tr>
<tr>
<td>Industry and individuals</td>
<td>1,000,000</td>
</tr>
<tr>
<td>Foundation</td>
<td>1,000,000</td>
</tr>
</tbody>
</table>

Total | $17,000,000 |

The annual cost of operation will vary with the number of students that are enrolled. The tribe has asked the Bureau of Indian Affairs to authorize $4,200,000 based on an enrollment of 400 students, and $3,360,000 based on an enrollment of 1,500 students. Both of these figures are within the formula established for the college. The estimated per capita cost for Indian students attending three schools of higher learning that are operated by the Bureau of Indian Affairs is $3,700.

The Office of Economic Opportunity contributed the major portion of the funds used for the operation of the college to the present time. The grants totaled $2,392,899, and they were made as a part of a demonstration and research program. The OEO's evaluation is that the demonstration was a success, that the college is functioning, and that it should be continued on a permanent basis.

The Navajo Community College is different from the ordinary college. It is tailored to meet the unique needs of the Navajo people, adults as well as children. The first body includes the adults, and the curriculum includes academic, vocational, and adult education subjects. The college is intended to supplement, and not be a substitute for, other college opportunities. Some students may prefer to attend off-reservation colleges. Some of them may prefer to start at the community college and continue elsewhere. Others will not wish to leave the reservation and will want an education that is tailored to their needs.

Enactment of the bill will involve the appropriation of $5,500,000 for construction money in fiscal years 1973 and 1974, and the appropriation of annual sums for the operation of the college that would not exceed $4,500,000 per year on the basis of present enrollment figures. For purposes of comparison, it should be noted that in connection with the elementary and secondary educational programs on the Navajo Reservation, the Federal Government has spent more than $117,- 500,000 for construction during the past 10 years. In the current fiscal year, the appropriation is more than $83 million per year. The proposed expenditures for the Navajo Community College are a small portion of this total.

**COMMITTEE RECOMMENDATION**

The Committee on Interior and Insular Af-

fairs recommend that the bill be enacted.
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all the right, title, and interest of the United States in land described as the south half northwest quarter northwest quarter and the southwest quarter northwest quarter section 45, township 10 north, range 29 east, Mount Diablo meridian, Nevada, is hereby declared held by the United States to use, without compensation, for so long as necessary, as determined by the Secretary of the Interior, four acres more or less, of such land for irrigation canal purposes.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 92-541), explaining the purposes of the measure.

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

PURPOSE
The bill provides that two tracts of public domain land will be held in trust for the Paiute-Shoshone Tribe of the Fallon Reservation and Fallon Colony, Nevada, as follows:

The Fallon Colony is an established community of 45 Indians. These Indians have brought land to their settlement at their own expense. There are 16 homes located on approximately 40 acres. Eight of these acres are under subjugation with water deliveries from the Truckee-Carson Irrigation Project. The 28 buildings located on the property are classified from good to poor with a value of $8,000. Most of these buildings have been constructed and are maintained by the Indians at their own expense. The land described in this proposal has a current market value of $31,000.

About 90 percent of the Indians of the Fallon Colony, located in and around the town of Fallon, therefore, if they were required to move, in order to take advantage of the housing program, it would mean a considerable hardship to them. There appears to be no use for this property that would surpass the Indians need for it, nor is there any other property available for their housing program.

Even though there is some tribal land remaining on the Fallon Reservation, all of this land is not good land; there is no wooded or irrigated land. Most of this property is subjugated with water deliveries. Therefore, if the primary purpose of the bill is to enable the Indians to participate in a much-needed Mutual-Help Housing program, the bill should not be set off against any claim against the United States Government determined by the Commission.

The bill (S. 345) to authorize the sale and exchange of certain lands on the Coeur d'Alene Reservation, and for other purposes, was considered, ordered to be engrossed for a third reading, and passed, as follows:

The bill (S. 345) to authorize the sale and exchange of certain lands on the Coeur d'Alene Reservation, and for other purposes, was considered, ordered to be engrossed for a third reading, and passed, as follows:

The bill authorizes the Secretary of the Interior to approve the sale, exchange, or encumbrance of tribal lands and to sell or exchange individually owned trust lands or interests therein held in multiple ownership to the Coeur d'Alene Tribe or individual Indians and shall be upon request of the Coeur d'Alene Tribe or individual Indians and shall be approved by the Department of the Interior, the Secretary of the Interior, and the Secretary of the Senate, and any interest therein held in multiple ownership to the Coeur d'Alene Tribe, evidenced by a resolution adopted in accordance with the constitution and bylaws of the tribe, or the title thereto shall be upon request of the Coeur d'Alene Tribe, and shall be approved by the Senate, the Secretary of the Interior, and the Secretary of the Senate.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 92-539), explaining the purposes of the measure.

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

The Indians are mostly Paiute and a few Shoshone. Some 12 miles to the west another group of Indians live on their allotments on the Fallon Reservation. Of the 63 Paiute and 38 of the colony Indians, have organized and have a common construction and bylaws. They are known as the Paiute-Shoshone Tribe of the Fallon Reservation and Colony.

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alotted to members of the tribe, 330 acres were reserved for administrative purposes, and the remaining lands comprising an area of over 262,000 acres were designated as the reservation. This allotment of the reservation lands and opening the surplus lands to settlement approximately 80 percent of the land in the tribe was owned by the tribe before June 30, 1969, there were 53,063 acres of trust land in individual ownership and 16,292 acres in tribal ownership.

The Coeur d'Alene Tribe adopted a land acquisition, consolidation, and development program in 1969. The tribe plans to purchase over 3,000 acres of land at a cost of a little over $450,000. Thirteen purchases are presently pending which will require approximately $15,000. The tribe is now planning a farming enterprise, and land consolidation is of much importance.

At the time of the approval of the land program the tribe owned 13,363 acres of trust land which consisted primarily of acresages restored to the tribe to the act of May 19, 1888. This act also contained authority for the sale or exchange of the restored lands. However, the tribe is determined to retain the general farming area and is not useful for trading and unitization purposes. The authority contained in S. 345 will enable the tribe to dispose of these parcels and use the funds to acquire other tracts within the farming enterprise area or elsewhere on the reservation and assist tribal members in consolidating and unifying their individual interests thereby alleviating to some extent the inheritance problem. Further, it will be able to exchange lands with tribal members so that both the tribe and the members will have more economical and manageable units.

Although the tribe does not now have an urgent need for long term leasing authority, it does anticipate this authority will be needed within the foreseeable future. The tribe will endeavor to lease land for industrial purposes and has in mind that eventually it will endeavor to lease lands in some enterprises in the Coeur d'Alene Area.

Cost
No additional expenditure of Federal funds will result from the enactment of S. 345.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

REPORT ON MEDICAL STOCKPILE OF CIVIL DEFENSE EMERGENCY SUPPLIES AND EQUIPMENT
A letter from the Secretary of Health, Education, and Welfare, reporting, pursuant to S. Res. 345, for the acquisition of Sella Bay, the surrounding lands for use to unload ammunition, thereby easing from the people of Guam over 4,000 acres of the very limited land of the territory and thereby depriving them of the continued use of a great natural resource; and

PETITIONS
Petitions were laid before the Senate and referred as indicated:

By the PRESIDENT pro tempore:
A resolution of the Legislature of the Territory of Guam; to the Committee on Interior and Insular Affairs;
"RESOLUTION No. 157
"Relative to expressing the extreme indignation and opposition of the people of Guam on the proposed operation of the United States Navy of one of Guam's most prized possessions, that unspoiled and virgin land in the south of Guam known as Sella Bay."
"Be it resolved by the Legislature of the Territory of Guam:
"Whereas, the Commander Naval Forces Marianas has indicated that the Navy intends to go through and put under naval acquisition of Sella Bay and the surrounding lands for use to unload ammunition, thereby easing from the people of Guam over 4,000 acres of the very limited land of the territory and thereby depriving them of the continued use of a great natural resource; and

REPORTS OF COMMITTEES
The following reports of committees were submitted:
By Mr. BURDICK (for Mr. Moss) from the Committee on Interior and Insular Affairs, with an amendment:
S. 2676. A bill to provide for the prevention of sickle cell anemia (Rept. No. 92-555)

By Mr. ERVIN, from the Committee on Labor and Public Welfare, with amendments:
S. 1438. A bill to protect the civilian employees of the executive branch of the United States Government in the enjoyment of their constitutional rights and to prevent unwarranted and illegal invasions of their privacy (Rept. No. 92-554)

By Mr. ERVIN, from the Committee on Armed Services:
S. 287. A bill to create the supplemental emergency national defense stockpile of medical supplies for the United States; and to increase the medical stockpile of civil defense emergency supplies and equipment purposes, for the quarter ending September 30, 1971; to the Committee on Armed Services.
S. 1438 to protect civilian employees of the executive branch of the U.S. Government in the enjoyment of their constitutional rights and to prevent unwarranted governmental invasions of their privacy. This bill was approved by the committee on November 16 without amendments and is identical to S. 782 which was passed by unanimous consent of the Senate in the 91st Congress.

CONTINUED OPERATION OF PUBLIC HEALTH SERVICE HOSPITALS AND OTHER HEALTH CENTERS—CONFERENCE REPORT (S. REPT. NO. 92- 556)

Mr. KENNEDY, from the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the concurrent resolution of the Senate on the joint resolution submitted by the Committee on Labor and Public Welfare, reported as indicated:

Mr. KENNEDY. By unanimous consent, the second calendar day of the current session, the Senate agreed to the amendment of the House to the Concurrent Resolution, H. Con. Res. 6 by which the Senate concurred in the Senate amendment to the concurrent resolution submitted by the House of Representatives to the Committee on Labor and Public Welfare.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. HRUSKA, from the Committee on the Judiciary:

Mr. Dier, of Nebraska, to be a district judge for the district of Nebraska.

By Mr. McGEE, from the Committee on Post Office and Civil Service:

Richard A. Dier, of Nebraska, Massachusetts, Frederick Russell Kappel, of New York, Theodore W. Braun, of California, Andrew D. Holt, of Tennessee, George E. Johnson, of Illinois, Crocker Nevin, of New York, Charles H. Codd, of Oklahoma, Patrick E. Haggerty, of Texas, and M. A. Wright, of Tulent, (S. Con. Res. 6) to express the sense of Congress relative to certain activities of Public Health Service hospitals and outpatient clinics, submitted a report, which was ordered to be printed.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. SPOONG (for himself, Mr. BAKER, Mr. BIBLE, Mr. NELSON, Mr. DOMINICK, Mr. PELL, Mr. EAGLETON, Mr. BELLMON, and Mr. CHILES):

S. 2953. A bill to authorize a Federal payment for the construction of a transit line in the median of the Dulles Airport Road. Referred to the Committee on Commerce.

S. 2952. A bill to authorize a Federal payment for the construction of a rapid rail line to Dulles International Airport. Referred to the Committee on Commerce.


S. 2954. A bill to authorize the establishment of the Knife River Indian Villages National Historic Site. Referred to the Committee on Interior and Insular Affairs.

By Mr. CROI:

S. 2955. A bill to amend certain provisions of title 18, United States Code relating to the release of certain Federal prisoners, referred to the Committee on the Judiciary.

By Mr. JAYNIS (for himself, Mr. STENNIS, Mr. EAGLETON, and Mr. SPOONG):

S. 2956. A bill to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress. Referred to the Committee on Foreign Relations.

By Mr. HARTKE:

S. 2957. A bill to amend the Economic Opportunity Act of 1964 to provide comprehensive legal services also the greatest obstacles to the eradication of poverty. Referred to the Committee on Labor and Public Welfare.

S. 2958. A bill to amend the Urban Mass Transportation Act of 1966 to authorize federal grants to states for the provision of rapid transit and commuter services. Referred to the Committee on Banking, Housing, and Urban Affairs.

By Mr. TAPF (for himself and Mr. POO):

S. 2959. A joint resolution to amend the Labor-Management Relations Act, 1947, and the Railway Labor Act to provide for the settlement of certain labor disputes. Referred to the Committee on Labor and Public Welfare.

By Mr. BEALL:

S. J. Res. 161. Joint resolution to establish a Joint Committee on Aging. Referred to the Committee on Labor and Public Welfare.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SPOONG (for himself, Mr. BAKER, Mr. BIBLE, Mr. NELSON, Mr. DOMINICK, Mr. PELL, Mr. EAGLETON, Mr. BELLMON, and Mr. CHILES):

S. 2955. A bill to amend certain provisions of title 18, United States Code relating to the release of certain Federal prisoners, referred to the Committee on the Judiciary.

Mr. SPOONG. Mr. President, I am today introducing a bill with Senators BAKER, BIBLE, NELSON, DOMINICK, PELL, EAGLETON, BELLMON, and CHILES to authorize the continued operation of public health service hospitals and other health centers, including all construction, equipment and terminal stations, to be paid for from a $150,000 feasibility study of the project was strongly endorsed by the Department of Transportation.

That feasibility study was completed in July of this year. It concluded that there were no engineering or economic obstacles to early construction of such a line and that it would be worthwhile to see what will be the area's most important airport and an important branch of the metropolitan Washington rapid transit system.

Mr. President, this rail line is critically needed to improve access to the airport. Without it, Dulles will continue to be underutilized and the Federal Government will continue to spend millions in subsidizing its operation. When opened in 1962, the average annual deficit at Dulles has been about $7 million. For as far ahead as projections have been made, there will continue to be substantial losses.

I would note also that present Metro plans provide for construction of a rapid transit line from National Airport to the Dulles International Airport. Dulles International is one of the finest airports in the world and perhaps the only one specifically planned with the needs and problems of the jet age in mind. Yet, one of its greatest obstacles to its full utilization. It is a problem aggravated by the continued competition of the more centrally located National Airport.

The missing link in the development of the federally owned Dulles has been a means of quick, convenient and inexpensive mass transportation and that is what this bill would authorize. It provides for an extension of the main metro system from just north of Falls Church to the airport utilizing the median strip of the Dulles Access Highway. When completed, it provides for inflation over the median strip of the Dulles Access Highway. When completed, it is an investment in Dulles International Airport. Dulles International is one of the four finest airports in the world, and the only one specifically planned with the needs and problems of the jet age in mind.

I chaired the Congressional Joint Committee on Labor and Public Welfare, and we undertook a comprehensive study of the Dulles International Airport. That feasibility study was strongly endorsed by the Department of Transportation.

It is estimated that Dulles will be the largest single airport in the world, and it is estimated that Dulles will be the largest single airport in the world. Dulles International is one of the four finest airports in the world, and the only one specifically planned with the needs and problems of the jet age in mind.

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320), is hereby amended by adding at the end thereof the following new section:

"SEC. 4207. The Secretary of Transportation shall make payments to the Transit Authority in such amounts as may be requisitioned from time to time by the Transit Authority, if the unexpired portion of the Transit Authority's fiscal year limitation, not to exceed $90,000,000, shall be necessary having to serve behind bars the property of the Transit Authority operated by such Authority.

"(d) It is the intent of the Congress in enacting this section that the transit line authorized in this section be designed and constructed as soon as practicable following the date of the enactment of this section.

"(e) There is authorized to be appropriated to the Interstate Corporation for the Fiscal Year 1974 not to exceed $90,000,000 to carry out the purposes of this section.

"(f) The appropriations authorized in this subsection shall be in addition to the appropriations authorized by section 4(c) of this Act."

By Mr. COOK:

S. 2955. A bill to amend certain provisions of title 18, United States Code, relating to the release of certain Federal prisoners. Referred to the Committee on the Judiciary.

Mr. COOK. Mr. President, today I am introducing a bill which will alleviate a statute that is presently in effect at a group of individuals which our society is for the most part uninterested about, the parolee, or more specifically, the parole violator. This is both classes of individuals who are released from our Federal correctional institutions: First, the mandatory release, an individual who has served the full term of his sentence in prison and who is deemed "as if on parole" until the maximum term to which he was sentenced has expired, less 180 days; and second, the parolee, an individual who the Board of Parole feels has sufficiently indicated during his incarceration that he is prepared to reenter society without necessarily having to serve behind bars the full two and one half years that he was sentenced.

Section 4082 of title 18 of the United States Code provides that when an individual falls under one of the two categories above, he "shall be allowed in the discretion of the Board, to return to his home, or to go to any place where, upon such terms and conditions, including personal reports from such parolee persons, as the Board shall prescribe, and to remain, while on parole, in the legal custody and under the control of the Attorney General, until the expiration of the maximum term or terms for which he was sentenced."

Thus, section 4082 clearly indicates that the parolee, though not longer in federal custody, is still "in the custody of the Attorney General." This legal custody requires the parolee, among other things, to make a complete written report to his probation officer on the status of the parolee's parole officer immediately of any change of residence or change of employment, to abstain from drinking alcoholic beverages, to refrain from associating with persons who have a criminal record. In short, although the individual is no longer behind bars he is still far from being a free man. As a parolee he remains both in theory and in fact, very much in the custody of the Attorney General.

Should this individual violate his parole, however, and be returned to an institution, he receives no credit whatsoever for the length of time he has spent on parole. For instance, if the individual was originally sentenced to 5 years and served 2 of those years and then was paroled and after 2 additional years he violated his parole, he would have to return to an institution to serve the remaining 3 years of his original sentence, receiving no credit at all for the 2 years spent on parole.

Thus, just with this one hypothetical case, we see that the individual above who violates parole will spend 7 years in the legal custody of the Attorney General although he was only sentenced to 5 years. It is possible that the situation might arise where the parolee merely failed to make his monthly written report to his probation officer or was guilty of some criminal violation, and as a result he would have to return to prison and serve the 2 years of parole time over again plus the remainder of his original sentence.

The bill which I am introducing today, amending sections 4205 and 4207 of title 18 of the United States Code, enables a parole violator to receive credit for one half of the time spent on parole before his violation and as a result he would have to return to prison and serve the 2 years of parole time over again plus the remainder of his original sentence.

Certain authorities in the field of crime, including the Brown Commission on the Revision of the Federal Criminal Laws, have recommended that the present provisions of 4205 and 4207 are inequitable because the parolee violator should receive full credit for the time spent on parole should he violate and be recommitted. I feel the realistic solution to this problem, however, is to allow a 50-percent parole violator credit for the full amount of time he was on parole.

Mr. President, the purpose of this bill is by no means to aid those who break the law avoid a lawful sentence. No one is intended to benefit from a parole violator. On the contrary, it is possible that the situation might arise where the parolee merely failed to make his monthly written report to his probation officer or was guilty of some criminal violation, and as a result he would have to return to prison and serve the 2 years of parole time over again plus the remainder of his original sentence.

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Justice is the great interest of man on earth. It is the ligament which holds civilized beings and civilized nations together.

Let us not forget, therefore, that, since justice is the very fabric of our society, it must be available to all of our citizens, rich and poor, white and black, the educated and the illiterate, and even the convicted criminal. Law and Justice should be synonymous, but experience has indicated that, in many cases, they are not. Mr. President, it is my hope that the bill which I am introducing today to benefit parole violators will improve this. And just a little closer. I ask unanimous consent that the full text of the bill be printed at this point in the Record.
such order of parole shall be revoked and the parole terminated, the said person may be removed from the United States, and the United States Code, or is released pursuant to such sections or chapter.

By Mr. JAVITs (for himself, Mr. STENNIS, Mr. EAGLETON, and Mr. Spong): S. 2896. To make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress. Referred to the Committee on Foreign Relations.

WAR POWERS ACT OF 1971

Mr. JAVITs. Mr. President, I send to the desk, for myself, for the Senator from Mississippi (Mr. STENNIS), the Senator from Missouri (Mr. EAGLETON), and also for the Senator from Virginia (Mr. Spong), a copy of the War Powers Act of 1971. To my deep satisfaction, my original submission of the War Powers Act of 1971. I believe that this legislation will prove to be of historic importance and may, in retrospect, be viewed as one of the most constructive legislative by-products of our Nation’s tragic Vietnam experience.

This measure deals with the issue of undeclared war, which has become the great constitutional and legal undercurrent of the recent years. In my judgment, this is the most constructive legislation by-product of the Vietnam experience.

I am urgently honored to be associated in this effort with the distinguished chairman of the Armed Services Committee (Senator STENNIS) and the distinguished Senator from Missouri (Senator EAGLETON). I introduced my original war powers bill on June 10, 1970. To my deep gratification, my original submission of the War Powers Act of 1971. I believe that this legislation will prove to be of historic importance and may, in retrospect, be viewed as the most constructive legislative by-product of our Nation’s tragic Vietnam experience. This measure deals with the issue of undeclared war, which has become the great constitutional and legal undercurrent of the recent years. In my judgment, this is the most constructive legislation by-product of the Vietnam experience.

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Members of such House otherwise determine by yeas and nays; any such bill or resolution referred to a committee after three days and passed one House of Congress shall be considered reported to the floor of the House referring it, to a committee within one day after it is so referred, unless the Members of the House referring it to committee shall otherwise determine by yeas and nays.

(b) Any bill or resolution reported to the floor pursuant to subsection (a) shall immediately become the pending business of the House to which it is reported, and shall be voted upon within three days after it has been reported, unless such House shall otherwise determine by yeas and nays.

EFFECTIVE DATE

Sec. 8. This Act shall take effect on the date of its enactment but shall not apply to hostilities in which the Armed Forces of the United States are involved on the effective date of this Act.

Mr. EAGLETON, Mr. President, I am extremely pleased to join with the senior Senator from New York (Mr. Javits) and the Chairman of the Joint Committee on Armed Services (Mr. STENNIS) in proposing the consensus "war powers" bill.

The Senator from New York and I have been in this area for over 2 years and the Senator from Mississippi has long expressed concern over ever-increasing executive discretion in this area. "Historic," and "momentous" are words that are often used loosely in politics. But, Mr. President, I honestly believe that they are applicable to this consensus bill which was worked out by Senator Javits and myself, with the aid of Senator Javits, and myself over the past 5 months.

The bill represents a broad-based consensus of Senators, ranging the ideological and party spectrum, that the unchecked and constant flow of "war powers" from Congress to the President must be stopped.

A democracy cannot allow the single judgment of one man to take the entire Nation's lifeblood. Important decisions are made in a democracy than to commit its blood and treasures to a test of force. The Javits-Stennis-Eagleton bill assures that this life-and-death decision is made in a democracy rather than in an emergency reached after congressional deliberation.

And that, especially in view of recent history, is "momentous" and "historic," indeed.

Mr. STENNIS, Mr. President, I want to speak briefly on the bill introduced by the distinguished Senator from New York (Mr. Javits). I am pleased to be a co-sponsor of this measure.

The bill represents the result of a joint effort by the Senator from New York, the Senator from Mississippi (Mr. EAGLETON), and myself. Like all such efforts, it is the product of different approaches; it can be improved. I would hope that the Foreign Relations Committee would scrutinize it carefully to insure that the drafting accurately reflects the bill's purpose.

The principles embodied in the bill are, I believe, sound. Under its provisions the President would have the authority, initially to introduce U.S. Armed Forces in hostilities on his own authority only to repel or forestall attacks on U.S. territory or U.S. Armed Forces, or to protect U.S. citizens while they are being evacuated from danger. In other cases specific congressional authority would be required—not only a treaty, but a resolution. Procedures are provided so that Congress will be able to act quickly to approve or disapprove the continuation of hostilities begun by the President on his own authority.

I believe that it should be very clear that this bill does not apply to our current efforts to disengage in Southeast Asia. That is, we must make a new start with the Meuseell ord arguments about the legality of the war in Vietnam. By the same token, care should be taken to draft the bill in such a way that it is clear that only the war in Southeast Asia is exempted—that is, hostilities in other areas in which U.S. military men are engaged in delivering weapons or in some other indirect way are clearly not excepted from the bill.

I believe it should also be quite clear that the President has the authority to deploy forces, for example, on the high seas in an area in which there is tension. Congressional authorization would be necessary in the future before there is a commitment to U.S. participation in war in any form—including the use of U.S. advisers with combat units. But the President has the power of Presi­dent's, as Commander in Chief, to deploy forces to crisis areas and, for example, "show the flag" by sending a carrier to stand offshore.

Finally, I believe it is quite clear that Congress has the authority to legislate in this area of affairs. Some have claimed that the President's powers as Commander in Chief are so broad that they prohibit Congress from legislating in this field. I respectfully, and very strongly, disagree. As the resolution points out, article 1, section 8, of the Constitution specifies that "Congress shall have the power not only to make all laws necessary and proper to effect its own powers, but also all other pow­ers vested by this Constitution in the Government of the United States, or in any department or officer thereof." I am pleased with the study and con­sideration already given to the like measures by the Committee on Foreign Relations and I trust that after further study and consideration, the committee will include the benefits of their own thought and favorably report a bill soon.

By Mr. HARTEK:

S. 2957. A bill to amend the Economic Opportunity Act of 1964 to provide comprehensive legal services for the elderly, and for other purposes.

COMPRESSIVE LEGAL SERVICES FOR THE ELDERLY

Mr. HARTKE, Mr. President, a serious problem confronting the elderly American is that he is constantly bewildered by the governmental bureaucracy he encounters in his retirement years. Unfortunately, the elderly citizen has limited expertise in coping with the intricacies of government, whether social security, medicaid, medicare, or to develop a national program of forceful Government Opportunity Act of 1964. It proposes to implement a comprehensive program to alleviate the legal problems affecting the elderly, a program that would include a legal aid program of three components: including courtroom and administrative advocacy, simplification of the technicalities of Federal and State programs, and research and implementation remedies to problems emanating from governmental programs which do not allow the elderly to live in dignity. In essence, the Federal Government and the States must take coordinated action to develop a national program of forceful advocacy on behalf of senior citizens.

It is necessary to call for a multidimen­sional approach because of the diversity of need confronting the aged of our society. For example, the Economic Opportunity Act to insure that the elderly poor have the assistance of counsel would not remedy the fact that many current programs lack procedural safeguards. Only one thing is clear, and that is, there must be comprehensive research to develop new knowledge to re­solv the issues facing the aged. This new knowledge must be turned immediately toward practical application.
The comprehensive approach must be developed because past attempts at this area have been fragmented and insufficient. This is not to infer that insignificant contributions have been effected by past programs. The facts show quite the contrary. It is common knowledge that the performance of programs of governmental agencies affecting the elderly has been inadequate. Legal Research and Services for the elderly — sponsored by the National Council of Senior Citizens under an OEO grant — is the only project in the Nation which deals exclusively with the legal difficulties encountered by senior citizens. In 1970 the funding for Legal Research and Services for the Elderly was cut, and the number of LRSE projects was reduced from 12 to 5. In essence we have seen a reduction while there should have been an expansion.

To overcome the inadequacies of the past programs, it must be made possible to resource specific programs for immediate action. The type of action that is necessary must extend far beyond our current efforts. In addition, it must be made possible that all governmental agencies affecting the elderly have input into this program. The expertise and knowledge of these agencies can be invaluable in formulating appropriate programs. Furthermore, the process of gathering experience and knowledge that the Administration on Aging has gained in analyzing the impact of the retired senior volunteer programs on the aged is a vehicle that will provide valuable insight into the future development of the legal paraprofessional. Also it goes without saying that the Social Security Administration would also contribute effective solutions to difficulties the elderly face with that agency.

There will be those who say that the advocacy role is not proper for Government. It is a commonplace that government must administer its programs in a way that will encourage and support the participation of the senior citizen.

To coordinate this effort the Office of Economic Opportunity would seem most appropriate. The primary advantage is that within the OEO framework there is an existing vehicle that can be easily adapted to this task. That vehicle is the legal services program. The existence of legal service programs serving the aged has significant advantages in facilitating the development of substantive action. OEO should be authorized to coordinate these programs.

The key to this effort is the identification and resolution of legal problems facing the elderly. There must be no hesitancy to develop new concepts, as well as to expand those that have worked well in the past. For example, the use of the paraprofessional in many programs has provided the vitality and expertise to enable those efforts to survive.

This type of activity must be expanded with constant searching to determine new ways to incorporate the use of the paraprofessional. One vehicle of action might be to investigate the use of paraprofessionals as ombudsmen. These could be persons who would provide a wide variety of information, guidance to senior citizens, and act on their behalf in the dealings of the aged with the Government.

This innovation and experimentation I would place within the framework of the Elderly Action. The comprehensive, input and, in certain areas, legal Research and Services for the aged has demonstrated substantial change of direction in many institutions regarding their awareness of the needs of our senior citizens. In recognizing that the elderly may have unusual legal needs, some law schools have developed programs to provide for legal assistance to the aged. Furthermore, there has been some curriculum change to recognize the special problems of the elderly with constant searching to determine the resolution of legal problems facing the elderly. To cultivate this area, I would recommend that law schools be included in the law schools as well as the rest of the academic community in the efforts to research and resolve these pressing issues.

The suggestions that I have made are in no way to be deemed the exclusive methods to insure that these legal problems are identified and resolved. Rather, it is my hope that the suggestions I have made might serve as a springboard for additional ideas and approaches. The possible course, or courses, of action are unlimited. Activity could range from programs that custom design methods of informing the elderly of their rights under Federal and State law; to drafting legislation providing procedural safeguards against the arbitrary denial of benefits. The need is overwhelming. We must take affirmative steps to correct the injustice that daily befalls our elderly Americans. The existing fragmented approaches to these legal needs must be supplanted by coordinated and immediate action.

In closing I would like to say that there may be those who feel that this action is superfluous in light of pending legislation to establish a National Legal Services Corporation. My action today does not supplant nor detract from the development of such a program. The purpose of this legislation is to focus attention and action on the very needs of the aged of our society. In the event that a National Legal Services Corporation is established it is my hope that a coordinated effort can still be maintained to focus on the needs of the elderly. To fail to do so would mean that we continue to have haphazard and insufficient efforts to resolve the bureaucratic problems they face. We must make a national commitment to achieve justice for the aged. The achievement of that commitment requires a well-funded, coordinated effort.

Mr. President, I ask unanimous consent that a copy of this bill and a selected article on this issue be printed in the Record immediately following my remarks.

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

S. 3957

A bill to amend the Economic Opportunity Act of 1964 to provide comprehensive legal services for the elderly, and for other purposes.

BE IT ENACTED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED, THAT SECTION 222(a)(3) OF THE ECONOMIC OPPORTUNITY ACT OF 1964 IS AMENDED BY ADDING AT THE END THEREOF THE FOLLOWING: "The Director in carrying out the program authorized under this paragraph shall take appropriate action to meet the legal problems of the elderly by providing—

"(A) for the development of programs of training, technical, legal and paraprofessional assistance to identify and resolve the legal problems of the elderly;

"(B) for the collection and dissemination of information to coordinate and evaluate the effectiveness of activities and programs affecting the legal rights of the elderly; and to offer advice and assistance to all to all agencies and programs providing legal services and assistance to the elderly;

"(C) for the establishment of a National Legal Services Corporation. My action today spanned nearly 18 months, established it is my hope that a coordinated effort can still be maintained to focus on the needs of the elderly. To fail to do so would mean that we continue to have haphazard and insufficient efforts to resolve the bureaucratic problems they face. We must make a national commitment to achieve justice for the aged. The achievement of that commitment requires a well-funded, coordinated effort.

A WIDOW TAKES UP LAW AND BEATS IT

(By Robert E. Tomasson)

"He that pleads his own case has a fool for a client."

A determined and articulate 69-year-old Queens widow who acted as her own lawyer has provided a notable exception to that old English proverb by taking on the awesome task of representing herself in a complicated Social Security case—and winning the verdict of a three-judge appeals court.

The case, which spanned nearly 18 months, was argued in two Federal Courts and required scores of pages of legal briefs. It involved the widow's claim for $900 in Social Security death benefits after her husband died in 1964.
December 6, 1971

CONGRESSIONAL RECORD—SENATE

44797

It pitted Mrs. Perkis S. Widermann, a grandmother who has no legal training, against the Secretary of Health, Education and Welfare, Mr. Gardner.

In court, her arguments prevailed over those of his legal representatives—Robert A. Morse, a former judge of the Second Circuit Court of Appeals, who headed their decision last Wednesday.

As Mrs. Widermann said: "I didn't know any, and considering the amount of money due me I didn't think any lawyer would really be interested."

"I was probably foolish," she added, "but I thought I was right and I thought I would win."

Her case, involving numerous technicalities in Social Security regulations, required long days of writing and research in the legal tomes of the New York and Brooklyn libraries and the law library of New York University.

THIRTY-SIX-YEAR APPENDIX

The research produced a 27-page brief, a 36-page appendix of notes and legal citations and, after the Government's lawyers had submitted their arguments, a 13-page memorandum of reply.

The Widermann's main argument was that Mrs. Widermann had been denied retroactive death benefits because she waited more than one year to submit her claim.

Her argument, in effect, was that she had met the substantial if not the procedural requirements for claims-filing by submitting numerous letters and statements in the year following the death of her husband, Roman, on April 4, 1964.

"Her litigating style was not the formal epistemological labyrinth of the legal profession, but it was a combination of clear English and well-documented argument."

In her brief, for example, she wrote: "The intention to claim monthly benefits need not be expressed (Section 205A of the Claimant Manual) and the Widermann, who has no doubt exists about the intent to file, the doubt should be resolved by finding an intent to file (Section 201F of the Claimant Manual)."

Legal citations obscure to the laymen in 1964 are probably understood easily today.

Legal citations obscure to the laymen in 1964 are probably understood easily today.

The Government's main argument was that the Widermanns had made a perfectly splendid argument. By Mr. JAVITS:

S. 2965. A bill to amend the Urban Mass Transportation Act of 1964 to authorize certain emergency grants to assure adequate rapid transit and commuter railroad service in urban areas, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs. URBAN TRANSPORTATION EMERGENCY RELIEF ACT

Mr. JAVITS. Mr. President, I send to the desk a bill to authorize certain emergency grants to assure adequate rapid transit and commuter railroad service in urban areas and ask that it be referred to the appropriate committee. Mr. President, this measure has been introduced in the other body by Mr. Koch and 28 of his colleagues.

This bill is entitled "The Urban Transportation Emergency Relief Act." It is designed to allow the Federal Government to help maintain and repair existing roadbeds and rights-of-way, which include such things as the existing tunnels, elevated structures and tracks, signal systems and power transmission lines. The bill would authorize $1 billion to be spent for such purposes, earmarking $200 million for each of the next 5 years. If it passes, for the New York City area and I expect other urban areas, it could offer sufficient funds to help keep alive the fares on the subways and commuter lines from running away.

This bill represents a bipartisan recognition that the time has long passed for the Federal Government to offer, at a minimum, certain maintenance subsidies, if not operating subsidies generally, to our mass transportation and commuter operations—just as it does for our Nation's highways. The Federal Government should support its "rail-highways" as it supports its "auto-highways" and its waterways and airways. The purpose of this bill is not to provide funds for additional construction of transit lines; its sole purpose is to keep the mass transportation system we have to stay alive. The Federal Government must not stand by negligently, watching transit arteries deteriorate, watching the costs become prohibitive, forcing the poor who must rely almost exclusively on such transportation in the cities.

This bill would provide emergency relief at a time when it must be provided. In no way is it a substitute for more comprehensive, long-term solutions to mass transportation and commuter line problems. My view is that we must proceed to the consideration of transit trust funds to include mass transit and comprehensive regional transportation planning—which I expect Congress will be doing next session.

The purpose was to examine also the feasibility of a system of "no-fare operation" of public transit systems. In the meantime the assistance this bill seeks must be made available. This bill is merely an interim measure to fill a vital one which we need to pass quickly.

 Truly, transportation, especially public mass transportation and commuter service, has become the life-blood of urban society. Seventy million of the population of our country live in these areas and we cannot allow our transportation systems to deteriorate. To refuse aid to these crippled systems is to neglect those who must use them now, especially the poor, and to restrict job opportunities; such refusals mean commerce, too, will suffer and considering the size of urban commerce it means the commerce of the Nation will suffer drastically; additional deterioration of our urban mass transit and commuter lines allows the automobiles to pollute and congest our highways and means less money for our mass transportation and commuter systems."

There is a great imbalance between the amounts the Federal Government spends on mass transit and commuter service, which is disgracefully small.

By authorizing $1 billion more to be spent on mass transit, this bill takes a step to correct this imbalance, but still it hardly matches what has been and will be spent on highways. The $3.1 billion authorized for Federal obligation on mass transit over the five fiscal year period 1971-74 is but a small percentage of the close to $30 billion in Federal funds spent on highway construction.

The estimated $4.7 billion that will be spent this fiscal year alone.

In large measure this imbalance in federal results from the Congress' misplaced consideration of transportation. We have established a trust fund for highways, one for airports, and a separate system for urban mass transportation and commuter service. By this means the strongest muscle walks away with the biggest piece of the pie.

Mr. President, our States and local governments are strapped with fiscal problems. The costs of local services have be-
some almost insurmountable, to the extent that in New York we are facing a real fiscal crisis. We are fast approaching the point in New York when there will be no money left to keep existing public transit systems operating. Federal assistance is good repair, let alone to provide new services. Even though Federal funds—though limited—exist to provide additional mass transit structures it may prove too difficult for State and local government to raise the required matching funds and there is no Federal authority nor money available to at least keep the present systems operating smoothly.

New York's transit and commuter services are in desperate financial condition. Many urban areas face a similar crisis and I am sure still others are fast approaching this condition.

For 1972, the New York transit system will require revenues of approximately $190 million above revenues now derived from the present 30-cent fare. In 1973 this deficit would be approximately $250 million. The anticipated cash need for commuter services in the New York City area will amount to $57 million over amounts generated by the fares. The basic conclusion is that the Federal assistance is in dire financial condition. Many systems operating smoothly.

The deficit will increase to approximately $300 million above revenues from revenues and city area will amount to $57 million over revenues generated by the present law.

I do not dispute that. But other. Clearly , a single system can no longer rely on passenger fares to offset these enormous costs.

Great benefits have accrued to this country—both to urban and rural areas—through the use of highways and airways expenditures. I do not dispute that. But no longer can one form of transportation be considered in isolation from the other. The single unified transporta­tion trust fund is needed; we must have comprehensive planning.

The Department of Transportation on November 22, 1971, in a report entitled "Federal Financial Assistance for Urban Mass Transit Operating Costs," disappointingly rejected the idea that the Federal Government should subsidize operating costs. Rather the report recommended that the Congress pass the President's transportation revenue sharing proposal.

It is unlikely that the transportation revenue-sharing proposal will be enacted quickly. Accordingly, it should not be considered a substitute for the urgent assistance which is needed now to check the deterioration of our public transportation systems. Some interim measures exist but low-balling special aid is all that we can get from the present systems in repair. Even the release of the mass transit money the President has impounded—money which I have strongly urged him to release—would not help this situation, for it is money to be used essentially to build new capital structure.

The Senate is beginning to recognize that the time has come when a greater proportion of the Federal transportation funds should be made available to mass transportation. Recent efforts to delete a provision from the Revenue Act of 1971 which would have shifted certain general revenues into the highway trust fund concept indicate a growing desire to keep money for urban mass transit and commuter services.

The bill I introduce today does not try to subsidize all operating expenses; it merely tries to maintain and keep in good repair those systems we have, and it appears to me that such concept would appropriately complement the Federal present law.

I therefore believe that helping our cities' transportation woes would go a long way to help solve many of our other urban problems. For cities like New York an improved transportation network would add immeasurably to the quality of life. This bill may keep us at least at status quo until we have the opportunity to de­velop the programs and devote the mon­ey to putting transportation systems in the shape we would like to see them.

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

The clerk was directed to print the bill as ordered by unanimous consent, as follows:

S. 2938
A bill to amend the Urban Mass Transpor­tation Act of 1966 to authorize certain emer­gency grants to assure adequate rapid transit and commuter railroad service in urban areas, and for other purposes.

FINDINGS AND PURPOSES
Sec. 2. The Congress finds—
(1) that the continued operation of exist­ing rapid transit and commuter railroad facilities in urban areas is threatened by the lack of resources;
(2) that the Federal Government has a responsibility to help support the operations of these facilities until more adequate long­term programs can be enacted; and
(3) that immediate Federal assistance is needed on an emergency basis to avoid the shutting down of some of these facilities and to prevent fares from escalating beyond the reach of rapid transit and commuter railroad users.

EMERGENCY GRANTS TO MAINTAIN RIGHT-OF-WAY
Sec. 3. The Urban Mass Transportation Act of 1966 is amended by inserting after section 6 through 16 as sections 7 through 17 and inserting after section 5 a new section as follows:

"EMERGENCY GRANTS TO MAINTAIN RIGHTS-OF-WAY
"Sec. 6. (a) Notwithstanding any other provision of law, the Secretary shall make grants to States and local public bodies and agencies thereof in an amount equal to all or a part of the total cost incurred on and after January 1, 1972, of the regular

maintenance and repair of the right-of-way of a rapid transit or commuter railroad facil­ity serving a city or the metropolitan area surrounding a city or the District of Columbia.

(b) Payment of such grants shall be made quarterly, in arrears, based upon such in­terim report as may be submitted by the Secre­tary of Transportation that the said costs have in fact been incurred, subject to subse­quent verification and adjustment by the Secretary of Transportation in the completion of detailed post audits.

(c) Regular maintenance and repair of the right-of-way of public mass transportation and repair of (1) grade, tunnels, subways, bridges, trellises, culverts, and elevated structures, (2) railroad, highway, and street rights-of-way, (3) railway, elevator, and site facilities, (4) signal systems, interlockers (including operation thereof) and grade-crossing warn­ing and protection systems (including opera­tion thereof); and (4) power substations (in­cluding operation thereof) and power trans­mission and distribution systems, including replacement of third rail. Where the cost of maintenance and repair as aforesaid reflects the salary of an employee of such facility, such salary shall be augmented by a factor to approximate payroll taxes, fringe, pension, and retirement benefits, and general overhead and supervision expense attributable to such employee.

(d) A State or local public body or agency shall be entitled to these grants if it has incurred the costs of the regular maintenance and the repair of a right-of-way of a rapid transit or commuter railroad facility. If the public body or agency is charged by law or con­tract with the responsibility to operate or to provide at least 80 per centum of any an­nual deficit arising from the operation of the rapid transit or commuter railroad facili­ty. Even if a State makes an emergency grant to a local public body or agency compar­able to the grant authorized under sub­section (a) of this section, the Secretary shall nonetheless make the grant under such subsection (a).

(e) To finance grants under subsection (a) of this section, there is authorized to be appropriated $200,000,000 for each of the fiscal years 1972, 1973, 1974, 1975, and 1976. Any amount appropriated pursuant to this subsection shall not be con­tinued, and any amount so authorized but not appropriated for any fiscal year may be appropriated for any subsequent fiscal year.

By Mr. TAFT (for himself and Mr. FONG):
S. 2959. A bill to amend the Labor­Management Relations Act, 1947, and the Railway Labor Act to provide for the settlement of certain emergency labor disputes. Referred to the Committee on Labor and Public Welfare.
December 6, 1971

CONGRESSIONAL RECORD—SENATE

S. 2059
A bill to amend the Labor-Management Relations Act, 1947, and the Railway Labor Act to provide for the settlement of certain emergency labor disputes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Emergency Labor Disputes Act of 1971".

Sec. 2. (a) Congress hereby finds—
"(1) that the present procedures established under sections 206-210 of the Labor-Management Relations Act, 1947, and section 10 of the Railway Labor Act for dealing with disputes involving the health or safety of the Nation or a substantial part of its population or territory, or depriving any section of the country of essential transportation services need to be amended to provide greater flexibility in preventing national or regional emergencies created by labor disputes.
"(2) present procedures for resolving such labor disputes need to be amended to prevent the interruption of operations or services essential to the health or safety of the Nation or a substantial part of its population or territory, or deprive any section of the country of essential transportation services created by labor disputes is necessary to prevent impairing the health or safety of the Nation or a substantial part of its population or territory by such disputes and to encourage and maintain free collective bargaining.
"(3) it is the purpose of this Act to make available a range of flexible procedures to be utilized in taking emergency action, to prevent the interruption of operations or services essential to the health or safety of the Nation or a substantial part of its population or territory, or depriving any section of the country of essential transportation services created by labor disputes.

Sec. 3. Sections 206-208 of the Labor-Management Relations Act, 1947, are amended to read as follows:

"Sec. 206. (a) Whenever in the opinion of the President of the United States a threatened or actual strike or lockout or other labor dispute in an industry affecting commerce may, if permitted to occur or to continue, impair the health or safety of the Nation or a substantial part of its population or territory, or deprive any section of the country of essential transportation services, the President may at any time, upon such notice as he may determine, require the parties to the dispute to appear before a board of inquiry to inquire into the issues involved in the dispute and to make a written report to the President within such time as he may determine. The President may appoint a board of inquiry or may make such inquiry on his own motion as he may determine and shall forthwith transmit the final offers and any alternative offers, during such five days, to the Secretary. The board of inquiry shall be composed of three persons, including a representative of the Federal government, who shall be selected by the President, and the President shall file a copy of such report with the Congress and shall make its contents available to the public.

"(b) Upon receiving the report from a board of inquiry the Secretary may institute one or more of the following actions:
"(1) (A) He may issue an order for partial operation specifying the extent and condition of partial operation that must be maintained; or
"(B) The Secretary's order shall be conclusive unless found arbitrary or capricious by a three judge Federal district court, pursuant to section 2284 of title 28, United States Code. The judgment of the court shall be subject to review by the Supreme Court in accordance with section 1253 of title 28, United States Code.

"(2) (A) He may issue an order for partial operation specifying the extent and condition of partial operation that must be maintained; or
"(B) The Secretary's order shall be conclusive unless found arbitrary or capricious by a three judge Federal district court, pursuant to section 2284 of title 28, United States Code. The judgment of the court shall be subject to review by the Supreme Court in accordance with section 1253 of title 28, United States Code.

Sec. 4. (a) A hearing shall be commenced not less than thirty days from the receipt of the report from the President, unless the parties, including the Government, agree to some other time. If the Secretary determines that the implementation of any particular term of the order is not consistent with the conditions of partial operation, he may order the suspension of partial operation, in whole or in part, or refuse to submit a final offer, only to the extent necessary to make it consistent with the conditions of partial operation.

"(b) (A) He may direct each party to submit to him within three days a list of all resolved and unresolved issues in the dispute. The Secretary shall, within four days after the expiration of the three day period, prepare a complete list of the unresolved issues, and within three days send a copy of such list to each party. If the Secretary determines that the implementation of any particular term of the order is not consistent with the conditions of partial operation, he may order the suspension of partial operation, in whole or in part, or refuse to submit a final offer, only to the extent necessary to make it consistent with the conditions of partial operation.

"(c) No person who has a pecuniary or other interest in any organization of employees or employers or any labor organization which is involved in the dispute shall be appointed to such panel.

"(d) The final offers shall be submitted to the Secretary to submit final offers and until the panel makes its selection, there shall be no change in the conditions out of which the dispute arose, except by agreement of the parties. The panel shall have jurisdiction to enjoin any such strike or lockout, or the continuation thereof, in the terms and conditions of employment.

Sec. 5. The panel shall consider only the final offers and alternative offers made pursuant to this subsection A of this section. The panel shall not compromise or alter any final offer or alternative offer. Selection of a final offer shall be based on the content of the final offers and no consideration shall be given to, or shall any evidence be received concerning, the collective bargaining in this dispute including offers of settlement of contracts or agreements, and any alternative offers, during such five days, to the Secretary. The Secretary may select the final offer or alternative offer which he determines to be the most reasonable. The Secretary shall forthwith transmit the final offers and any alternative offers to the parties.

Sec. 6. The final offer selected by the panel, together with the resolved issues shall be binding between the parties, whether or not subsequently signed by both parties thereto.

Sec. 7. The determination of the panel shall be conclusive unless found arbitrary or capricious by a three judge Federal district court pursuant to section 2284 of title 28, United States Code. The judgment of the court shall be subject to review by the Supreme Court in accordance with section 1253 of title 28, United States Code.

"(h) (A) Upon receiving the report from the board of inquiry, the Secretary may direct the Attorney General to petition any district court of the United States having jurisdiction of the parties to enjoin such strike or lockout or the continuance thereof, for a period not to exceed 60 days, if the court finds that such threatened or actual strike or lockout is likely to create an emergency situation which the Secretary determines is necessary to effectuate the purposes of this Act.

"(i) Affects an entire industry or a substantial part thereof engaged in trade, commerce, transportation, transmission, or communication, and any labor organization foreign or with foreign nations, or engaged in the production of goods for commerce; and

"(j) if permitted to occur or to continue, will imperil the health or safety of the Nation or a substantial part of its population or territory, or deprive any section of the country of essential transportation services; it shall have jurisdiction to enjoin any such strike or lockout, or the continuation there of for a period not to exceed 60 days, if the court finds that such threatened or actual strike or lockout is likely to create an emergency situation which the Secretary determines is necessary to effectuate the purposes of this Act.

"(k) In any case, the provisions of the Act of March 23, 1932, entitled "An Act to amend the Railway Labor Act, and to limit the jurisdiction of courts sitting in equity, and for other purposes", shall not be applicable.

"(l) The order or orders of the court shall be subject to review by the appropriate circuit court of appeals and by the Supreme Court of the United States and shall be in accordance with section 2284 and 240 of the Judicial Code, as amended (U.S.C., title 28, sec. 1254).

"Sec. 207. (a) The board of inquiry shall
be composed of a chairman and such other members as the President shall determine, and shall have power to sit and act in any place within the United States at which such public duty may be performed, whether such public duty be performed either in public or in private, as it may deem necessary or proper, to ascertain the facts with respect to the causes and circumstances of the dispute, and to award such relief and claim as justice may require.

"(b) Members of the board of inquiry or panel appointed under section 206(d)(3) shall be paid at the rates prescribed for GS-18 under section 5332 of title 5, United States Code, for working day on the board or panel, together with necessary travel and subsistence expenses.

"(c) For the purpose of any hearing or inquiry conducted by any board or panel appointed under this title, the provisions of sections 9 and 10 (relating to the attendance of witnesses and the production of records) shall apply.

"(d) Any board or panel established under this Act shall be compensated, to the extent allowable under subchapter II of chapter 53 of title 5, United States Code.

"(e) A vacancy on any such board or panel shall not impair the rights of the remaining members to exercise all the powers of such board or panel. Such vacancy shall be filled by the same procedure as provided for initial appointment outlined in this Act.

"Sec. 208. (a) The provisions of this title and orders or determinations issued thereunder shall be服从able upon any court having jurisdiction, to any party thereunto averse.

"(b) Any action brought under this section shall be heard and determined by a three-judge district court on appeal from the order of the board of inquiry. The order or orders of the court shall be subject to review by the Supreme Court in accordance with section 1253 of title 28, United States Code.

"Sec. 209. (a) Notwithstanding any other provisions of this Act, whenever any employer proposes a change in work rules affecting employees as contained in any labor agreement, unless such work rules provide for the compensation of employees for time spent in the performance of such rules, the employer may make such change effective as proposed, if (1) any cost savings resulting from such change in work rules will be shared by all affected employees, as defined in title I of the Labor-Management Relations Act of 1947, and (2) any reduction in the number of employees of such employer contemplated by the proposed change affecting rules will be accomplished by attrition.

"(b) Nothing in this subsection shall be construed to prevent carriers and representatives of the employees from entering into an agreement providing for reciprocal work rules.

"(c) For the purposes of clause (1) of subsection (a) of this section, payments to employees shall be on a per capita basis and shall not be less than four months following the end of each fiscal year. In the event that any employee was not employed by the employer for the entire fiscal year preceding the payment date, the payment to such employee hereunder shall be prorated to reflect only the time actually employed.

"(d) In the event that any representative of affected employees contests the amount of cost savings determined as described in clause (1), subsection (a) of this section, said representative and the employer shall mutually designate and communicate with a public accountant, whether or an individual, partnership, or corporation, which accountant shall make a determina­

ation of the cost savings, which determination shall thereupon be final and binding.

"(e) The provisions of this section shall continue in effect with respect to any emergency board in existence on the effective date of this Act. Disputes hereto­for referred to the Railway Labor Act shall be subject to provisions of this title.

"Sec. 212. Section 10 of the Railway Labor Act is hereby repealed: Provided, That such section shall continue in effect with respect to any emergency board in existence on the effective date of this Act. Disputes hereto­for referred to the Railway Labor Act shall be subject to provisions of this title.

"Sec. 213. Nothing in this title shall be construed to limit the right of any employee to resign from his position of employment.

"Sec. 214. The provisions of the Act to which reference is made in the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, such as the purpose of this Act may apply­

able to any jurisdiction proceeding brought under or to enforce the provisions of this Act.

By Mr. BEALL:

S.J. Res. 181. Joint resolution to estab­lish a Joint Committee on Aging. Referred to the Committee on Labor and Public Welfare.

Mr. BEALL. Mr. President, it is said with some justification that perhaps the most neglected minority in the country today are our senior Americans. Perhaps to no group of people do we owe more of a debt of gratitude than to our senior citizens, for they are responsible, in the main, for the many privileges and opportunities which we as Americans enjoy today.

Hopefully, this neglect will shortly be a thing of the past. I am happy that the White House Conference on Aging was called and that it has now been suc­cessfully concluded.

The problems discussed at the confer­ence attracted national attention. They show that there is a great responsibility among those who serve in Congress to see to it that that attention is not allowed to sag, as it were. Suggestions have been made as a result of the White House Conference on Aging that deserve the attention of the executive and legislative branches. It is our responsibility as members of the legislative branch to see that these suggestions are transmitted into meaningful legislative proposals.

It has been my observation recently that, although our intentions are good, the efforts of Congress so far have been fragmented when it comes to dealing with the problems of the aging. Those problems are not isolated but are the concern of all of us who serve in Congress.

We must erect a structure so that we can deal with these problems which will result in meaningful solutions.

Therefore, so that Congress can deal effectively with the problem which face the aging, so that we can come up with the kinds of solutions necessary, I send to the desk a joint resolution to establish a Joint House-Senate Committee on the Aging. It seems to me that if we can give these problems the kind of attention they deserve, through concentration of our efforts, we can work out meaningful solutions and we will have a joint committee which will have the undivided, the sole responsibility of bringing the problems of the aged to the attention of Congress, then we can come up with a joint resolution, which I called for in the meaning of suggestions to carry out the ideas which were born during the recent White House Conference on the Aging.

I send this resolution to the desk in the hope that it will be acted upon.

This new joint committee will consist of 22 members, 11 Members from the Senate, appointed by the President of the Senate; and 11 Members from the House of Representatives, selected by the Speaker. A similar resolution was intro­duced in the House by Congressman Guezi. The mandated duties of the joint com­mittee will be:

First, to conduct a continuous study and review of the problems of the senior Americans. This will include income, housing, health—including medical re­search, welfare, nutrition, crime prevention, transportation, and greater participation in family and community life.

Second, to study methods of encourag­ing the development of public and private programs which would assist older Americans to take a full part in national life. These senior Americans have a lifetime of learning and they have the knowledge and skills and abilities to contribute to help make a better America.

Third, to develop policies encouraging the coordination of both governmental and private programs dealing with the problems of aging; and

Fourth, to review the recommendations made by the President on the White House Conference on the Aging.

This latter point is most important for senior Americans are tired of hearing only promises of improvements and no action implementing them. I am particularly pleased that President Nixon has indicated that Arthur Flemming, who heads the White House Conference on Aging, will not only be around to follow up the White House Conference but will be retained even beyond that point as a personal consultant on aging matters to the President.

The responsibility for substantive legislation, however, is for the senior Americans is fragmented both in the executive branch and in the legislative branch. For example, at the executive level, the Department of Health, Education, and Wel­fare, the Department of Labor, the Office of Economic Opportunity and the De­partment of Housing and Urban Devel­opment have programs involving se­nior Americans. President Nixon, in order to help coordinate senior citizens pro­grams at the executive level, has created a Special Cabinet Committee on Aging, the latter part of the Council. This ac­tion is needed and helpful.

In the Congress, we have a similar fragmenta­tion problem. The Senate Fi-
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nance Committee has jurisdiction over social security, tax matters, and health insurance, while the Labor and Public Welfare Committee has jurisdiction over such areas of interest to the aged as the Older American Act, health, poverty, and education programs. The Banking, Housing, and Urban Affairs Committee has jurisdiction over the Department of Housing and Urban Development legislation, the Federal Home Loan Bank Board, the Federal Savings and Loan Insurance Corporation, and the Federal Housing Administration. The Agriculture Committee handles food stamps. It would be very difficult to restructure the jurisdiction of the respective committees because the problem of older Americans is beyond the boundaries of any single jurisdiction. The Joint Committee envisioned by this joint resolution would not be given legislative authority. In many ways, it would be like the Select Committee on Aging, but it would have the additional asset of bringing the House and Senate together for a joint examination and study of the problems of Senior Americans.

Mr. President, there are 20 million Americans age 65 and over. I can think of no group that is more deserving of increased attention. They have through their sacrifices during World War II, and they continue to live their retirement years in security, independence, and dignity. These citizens are largely responsible for the prosperity and greatness that is America today.

These citizens through hard work and determination pulled themselves and their country from the depths of a great depression. Many of them fought large wars. They win the right to their Social Security, Medicare, and Medicare. They serve our nation in public service. They are many ways it would be like the Select Committee on Aging, but it would have the additional asset of bringing the House and Senate together for a joint examination and study of the problems of Senior Americans.

Northern anticipated Canadian concerns about foreign investment and created a subsidiary operation under Canadian control. The Northern Company's success in discovery of natural gas in Alberta, it has twice been denied an application to export any gas to the United States. Northern's second application was denied by the U.S. energy resource.

The Northern Co. experience is an example of an area which needs clarification in United States-Canadian trade relations. Policies of the two governments on trade in energy resources must be clarified before U.S. investors can be expected to make further capital commitments, commitments which will provide benefits over the long term for both nations.

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It is my purpose, with this resolution, to meet some of the problems which exist or may come into being in United States-Canadian relations. I vote in favor of this resolution.
Phrasized over and over again that Berlin should be integrated into the political and economic life of West Germany. In support of this principle—a principle spelled out recently in a postwar series of agreements as well as the West German Constitution—we have committed the resources and prestige of the United States on scores of occasions since World War II. It is particularly important, therefore, because it is the litmus paper of American and European resolve. Failure to support those rights with respect to Berlin which we have supported in the past, might lead to a public revelation of secret diplomacy as it is, would be taken as an unmistakable signal to the Soviet Union and her Warsaw Pact client states that the time was ripe to initiate a political offensive designed to achieve the destruction of West European unity and the dissolution of the NATO alliance. Should such a political offensive succeed, the inevitable result would be the "decapitation" of Europe. Because without a spirit of unity and without a strong American military presence, the nations of Western Europe—especially Germany—will not be able to act in concert in a manner which would run counter to important Soviet objectives.

There are elements of the recently signed Quadrupartite Agreement on the status of Berlin which concerns me deeply. It is my view that the trend of events which has produced the Quadrupartite Agreement merits the closest congressional scrutiny. Indeed, the terms of the Quadrupartite Agreement strongly suggest that there should be congressional study of an agreement designed to achieve the destruction of West European unity and the dissolution of the NATO alliance. The agreement appears to make a number of crucial concessions concerning the status of Berlin—particularly the idea that Berlin is not an integral part of West Germany—in exchange for an extended list of assurances that the Soviet Union will not harass traffic between West Germany and West Berlin. It seems that the heroic diplomatic and military efforts which have been made since World War II to preserve the association of West Berlin with West Germany may have come to naught if we surrender through negotiation what the Soviet Union could not win by intimidation and blackmail.

There is evidence that there is a growing realization among Germans that the consequences of the Quadrupartite Agreement may not be in their interests either. In a recent address before the National Press Club, West German Chancellor Ludwig Erhard stated that the West had conceded important political ground. He went on to say:

"For instance, it diminished the influence of the Federal Republic in West Berlin in accepting that no sessions of the Bonn Parliament nor the Congress, which elects the Federal President, may take place in West Berlin."

On the other hand, the situation in East Berlin was not even mentioned, where, contrary to earlier agreements, the East German regime has installed its governmental offices. All indications are that its men are arming the East German troops which are stationed there. No West German soldier may of course—Completely incredible is the concession to establish a Soviet consulate general in West Berlin, a concession upon German urging. The Berliners already call this the future home of all spies who were kicked out of Britain recently.

I ask unanimous consent that the complete text of Senator Gurney's remarks and the full text of the Quadrupartite Agreement be printed in the Record.

It is my intention to continue to examine the character of this and future agreements with a view toward their consistency with American interests in Europe, lest we one day find that our interests have been severely compromised by a series of small steps.

Another parallel of the same items were ordered to be printed in the Record, as follows:

**STATEMENT BY AXEL SPRINGER**

Ladies and gentlemen, your chairman assumes the right to be addressed in English. Because as you know we Germans write the longest articles in the world and make the longest speeches—with the possible exception of the Russians and the Cubans.

The duty to be brief reminds me of a very pleasant ceremony at the Chalm Weimann Institute in Belovod, Israel. Before we, the designated Honorary Fellows of the Institute, got our caps and gowns, there were several speeches; they all spoke in English.

One of them, the British Ambassador, solved this problem in a very humorous way: he purposely spoke so fast, that nobody understood him. But he stuck exactly to the given time, and the results were waves and waves of laughter in the audience.

Don't be alarmed. I cannot speak English that rapidly.

Serious, I am grateful and happy to be here today to talk to you about Berlin.

Before I get to Berlin allow me to introduce myself by telling you the four basic principles to which all journalists of our newspapers are bound.

(1) Reunification of Germany in freedom, if possible within the framework of a United Europe.

(2) Reunification between Jews and Germans, which includes strong support for the liberties of the Jews.

(3) Rejection of any kind of political dictatorship.

(4) Defense of the free market economy with social responsibility.

When I said before that I am grateful to be here at this time, my main reason is that I believe we are witnessing today the beginning of a Berlin solution, as many want us to believe, the beginnings of a new future Berlin crisis, different from earlier ones.

Many who compared the building of the Wall in 1961 to a painful amputation, how fort they really mean the city has been infected by a dangerous creeping illness.

It is, therefore, not a matter of accident that people are leaving Berlin, and not in great numbers. The census officials of the city are alarmed. Many more Berliners, they say, have left the city in the past months than those who left even after the building of the Wall.

Some years ago I have been calling attention to this danger.

I remember especially a dinner in Bonn, at which I spoke on August 11th, 1961, Next to me sat the late Edward R. Murrow, then head of the OUSA.
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At that time, once again, access routes to Berlin were under discussion, and Mr. Murrow seemed deeply concerned. "You are all looking in the wrong direction," he said. "Watch out for a move to cut off West Berlin altogether, not the East by barbed wire and military units."

Mr. Murrow seemed more than interested and urged a detailed continuation of our talk a few days later, when he planned to be in Berlin.

One night later the barbed wire was actually strung over the dividing line, and a short while afterwards a very excited and agitated Ed Murrow sat in my office and bemoaned the fact that the miserable Soviet satellite regime which is neither German, nor democratic, nor a republic, but publicized as the "redening evening skies over the free part of Berlin light up the hopes of men on the other sides of the Berlin boundary."

Willy Brandt spoke like this for many, many years. But in the past two years something almost unthinkable has happened in Germany.

After the last federal election campaign in 1969, during which no political party was able to form a coalition government, a policy was planned, the traditional, generally accepted, common political basis of all three previous German democracies. The great democratic slogan, "vis-a-vis the communists broke apart. (As an aside let me add, that this reported by a man who in past elections has given his vote to everyone of these parties, as the occasions demanded.)"

Let me make something else clear: I am not here to criticize Mr. Brandt or his policies. This my political friends and I do at home. And be assured, what I am saying here is printed again and again in Germany.

But because our papers are printed in German, I play the role of the interpreter to you today.

As to the Nobel prize given to Willy Brandt, I don't know exactly what my papers have written. I am told, that in my absence, they have been away from home for two weeks.

Personally, I am very happy that a German is given this honor in connection with the new Germany I like very much. For me, in this respect, Willy Brandt is a link in the chain of all German chancellor's who, since the founding of the Federal Republic, all of whom worked for peace. I do not like the prize, though, as approved by some quarters of the West because I consider these policies very dangerous. I shall explain why in detail in the course of this speech.

Many are warning, who, like myself, have all respect for Willy Brandt's political past.

One out of many of these I quote: "The early Brandt was a deliberate decision motivated by politics and not by economy. Almost five years ago we opened our 20-story party headquarters of Checkpoint Charlie and seemingly outside of the ugly and dangerous Berlin Wall. We opened it not a small enclave. It covers an area in which you could put the cities of Munich, plus Frankfurt, plus Dusseldorf, plus a large hunk of Hamburg too.

From my office window I look deep into the other, the Eastern part of the city, and I invite every one of you here to come visit us in Berlin, and share with me this depressing but illuminating view.

A few days before the Brandt said: "Berlin exists for the vision, some day once again to be the capital of a free and united people. The note of alarm from Berlin will continue to exist, even if people elsewhere should get tired."" Let me add two other quotes from earlier speeches:

"We must get used to the fact that Russia insists on treating and denouncing Berlin as an independent state, and that they say, a fuse in the powder barrel, a foreign body. But behind the Soviet demand for a treaty with the two forms of state on German soil, one must see the inescapable—desire on the Soviet part to pocket Berlin, immediately or bit by bit; there is also the threat of World War II as the Soviet Union sees them."

No one could have put it more clearly. Nor this: "For anyone who put up with the partition of Germany, Berlin would become unnecessary. Berlin upsets the all too comfortable illusion of that miserable Soviet satellite regime which is neither German, nor democratic, nor a republic, but publicized as the "redening evening skies over the free part of Berlin light up the hopes of men on the other sides of the Berlin boundary."

Willy Brandt spoke like this for many, many years. But in the past two years something almost unthinkable has happened in Germany.

When shortly after the war the war the Soviet Union seemed to have been revealed to the latter group, and with good reasons. We in the West focus our eyes on measures of disarmament, arms limitations, the communists in the Soviet Union however give only lip service to such intentions, and at the same time build up their armed forces, and do so in such a way and with such speed, that soon they may be the world's number one military power.

This, by the way, is not only the opinion of disillusioned publisher from Berlin. It has been confirmed to me by top intelligence officers from my own country as well as from the United States, Britain, from Switzerland and from Israel.

What is to be done?

One way to be presented to us to be answered is a very simple one: Will we see in the last third of our century a paz americana or a paz sovietica?

One excludes the other. Paz americana would mean continued hope for all mankind; paz sovietica, new dark ages in our time.

You, our American friends, after your victory in 1945, had the wisdom to help rebuild Europe, and to protect it from the vengeful revenge of your own, your former enemy. This is never forgotten.

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to this monstrosity. And if we keep quiet, if we fail to create permanent worldwide moral pressure, ten years from now the Wall will still be here, will be an accepted "reality."

Today, ten years later, the Wall is still there. This instance has been silently tolerated by the West in the Berlin agreement, which was signed only a few weeks ago.

Concerning these treaties, a friend of mine, a high official in a country which is also under pressure and would accept no accords, told me recently: "Please explain to me the Russian "political" in which your country is called to accept the German reunification."

These treaties, in my mind, are so dangerous, not only because they give away German rights without getting anything back in return, but because they are the first sign of a new "renversement des alliances", reversal of alliances, as Bismarck called it.

And this would certainly be a catastrophe. Without the alliances of the West, which was built with your help and with America as the leading member, the free world would lose moral pressure, and the Soviet bloc would be stronger. The next step, according to the Soviet timetable, would be the so-called European Security Conference. Here the so-called, long-range aim is to find a political and a legal justification for the demand, that all troops return home from foreign soil. This in turn leads to the demand that the Soviet Union might retreat beyond the new Polish eastern border, and that the American units retire beyond the Oder.

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The Russians plan to have the European Security Conference by spring 1972. During his visit in the Crimea, near Yalta, Willy Brandt, said: "It is part of the timetable. Or, so I have been informed.

The Soviets expect that next spring President Nixon will so solve the existing situations, that only little energy can be spared by him for other matters. This the Russians published.

It appears that the British government has chiefly recognized this situation and tries to at least postpone this conference. I hope it succeeds.

If the Moscow and the Warsaw treaties and the Berlin agreements become effective, and if the Soviets reach their goal at a European Security Conference, Russia would become the dominant power over all of Europe.

However, the majority of Europeans and most certainly the majority of my German countrymen still hope for the peaceful reunification as 30 per cent of them have already not 30 per cent of them have already. And these are the facts, and the Soviets and their allies already speak and act accordingly.

Believing that self-determination is a basic political right, I, for one, would have been happier, had it been possible to put the Berlin agreement up for a referendum vote to the people of West Berlin.

Ladies and gentlemen! "Berlin exist for the vision some day to be the capital of a free, and united people," said. Willy Brandt in former times, as I have quoted earlier. This is the vision of all my American Presidents from Harry S. Truman to Richard M. Nixon.

Without this vision, what will Berlin be? To a city also, the proverb applies: "It shall not live by bread alone." Are these the words of a German national feeling?

If I speak of reunification, I think mainly of bringing freedom and civil liberties to the German people, of realizing a return to my country. Reunification on other terms is for me unthinkable.

But the question has become content, because at last Germany has found itself on the right side in world politics. It was on the side of the United States and the United States, on the side of Israel.

The German Chancellor claims that this will continue. I do not and I am not sure.
D. Representation abroad of the interests of the Western sector of Berlin and consular activities of the Union of Soviet Socialist Republics in the Western sectors of Berlin. In the Western sectors of Berlin can be exercised as set forth in Annex IV.

PART III—FINAL PROVISIONS

This quadripartite agreement will enter into force immediately upon the final quadripartite protocol to be concluded when the measures envisaged in Part II of this quadripartite agreement and in its annex have been fulfilled.

Done at the building formerly occupied by the Allied Control Council in the American sector of Berlin, this 28th day of September, 1971, in four originals, each in the English, French and Russian languages, all texts being equally authentic.

ANNEX I

Communication from the government of the United of Soviet Socialist Republics to the governments of the French Republic, the United Kingdom and the United States of America.

The government of the United of Soviet Socialist Republics to the governments of the French Republic, the United Kingdom and the United States of America.

The governments of the French Republic, the United Kingdom and the United States of America, which are Part II(B) of the quadripartite agreement of this date and after consultation with the government of the Federal Republic of Germany, have the honor to inform the Governments of the French Republic, the United Kingdom and the United States of America:

1. Transit traffic by road, rail and waterways through the territory of the German Democratic Republic will be limited to the usual procedures entered into by the Federal Republic of Germany. Inspection procedures will be limited to the inspection of vehicles and accompanying documents.

2. In cases where there is sufficient reason to suspect that unsealed conveyances contain either goods or material put on board along the designated routes or persons or material put on board along these routes, the competent authorities may perform inspections. Procedures for dealing with such cases will be agreed by the competent German authorities.

3. The government of the Federal Republic of Germany will be represented in the Western sectors of Berlin by the authorities of the three governments and to the senate by a permanent liaison agency.

ANNEX II

Communication from the government of the United of Soviet Socialist Republics to the governments of the French Republic, the United Kingdom and the United States of America.

The governments of the French Republic, the United Kingdom and the United States of America, which are Part II(B) of the quadripartite agreement of this date and after consultation with the government of the Federal Republic of Germany, have the honor to inform the Governments of the French Republic, the United Kingdom and the United States of America:

1. They declare, in the exercise of their rights, that the ties between the Western sectors of Berlin and the Federal Republic of Germany will be maintained and developed. It will be done by the most simple, expeditious and preferential treatment provided by international practice.

2. Accordingly,

(A) The Federal Republic of Germany, in accordance with the usual procedures applied in the Federal Republic of Germany and the Federal Republic of Germany, will maintain and develop cultural, economic, touristic and other exchange activities, with priority, among other things, for the transport of civilians by road, rail and waterways between the Western sectors of Berlin and the Federal Republic of Germany, and for the transport of goods by road, rail and waterways between the Western sectors of Berlin and the Federal Republic of Germany. Inspection procedures will be limited to the inspection of vehicles and accompanying documents.

(B) The Federal Republic of Germany may perform consular services for permanent residents of the Western sectors of Berlin.

(C) The Federal Republic of Germany may perform consular services for persons who have a special interest in the Western sector of Berlin.

(D) The Federal Republic of Germany, in accordance with the usual procedures applied in the Federal Republic of Germany, may perform consular services for permanent residents of the Western sectors of Berlin and their permanent residents, who have a special interest in the Western sectors of Berlin. Invitations will be issued by the senate or jointly by the Federal Republic of Germany and the Federal Republic of Germany.

3. The three governments authorize the establishment of a consultative general of the French Republic, the United Kingdom and the United States of America and the duty of the French Republic, the United Kingdom and the United States of America.

The government of the United of Soviet Socialist Republics, with reference to Part II(D) of the quadripartite agreement of this date and to the communication of the government of the French Republic, the United Kingdom and the United States of America, with regard to the representation abroad of the interests of the Western sectors of Berlin and their permanent residents, has the honor to inform the governments of the French Republic, the United Kingdom and the United States of America:

1. The government of the United of Soviet Socialist Republics takes note of the fact that the three governments maintain their rights, certified by the quadripartite agreement of this date, with regard to the representation abroad of the interests of the Western sectors of Berlin and their permanent residents, who have a special interest in the Western sectors of Berlin, and their permanent residents, who have a special interest in the Western sectors of Berlin, and their permanent residents, who have a special interest in the Western sectors of Berlin. Such representation will be expanded.

2. Arrangements and supplements the provisions of paragraph 1 to provide for fees and tolls and for other costs related to traffic on the communications routes and between the Western sectors of Berlin and the Federal Republic of Germany, and on the remote maintenance of adequate roads, facilities and installations used for such traffic, may be made in the form of an annual lump sum paid to the French Republic and to the Federal Republic of Germany, and the Federal Republic of Germany and to the Federal Republic of Germany, and the Federal Republic of Germany, and the Federal Republic of Germany.

3. Arrangements and supplements the provisions of paragraph 1 to provide for fees and tolls and for other costs related to traffic on the communications routes and between the Western sectors of Berlin and the Federal Republic of Germany, and on the remote maintenance of adequate roads, facilities and installations used for such traffic, may be made in the form of an annual lump sum paid to the Federal Republic of Germany and to the Federal Republic of Germany, and the Federal Republic of Germany and to the Federal Republic of Germany, and the Federal Republic of Germany.

4. Arrangements and supplements the provisions of paragraph 1 to provide for fees and tolls and for other costs related to traffic on the communications routes and between the Western sectors of Berlin and the Federal Republic of Germany, and on the remote maintenance of adequate roads, facilities and installations used for such traffic, may be made in the form of an annual lump sum paid to the Federal Republic of Germany and to the Federal Republic of Germany, and the Federal Republic of Germany and to the Federal Republic of Germany, and the Federal Republic of Germany.

5. Arrangements and supplements the provisions of paragraph 1 to provide for fees and tolls and for other costs related to traffic on the communications routes and between the Western sectors of Berlin and the Federal Republic of Germany, and on the remote maintenance of adequate roads, facilities and installations used for such traffic, may be made in the form of an annual lump sum paid to the Federal Republic of Germany and to the Federal Republic of Germany, and the Federal Republic of Germany and to the Federal Republic of Germany, and the Federal Republic of Germany.

6. Arrangements and supplements the provisions of paragraph 1 to provide for fees and tolls and for other costs related to traffic on the communications routes and between the Western sectors of Berlin and the Federal Republic of Germany, and on the remote maintenance of adequate roads, facilities and installations used for such traffic, may be made in the form of an annual lump sum paid to the Federal Republic of Germany and to the Federal Republic of Germany, and the Federal Republic of Germany and to the Federal Republic of Germany, and the Federal Republic of Germany.

ANNEX IV

A. Communication from the government of the French Republic, the United Kingdom and the United States of America to the government of the Union of Soviet Socialist Republics.

The governments of the French Republic, the United Kingdom and the United States of America, with reference to Part II(D) of the quadripartite agreement of this date and after consultation with the government of the French Republic, the United Kingdom and the United States of America, have the honor to inform the Governments of the French Republic, the United Kingdom and the United States of America:

The governments of the French Republic, the United Kingdom and the United States of America maintain their rights and responsibilities relating to the representation abroad of the interests of the Western sectors of Berlin and their permanent residents, including those rights and responsibilities which may be held in the Western sectors of Berlin, and in relations with other countries.
2. Provided that matters of security and status are not affected, for its part it will raise no objections.

(A) The performance by the Federal Republic of Germany of consular services for permanent residents of the Western sectors of Berlin;

(B) In accordance with established procedure, the extension of the Western sector of Berlin of international agreements and arrangements entered into by the Federal Republic of Germany provided that the extension of such agreements and arrangements is specified in each case;

(C) The representation of the interests of the Western sectors of Berlin by the Federal Republic of Germany in international organisations and international conferences;

(D) The participation jointly with representatives from the Federal Republic of Germany and permanent residents of the Western sectors of Berlin in international exchanges and exhibitions, or the holding in those sectors of meetings of international organisations and international conferences as well as exhibitions with international participation, taking into account that invitations will be issued by the senate or jointly by the Federal Republic of Germany and the senate.

3. The government of the Union of Soviet Socialist Republics, hereby notes that the three governments have given their consent to the establishment of a consulate general of the USSR in the Western sector of Berlin to be accredited to the appropriate authorities of the three governments, for purpose and subject to provisions settled in their communication as set forth in a separate document of this date.

F I N A L  Q U A D R I P A R T I T E  P R O T O C O L

The governments of the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, the United States of America and the French Republic,

Having in mind Part III of the quadripartite agreement of Sept. 3, 1971, and taking note with satisfaction of the fact that the agreements and arrangements mentioned below have been concluded, have agreed on the following:

1. The four governments, by virtue of this protocol, renounce and hereby terminate the quadripartite agreement, which, like this protocol, does not affect quadripartite agreements or decisions previously reached.

2. The four governments proceed on the basis that the following agreements and arrangements concluded between the competent authorities of the three countries will be simultaneously entered into force with the quadripartite agreement:

To be filled in after agreements concluded

3. The quadripartite agreement and the consequent agreements and arrangements of the competent German authorities referred to in this protocol settle important issues examined in the course of the negotiations and shall be forthwith proclaimed.

4. In the event of a difficulty in the application of the quadripartite agreement or any of the agreements and arrangements which any of the four governments considers serious, or in the event of non-implementation of any part thereof, that government shall have the right to draw the attention of the other three governments to the provisions of the quadripartite agreement and in the event that there shall be a subsequent quadripartite consultation in order to ensure the observance of the commitments undertaken to bring to the attention of the three governments.

The agreement of personnel to the consulate general and to permitted Soviet commercial organizations and their dependents may reside in the Western sectors of Berlin upon individual authorization.

The property of the Union of Soviet Socialist Republics and embassies or consulates may be seized in the Western sectors of Berlin, and a written statement at Am Sandwerder 11 may be used for purposes to be agreed upon by appropriate representatives of the People's Chamber of the government of the Union of Soviet Socialist Republics.

Details of implementation of the measures and a time schedule for carrying them out will be agreed between the four ambassadors in the period between the signature of this note and the final quadripartite agreement envisaged in that agreement.

The three ambassadors to the Soviet ambassadors.

The ambassadors of the French Republic, the United Kingdom of Great Britain and Northern Ireland, and the United States of America have the honor with reference to the statements contained in Annex II of the quadripartite agreement to be signed on this date concerning the relationship between the Federal Republic of Germany and the Western sectors of Berlin, of which a copy is enclosed, agree that the quadripartite agreement of the Intention to send to the chancellor of the Federal Republic of Germany immediately following agreement on the final quadripartite agreement a letter containing clarifications and interpretations which represent the understanding of our governments with regard to the statements contained in Annex II of the quadripartite agreement. A copy of the letter to be sent to the chancellor of the Federal Republic of Germany is attached to this note.

The ambassadors avail themselves of this opportunity to respond to the ambassador of the USSR the assurances of their highest consideration.

(Signed by the three ambassadors.)

Mr. Ambassador,

Your Excellency the Chancellor of the Federal Republic of Germany, Bonn.

Your Excellency:

With reference to the quadripartite agreement signed on Sept. 3, 1971, our governments wish by this letter to inform the government of the Federal Republic of Germany of the following clarifications and interpretations of the statements contained in Annex II, which was the subject of consultation of the governments in connection with the quadripartite agreement.

In the absence of the final quadripartite agreement the following interpretations shall apply to the statements contained in Annex II of the quadripartite agreement.

A. The statements contained in Annex II of the quadripartite agreement which reads: "... will not perform in the Western sectors of Berlin constitutional or official acts which contradict the provisions of Paragraph 1. shall be interpreted to mean acts in exercising the constitutional or official authority over the Western sectors of Berlin.

B. Meetings of the Bundestag will not take place and plenary sessions of the Bundestag and the Bundesrat will continue to take place in the Western sectors of Berlin. Single committees of the Bundesrat and Bundestag will continue to meet in the Western sectors of Berlin in connection with maintaining and developing the ties between those institutions and the Federal Republic of Germany. In the case of fractionation, meetings will not be held simultaneously.

C. The liaison agency of the Federal Government in the Western sectors of Berlin includes departments charged with liaison functions in their respective fields.

December 6, 1971
Congressional Record - Senate

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THE AIR WAR IN VIETNAM

Mr. GRIFFIN. Mr. President, some Americans have been under an erroneous impression that there has been no deceleration of the air war in Southeast Asia. A recent article in the authoritative Christian Science Monitor makes clear that the air war, as well as the ground war, in Vietnam has been winding down. I ask unanimous consent that the text of the article be printed in the Record.

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

From the Christian Science Monitor, Dec. 2, 1971

The term "state bodies" in paragraph 2 of Annex II shall be interpreted to mean: the federal president, the federal chancellor, the federal ministers and ministers and the branch offices of these ministries, the Bundestag and the Bundestags, and the Bundestags parties.

(Soviet Reply Note.)

The ambassador of the Union of Soviet Socialist Republics inquired as to the confirmation by the hard copy of the note of the ambassadors of the French Republic, the United Kingdom, of Great Britain, United Northern Ireland, and the United States of America, dated Sept. 3, 1971, and takes note of the communication of the three ambassadors.

CONGRESSIONAL RECORD - SENATE

December 6, 1971

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From the Christian Science Monitor, Dec. 2, 1971

WASHINGTON—This air war in Southeast Asia is declining steadily.

Official figures on bomb tonnages and sortie raids by attack and fighter planes, as well as by B-52's operating out of Thailand, show a continuing drop.

The air war is falling off at a much slower pace than the involvement of Americans in the ground war in South Vietnam. But its intensity is being lowered.

The decline can be seen in South Vietnam, Cambodia, and Laos. Only along the trail leading out of North Vietnam and into Cambodia and Vietnam through Laos does the air war seem to be holding at a relatively constant level.

However, the thorough withdrawal of U.S. Air Force and Navy attack and fighter planes, plus B-52's, will inevitably mean that the war along the Ho Chi Minh Trail must also decline.

Critics of President Nixon's war policies have charged that air warfare is being substituted for ground warfare as American troops are withdrawn.

In one sense, this is true, as it has been announced administration policy to keep the air capability of allied forces up, to cover the withdrawal process.

However, in a deeper sense, the decrease in the air war has been increased because of the decrease on the ground seems to be meaningful, from evidence available here.

In a study sponsored by the Center for International Studies at Cornell University, it was concluded that "U.S. air activity in Indochina has been measured either by sortie raids or bomb tonnages, has declined substantially in the years since the war reached its climax."

ONE CARRIERS ON STATION

One graphic illustration of the drop in the air war is simply the number of planes available now to carry it out. At one point, when the report was made, the U.S. Navy regularly had three carriers operating on Yankee Station, off the coast of Vietnam. Now there is only one.

At one point, B-53 strikes were launched from both Guam and Thailand. Now there are, repeated attacks by jets as high as 40 B-52's available for air missions in Southeast Asia, and all of them are flying out of U Tapao air base in Thailand.

In all, energetic aircraft strength maintained by the U.S. for use in Indo-China has dropped by more than one half.

In the report, it was reported that "by the end of this year, the Nixon administration will have dropped substantially in the years since the air war along the Ho Chi Minh Trail must also decline.

In South Vietnam, rates have dropped from a peak of around 200,000 in 1966 to 50,000 to 60,000 now. In Cambodia, sortie raids are running at between 25,000 and 30,000 per year. The Cornwell studies indicates that roughly, for July 1971, sortie raids on Cambodia and Laos were 230,000, as much tonnage of bombs as the Johnson administration did in four.

WINNING DOWN DRAG

The figures on bomb tonnages indicate that winning is now a slower process than escalation. The main reason, the charge can be made is that it is taking longer to bring up the U.S. war effort to a close that it did to intensify it in the late 1960's.

Tonnage figures made available here by the Pentagon cover all air-delivered munitions expended in Southeast Asia by the allies, including South Vietnam.

The figures disclose that the allies expended 959,210 tons in 1966, 892,189 in 1967, 1,437,370 in 1968, 1,387,295 in 1969, and 977,446 in 1970. Through October of 1971, tonnage dropped to 717,087 tons. A projection through the end of the year indicates that roughly 760,000 tons will be dropped in 1971.

SORTIES DROPPED

Information in the Cornwell study illustrates some of the declines. In North Vietnam, for instance, annual fighter-bomber sorties (one mission by one plane) have dropped from a high of more than 100,000 in 1967 to the hundreds in 1970, and 1971, following the bombing halt.

After the bombing halt was declared in North Vietnam, much of it was shifted to Laos where annual sorties topped 140,000 in 1969. The roughly 60,000 sorties will apparently be roughly equalled in 1971.

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The decline in bomb tonnages has brought a shift of the destruction away from populated areas, which many sources consider an encouraging trend.

FREEDOM OF THE PRESS

Mr. ERVIN. Mr. President, for some weeks, the Subcommittee on Constitutional Rights of the Senate Judiciary Committee has been holding hearings on the freedom of the press. I ask unanimous consent that the following article and editorial be printed in the body of the Record:


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

From the Salisbury (N.C.) Post, Oct. 3, 1971

Senator Ervin Fights For People's Freedom

North Carolina's Senator Sam Ervin, generally appraized as a conservative, has established himself as one of history's greatest statesman-defenders of the United States Constitution.

Senator Ervin's continuing battle with the federal establishment is refreshing and much needed in this day when many bureaucrats stamp "confidential" on purchase orders, contracts covering classified by the end of the year indicates that roughly 760,000 tons will be dropped in 1971.

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one of the most peevish press interviews ever conducted by a responsible national leader during a campaign.

He blamed the press for his defeat. Parametrically he said he was retiring to private life to deprive the press of a whipping boy.

Of course since Mr. Nixon became President, he has been quoted on record denying accidental or planned leaks. This was no necessity, because Vice President Agnew's phrases are too familiar to need repeating.

They do not consider that their television have their infinite perfections to which this newspaper lays claim to its share.

They do not consider that many of his criticisms of the news media have been valid.

We believe the upshot faced to Senator Sam Ervin is that they have been said by a man who is but a heart beat away from the Presidency of the United States. Mr. Agnew.

It had been said by the chairman of the National Republican Committee, it would have seemed much more agreeable to us to have their courage tested in withstanding federal actions that seem intimidating. They don't want to reveal confidential sources, yield up their notes or hearing tapes; the Federal Communications Commission has no better yardstick for measuring the fairness doctrine than any other.

Besides, the founding fathers in writing the First Amendment, as well as the rest of the Constitution, is that government, in this society, the people. And that's the way it should be.

[Nixon Commands News Coverage (By Peter Lisagor)]

To most people in the news business, it is virtually impossible to be too sensitive, too quick to see a public official or an unusual repetition. The Federal Communications Commission has no better yardstick for measuring the fairness doctrine than any other.

All of this is being argued before the Senate Subcommittee on Constitutional Rights, at the insistence of the Constitution—the inalienable right of each of us to shoot his mouth off and publish what he wants to without government interference.

Ervin's leap takes the form of hearings, provided by the First Amendment remains so far as the effectiveness of government itself is concerned.

In this situation, the reaction of the press to any official criticism may strike some people as little short of hysterical. Newspapers, certainly, have no reason whatever to be intimidated by any such attack. They are not required by law to any further legislation to the guarantees provided by the First Amendment remains most obscure.

[First Amendment is Already Strong Enough (By Crosby S. Noyes)]

Right-on, Sen. Sam J. Ervin Jr., D-N.C.

The President commands news coverage. The Presidency is beginning to make the public know that there is no way to give freedom of speech and press to the wise and deny it to fools and knaves. He even expects the Supreme Court to judge into which category of protected free speakers Spiro T. Agnew falls.

Harris, an announced presidential candidate, has planned to add a dash of drama to his anus charge. He announced that newsmen, except perhaps in cases of extreme gravity, should be required to reveal their sources or divulge unpublished confidential information.

We will willingly go along with the Supreme Court in denying the right of the Justice Department to forbid in advance the publication of any news. And we would argue that the practice of issuing false press credentials by special government investigators is indefensible.

This said, however, we can get back to the central theme of Ervin's investigation: That there is a direct relationship between the press and government and the implication that the press power is entirely on the government's side.

I doubt very much, that this is so. On the contrary, it seems to me, the attitude toward the war in Vietnam held by a large segment of the press has exaggerated and distorted the traditional adversary relationship between government and the media.

And this, in turn, has stimulated a reaction of antagonism and hostility toward the press on the part of the government, the Congress and the public.

It can be argued, of course, that in opposing the war, the press was simply doing the job that it is supposed to do in criticizing and, where possible, changing public policy. But the distortion of the adversary relationship has not diminished, it has increased, today.

To a large extent, the press is beginning to assume a posture of systematic opposition to effective government behavior, regardless of the result so far as the effectiveness of government itself is concerned.

If the President is threatened, it is the government and not the press which is on the defensive. The effective weapons of resistance are used against the media. In the recent past, we have seen these weapons used with devastating effect to frustrate the policies of the government and to destroy an elected president as an effective political leader.

In this situation, the reaction of the press to any official criticism may strike some people as little short of hysterical. Newspapers, certainly, have no reason whatever to be intimidated by any such attack. They are not required by law to any further legislation to the guarantees provided by the First Amendment remains most obscure.

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For example, “Our founding fathers,” he says, “were wise enough to know that there is no way to give freedom of speech and press to the wise and deny it to fools and knaves.” He even expects the Supreme Court to judge into which category of protected free speakers Spiro T. Agnew falls.

With a swashbuckling declaration that “I'm not intimidated,” one pamphlet claims that “in the face of this overwhelming denial,” Vice President Spiro Agnew turn them into cry-babies. The issue, as he sees it, is that press power can only be crushed if the heat had better get out of the kitchen.

[First Amendment is Already Strong Enough (By Crosby S. Noyes)]

Small wonder that much of the public is confused by the recent pronouncements on freedom of the press: even some of my colleagues don't seem to comprehend what is going on.

For example, “Our founding fathers,” he says, “were wise enough to know that there is no way to give freedom of speech and press to the wise and deny it to fools and knaves.” He even expects the Supreme Court to judge into which category of protected free speakers Spiro T. Agnew falls.

With a swashbuckling declaration that “I'm not intimidated,” one pamphlet claims that “in the face of this overwhelming denial,” Vice President Spiro Agnew turn them into cry-babies. The issue, as he sees it, is that press power can only be crushed if the heat had better get out of the kitchen.
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Then there is the fear expressed by a smattering of newsmen that Sen. Sam Ervin is going to kill the free press with kindness. Some of these men, from his vantage point as chairman of the Constitutional Rights Subcommittee, will get a law through Congress that has the potential of strangling the press; that one dark day some nasty Congress will repeal it; and that the press will thereby be left to the mercy of the politicians.

Well, I think Old Senator Sam is doing one great thing for the press, yes, but more so for the country, by turning the spotlight on some ominous assaults on the freedom and independence of the press in recent years. The surest way to strengthen the liberties is by helping the public to understand that it is their right to honest government, and their right to knowledge of the actions of the people who run that government that is at stake—and not some right of anyone with a press card. Most laws that ordinary citizens must obey.

The Ervin hearings have nothing to do with the cantorial assaults on the press by Agnew in the sense that any newsmen are afraid Agnew can do him in. Most newsmen regard that as a joke. But the Senate hearings by the Justice Committee are the result of certain politicized and polarized Americans who decided that they like Agnew more than their press. They whipped up the press, thus applauded as the Justice Department chips away at the independence of the Fourth Estate.

Assorted denials to the contrary, this Justice Department has orchestrated a campaign to crush the Black Panthers. When efforts to do it by “legal” killings backed in Chicago and elsewhere, a decision was made to “get” the Panthers through grand jury indictment.

That is bad enough, but Justice had the audacity to try to force reporter Earl Caldwell of the New York Times to be its accomplice.

Caldwell, a black man, had ingratiated himself with some of the Panthers, establishing contacts essential to his being able to report meaningfully on a group that is of both social and political significance. The government decided it would be easier to indict Panthers if it could force Caldwell to tell a grand jury everything he knew, including things journalistic ethics forbade him to write.

“No, you don’t,” the 9th Circuit Court of Appeals ruled. The government can’t take the freedom of the press in jeopardy. If the government can force reporters to testify in secret, there will be no jury hearings about their sources of news.

If Ervin can get the Congress to pass a law telling the executive branch to leave the press alone, to stop trying to make reporters its agents; and telling the legislative branch that even it must not try to be a supereditor of TV news and documentary, I say hooyar for Ervin!

Passage of such a law would be a dramatic reaffirmation of the constitution of Americans that our forefathers were wise when they envisioned a free press, full of faults and foibles, but absolutely essential butwark against tyranny.

So some unlikely Congress does come along that is strong enough to repeal such a law? The press would not be left high-and-dry. It would still have that First Amendment protection.

Some say the First Amendment is all we need. Maybe. But that amendment is only as strong as the Supreme Court says it is. And there are hundreds of cases to be decided, where all must fit the philosophy of the President, who knows how the “reawmed” court might construe “sovereign rights under the constitution” on press freedom.

It will do no harm to the press or the nation to have the people say through the Congress that “strict construction” is not a license to invade these hallowed precincts.

[From the Washington Star, Oct. 10, 1971]

FREEDOM OF THE PRESS IS ALIVE AND HEALTHY

(By James J. Kilpatrick)

Sen. Sam Ervin sent me an invitation several weeks ago to the conference committee on freedom of the press. This was just before I was heading abroad, and I stilled: My return was uncertain; there wouldn’t be time to get a leg up on the times of my statement; maybe a letter would suffice. . . .

The truth was that I didn’t want to testify. For a working journalist, to appear on press table, and take to committee microphones instead, is an act against nature, like a lady detectorist. If we have something to say to senators, we ought to say it in print; and if senators want to talk to us, okay, let ’em put it in the Record.

At the same time, Senator Sam is the wisest man in the Senate; he is deeply concerned—just as all of us in the press are deeply concerned—about the survival of a free press. Perhaps a few observations would be useful.

Taking one thing with another, and looking back to the bad old days of John Adams, this much is clear: The press is remarkably healthy. Some senators say it has not merely survived, it has flourished. Americans today have access to more information and opinion than in any time, and of all walks. This miniscule material is presented far more readily and attractively than it was in the days of the “party press.” It is timely. Most of it is objective.

Over the thirty-odd years of my own professional experience, First Amendment freedoms have expanded, not contracted. We no longer are “chilled,” in the word of art, by the threat of ruinous libel suits. When I came on the scene, the gingers by the thousands were the victims of “planned parenthood” and “social diseases.” Now even the girl reporters are writing of contraceptives and syphilis and nobody blink.

Changes in law and in public attitudes have been accompanied by fantastical changes in the technology of communications. We have tools now—satellites, and computers, and high-speed Tele–that permit us to serve up to the ordinary reader a digest. We have network television, a tool of incalculable power. We have greater freedom of expression, and as a result, more informed audience than journalists have ever known.

As the Senator proceeds with his examination, listening to the heartbeat, thumping away at the na­lve health nuts. We are obsessed—some of my colleagues are—to the point of hypochondria. When Spiro Agnew coughs, we tend to yell “TB.” If Dean Burch mops his brow, up at the Federal Communications Commission, CBS runs a fever. Some over-zealous prosecutor demands a new autopsy, and we cry that gangrene is setting in.

This jealous vigilance has its good aspects: As power increasingly is centralized in our hands, as the public interest is in the hands of the industry, even in communications—it becomes all the more important that a free press maintain its freedom. But when vigilance turns into catatwailing, some of our spokesmen cease to be glutadators and come through as cry-babies. A part of the problem is the popular notion that it is “free speech” when CBS belabors the government, but “intimidation” when the government snaps back.

We in the broadcast industry, television, most surely, it is said, TV is entitled to the “free­dom of speech and of the press” entrenched in the Bill of Rights. But the matter is not so simple. In its technical limitations, its history of public licensing, and in the sheer magnitude of its potential audience, TV is significantly different from the printed media. It must be free; and it must be restrained. In a free society, such a problem is not unusual. Federalism has the potential of being perfectly solved, and the problem of TV will not be perfectly solved either.

What will be other others. Our magazines, starved for advertising revenue, are dying of malnutrition. Public broadcasting continues to grope uncertainly for an audience. Our newspapers desperately need young men and women who are literate, thoughtful, and curious; we are getting some, but not enough.

There are alienists that cannot be neglected, but they are minor aches and pains. I myself am just back from Brazil, and would say that serious collections of documents let us look to our troubles, of course; but let us count our blessings, too.

[From Time magazine, Oct. 11, 1971]

PROTECTING PRIVILEGE

Journalists cheered when the Supreme Court ruled last June that the New York Times and others could not be restrained from publishing the Pentagon papers under the First Amendment’s guarantee of press freedom. Since then the important decision has faded The Columbia Journalism Review rates the decision as a “severely qualified victory,” and points out that it may not hold. After all, three of the Justices thought the ruling was therefore was called for in that case, and individual opinions showed that a majority might favor use in other circumstances. With the death of Justice Hugo Black, who felt the First Amendment gave the press blanket protection, future court votes might go even farther in the direction of restriction.

BUREAUCRATIC MERCY

Editors are concerned at this possibility and so is the United States Senate’s leading liberal, Sen. Carl Levin of North Carolina (Task, March 8). A Southern conservative politically, Ervin has made a personal crusade of defending individual freedoms from Gov­ernment encroachment. Last week, in the first of a series of Senate Judiciary Subcommittee hearings, Chairman Ervin and his col­leagues heard the testimony of a parade of communications executives and experts.

New York Times Executive Vice President Harold L. Helander, representing the National Association of Broadcasters, contended that favorable Supreme Court decision on the Pentagon papers, the press was in fact restrained for its editorial decisions. “The story to publish. Representative Ogden Reid, former publisher of the now-defunct New York Her­ald-Tribune, ended by asking “Is the time . . . that prior restraint has been sought by the Federal Government.” As for the broadcasting industry, Walter Cronkite of CBS charged that because it is beholden to the Government for its right to exist, “It is at the mercy of politicians and bureaucrats. Its freedom has been curtailed by flat, by as­sumption and by intimidation and harass­ment.” But perhaps the most eloquent plea for First Amendment freedoms came from Ervin himself.

MORTAL BLOW

Said he in an opening statement: “Some Government officials might argue that the purpose of the press is to present the Government’s policies and programs to the people, and that the only people to have lost sight of the central purpose of a free press in a free society.” Noting that television has other watchdogs, he said: “I don’t think they know what is good and what is bad for other Americans to hear on the radio and to see on television.” Ervin charged that the “sweeping Government regulations of broadcasting implicit in this view fore­shadow the end of a free broadcast media that is an integral part of the First Amend­ment.”

Ervin is also concerned about the increas­ing use of false press credentials by Govern­
We at this newspaper shall, as we have in the past, continue to weather recurrent questions concerning the scope of government and its actions and how those actions directly affect the community it serves. The press is a bulwark of First Amendment protection that is so important that we shall continue to try to help find jobs for veterans in Manchester, N.H. Industry and business from throughout New Hampshire came to this fair and met with veterans to discuss job possibilities. Many veterans came away from the fair with chances for employment.

The American Legion, VFW, and other veterans groups are working hard to try to help find jobs for Vietnam veterans. But the real nature of what is meant by unemployment among Vietnam veterans occurs when you face up to individual problems and what this means to the human being who served our Nation in Vietnam and is now home trying to find a job.

In Miller's remarks about newspapers, he said: "A newspaper is something a very great deal more than a profit-making institution. A newspaper, whether it likes it or not, is inescapably saddled with the proud and exalted responsibility of leading the thought of, influencing the goals, of determining the character and direction of the community it serves. And we believe that the newspaper is the only in the history of the nation, each of its newspapers can dedicate itself to no higher service than that of the betterment of the education of its citizens. The responsibility of the newspaper is not only to serve its readers and to serve its advertising, but also to instruct and to educate. The newspaper is the school of public opinion. It is the public's right to know.

Office Building.

Washington, D.C.

DEAR SENATOR MCDONALD: It is with sincere regret that I find it necessary to write to you of my problems, but it seems one of my few remaining alternatives. To state the problem simply, I can not find employment. In 1957, I left school and entered the Army, where I served three years, during which time I was honorably discharged. After being honorably discharged, I returned to the University of New Hampshire to study and receive a Bachelor of Science degree this past June. Since that time I have filed at least thirty applications for employment. Each of those applications represents a diversification of areas of business. I have been completely unsuccessful in finding work.

I have lived on unemployment payments received from my military service and
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soon these payments will conclude. I am at a loss as what steps to take next and am therefore writing this.

Looking for any help or suggestions you could give me. Enclosed is my résumé. I am sincerely hoping you can assist me in some way. Thank you very much.

Sincerely,

[Personal information]

Costume: Engaged, $11/175 pounds, 25 years old.


Summer Work: Earned personal and clothing expenses by working summers and vacations as a retail clerk and in general delivery in a department store.


Background: Brought up in Southern New Hampshire area. Preparatory school at Mount Hermon in Western Massachusetts. Member of the University of Massachusetts. Having grown up throughout the eastern and midwestern parts of the United States.

Always interested in outdoor activities, e.g. swimming and bicycling. Also enjoy listening to music, reading and tinkering with automobiles.

References: References will be furnished upon request.

RESUMPTION OF WEST COAST DOCK STRIKE MUST BE AVOIDED

Mr. JORDAN of Idaho. Mr. President, once again Idaho farmers, businessmen, and consumers are faced with the prospect of a devastating dock strike. It is quite likely that when the 80-day Taft-Hartley cooling off period expires on December 29, the West Coast longshoremen will again walk off the job.

As I stated on the floor of the Senate on August 6, the work stoppage in West Coast ports has had a disastrous effect on Idaho farmers and on American agricultural exports. Markets which the farmers of the Pacific Northwest have slowly built up over the years are now being lost to the East, Australia, and other countries. Foreign buyers are losing confidence in the ability of U.S. producers to deliver the goods.

Once more it becomes apparent that Congress must act on legislation to provide means for the settlement of disputes in the transportation industry before work stoppages occur. The harmful economic effect of such stoppages on the public welfare has long been recognized by Congress to take action to insure that the public interest does not suffer at the expense of the private interests of the parties to such disputes. I am pleased to have the labor subcommittee has been conducting hearings on the legislation (S. 560) proposed by President Nixon to provide new means for dealing with such disputes. Hopefully, positive action on this legislation will be forthcoming in the near future.

Mr. President, I ask unanimous consent that a representative sample of the letters which have been received from my constituents and an article published in the Wheat Growers News regarding a resumption of the dock strike be printed in the Record.

There being no objection, the items were ordered to be printed in the Record, as follows:

DUJAM SEED COMPANY,
MOSCOW, IDAHO, NOVEMBER 29, 1971.

HON. LEN. B. JORDAN,
UNITED STATES SENATOR,
OFFICE BUILDING,
WASHINGTON, D.C.

DEAR SENATOR JORDAN: The alarming possibility that the West Coast dock strike is now expected to resume on December 29th would be a Christmas present that none of us want. I feel that a reasonable solution will be reached in the near future.

I am at Hermon in Western Massachusetts. Member of the Hampshire area.

Of the representatives of the American Aldermen, I could give me. Enclosed is my statement of the Aldermen, I would be pleased to have you of the American Aldermen, I would be pleased to have you to support this effort for collective bargaining. In fact, informed sources report that the two sides of the table are further apart now than before they were with the problem.

I believe that the provisions of the Administration (Bill (Senate No. 860-H.R. 8208) provides the needed changes to the Taft-Hartley Act to make the Transportation Industry operational again. I support the passage of these changes to the law, knowing that labor is, itself, vigorous and bring it to a vote as the earliest possible opportunity.

There have been various estimates of the economic losses to the nation caused by this strike. No one knows the total nor do I. All that I can say is that the directly affected states stand to lose big if we do not support this effort for collective bargaining.

I will be closely attentive to the efforts put forth in Washington.

Sincerely,

E. A. DUMAS,
PRESIDENT.
recognizing the strike's impact on the inland economy, and editorials started appearing in First. An editor for the entitled "Quicksticks." A few days after the Taft-Hartley action began, Western Wheat Associates nominated Sen. Ernest Gruening of Alaska to the Senate Judiciary Committee, which was considering Senate Resolutions 124 and 125, an action to get the Federal Trade Commission and the Interstate Commerce Commission to prevent the flow of goods into the country from Eastern countries. This represented a total of $5.7 trillion in bushels.

Mr. Barum, 20 to 25 million bushels of the loss could be recovered, thus leaving total damages from the strike amounting to $5.7 trillion in bushels.

Western Wheat officials cautioned that West Coast ports are not operating under normal conditions and probably will not until a settlement is reached. Disgruntled longshoremen have been threatened that they will get the ports back to full capacity, so there has been no opportunity to make up for huge strike losses. There is also a danger of a port strike as the end of the Taft-Hartley 80 days cooling off period.

Observers are now concerned about the strike's impact on exports. Confidence built up with foreign buyers over the years has been undermined, and trade relationships have been further complicated by extended tariffs on goods imported by the U.S.

**BILL TO EXEMPT THE BASKETBALL LEAGUES FROM ANTITRUST LAWS**

Mr. ERVIN, Mr. President, during recent weeks I have presided over the hearings of the Antitrust and Monopoly Subcommittee of the Senate relating to the bill to exempt the basketball leagues from antitrust laws. I ask unanimous consent that the following articles and editorials related to these hearings be printed in the body of the Record:

Confidence built up with foreign buyers over the years has been undermined, and trade relationships have been further complicated by extended tariffs on goods imported by the U.S.

[From Baltimore (Md.) News]

**SENATOR ERVIN NO PUPPET FOR PRO BASKETBALL**

(From John F. Steadman)

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<th>CONGRESSIONAL RECORD</th>
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<tr>
<td><strong>Baltimore (Md.) News</strong></td>
<td><strong>By John F. Steadman</strong></td>
<td><strong>Senator Ervin is acting chairman of the Antitrust and Monopoly Subcommittee and, thus, is acting in judgment of the attempts by the two professional basketball leagues to bring about a merger.</strong></td>
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In the past, some of our legislative trustees in government have been nothing more than obedient lowwagons who some time would come in from the world of sports to ask for special legal exemptions as permitted by the laws of the land.

We got so you wondered if they had been promised free tickets, tips on the stock market, or were taken out to lunch, the way some sports writers are? When Senator Ervin went to getting them to go along with opinions favorable to management.

But it was a point in the discussion that Senator Sam is not a company man. He's for the country and what's best for the masses.

Ervin listened to the testimony from the basketball franchise owners. They are crying the blues, naturally, over losing money because the players have the right to use one league as a bargaining tool against the other. The owners want to get Federal permission to merge so their game will be all the more accommodating in fulfilling their financial desires.

Professional management is contended that if it does, they'll get the green light to bring the National Basketball Association and the American Basketball Association together that it will go broke.

We're now sending distress signals. Crying towels are all over the place.

**GREATER NEEDS ELSEWHERE**

Ervin is listening but he's too Improvement. He knows all about poverty programs and believes there's more need for help in the basketball moguls have been being asked for merger permission. Ervin has wanted to know why and his questioning is more than supercilious. He's putting an elbow in their ribs and blocking them off under the basket, so to speak.

Ervin has asked 28 pro basketball owners to provide their financial statements and tax records so he can check on their claim that a merger is an economic necessity.

In 1966, Ervin pointed out that in the past Congress only asked for such statements from racketeers ... hoods ... the eldery.

So what did Ervin next tell them?

"Attempting to hide behind the defense that Congress leaves only at income-tax returns of racketeers is laughable. It is irrelevant when you consider that the basketball owners are asking for control over the very people they would make a racketeer green with envy that he hadn't thought of the scheme first."

Ervin has been reminding his fellow members of the Senate that the owners are afraid of the truth. They feel they can come to Congress and pat us on the head like little boys and tell us anything they please," said the straight-talking, two-fisted Democrat who is certainly not playing for the North Carolina lawmaker, who was one of this country's most decorated soldiers in World War I, had some other pertinent things to say.

"They (the owners) base their request, an application for exemption, on the fact that is they say their teams are losing money. I am not sure this is the legitimate concern of Congress because I don't believe that is our function to bail out the owners who make a racketeer green with envy that he hadn't thought of the scheme first."

"If he wants to remain a senator, he should have the right to determine such things as his military record."

**OWNERS CREATED OWN PROBLEMS**

Ervin is right on the target. The Congress didn't request the owners of franchises in the ABA and NBA to organize teams. They went in of their own volition. Now that the players' salaries have gotten to astronomical heights they are begging for a merger. And who allowed the contracts to clump? Why, the same owners who are asking for government relief. They played Santa Claus to the boy athletes and now they want Congress to come to their rescue. Ervin has pointed out that in the past Congress only asked for such statements from racketeers ... hoods ... the eldery.

"They (the owners) base their request, an application for exemption, on the fact that is they say their teams are losing money. I am not sure this is the legitimate concern of Congress because I don't believe that is our function to bail out the owners who make a racketeer green with envy that he hadn't thought of the scheme first."

"If he wants to remain a senator, he should have the right to determine such things as his military record."

"In the foreseeable future, however, federal control of professional sports would appear to be on the horizon. Confidence built up with foreign buyers over the years has been undermined, and trade relationships have been further complicated by extended tariffs on goods imported by the U.S.

"What if anything will remain is the question. It is not the function of Congress to determine such things as the military record."

"If he wants to remain a senator, he should have the right to determine..."
owners haven’t even gotten within shooting distance of their goal.

[From the Washington Post, Nov. 16, 1971]

**ERVIN TERMS MERGER PLAN WORTHY OF RACKETEER’S ENVY**

(By Mark Asher)

Sen. Sam Ervin (D-N.C.), a staunch advocate of antitrust laws, got into an angry exchange with basketball owners yesterday over the merger of their leagues. The merger has ended the pro basketball season, and the owners asked for a hearing.

Ervin was an outspoken opponent of the merger and urged Congress to reject it, saying it would be a violation of antitrust laws.

**ERVIN VS. OWNERS**

"Now a man can get two bids—one from each team and the other from the commissioner. "You say you’re doing this for the benefit of entertainment in the public interest. That’s exactly what the scheme is."

The day’s testimony began at 9 a.m., and ended at 6:15 p.m., with five recesses for roll-call voting. Ervin has a personal interest in the hearings. He is a stockholder in the NBA.

**CONGRESS VS. SPORTS: FIVE BASIC ISSUES ON ANTITRUST THEME, FACE LEGISLATORS AFTER LONG HAIRED**

So far during 1971, at least 16 bills have been introduced in Congress to deal with some of the problems of professional sports. When duplications and consolidations are worked out, five issues will remain to be considered:

Should baseball lose its special status as the only sport not subject to the Federal antitrust laws? Should a merger of the National and American Basketball Association be permitted? Should television practices now permitted, such as the pay-per-view system, be abolished?

Should all the monopoly privileges sports enjoys, including reserve-option control of players and player drafts, be maintained or eliminated?

Should there be a Federal boxing commission to control boxing elections?

These five subjects in which Congress has shown interest, the first is under fire from two directions. The Curt Flood suit, accepted by the Supreme Court for consideration next year, is on exactly that question: Should the special exemption granted baseball by a Supreme Court ruling in 1922 be extended or removed?

Whatever the court rules, of course, a specific law passed by Congress will take precedence.

**MORE HEARINGS NEXT YEAR**

The second question, concerning the basketball merger, has received most attention. There have already been two rounds of hearings before a Senate subcommittee headed by Sen. Sam J. Ervin, Democrat of North Carolina, and more are scheduled for early next year.

Considerable light has been shed in these hearings on the larger issues of sports-in-general and most illuminating of all is the Rosenbloom report. The particular roadblock the merger has run into.

The National and American basketball associations have made it their main argument that only a merger can save several teams from financial collapse, because competing for top players (especially rookies) is too costly.

Congress tends to be receptive to such plea, because “the public interest” is served by having a big league sport continue to function in the largest possible number of cities.

But in trying to prove that they face financial difficulties, basketball owners have put themselves into a box by making the figures they submitted too convincing: Taken at face value, their financial statements indicate that many teams can’t survive even with a merger.

The figures show that for “rich” clubs, the increase in profits has been $466,747 in fiscal 1971, plus projected losses of $402,837 for fiscal 1972.

**$20 MILLION LOSS CITED**

If the merger is not allowed, “you’ve signed the death warrant of the ABA,” Cherry said. Economist Robert Nathans, testifying in behalf of the owners, said the 11 ABA teams lost more than $20 million cash each year.

Commissioners Walter Kennedy of the NBA and Jack Dolph of the ABA and owner Abe Pollin of the Baltimore Bullets did not get to the witness chair, for the second straight day, because of hearings.

Nathan testified that Earle Foreman, owner of the ABA Virginia Squires, and Arnold Heft, an area building owner, were paid a total of about $400,000 when they sold their one-third interest in the Bullets to Pollin in 1968. The three men bought the team in 1964.

[From the New York Times, Nov. 22, 1971]

**CONGRESS VS. SPORTS: FIVE BASIC ISSUES ON ANTITRUST THEME, FACE LEGISLATORS AFTER LONG HAIRED**

The questions seem hard to answer. There are only two possible ways, even theoretically, that a merger could help “poor” clubs. One is the pay-per-view system, which would mean more—reduction in player salaries. The other would be increased income from association or team revenues. Some owners say that wouldn’t do the first (and if they didn’t, they would merely provoke a players strike) and the second, to be meaningful, involves the creation of a new league. Neither course is palatable to Congress.

What is true in basketball is true, in varying degrees, in all sports. The other two sports issues that generate heat in the halls of Congress—franchise shifts and television policies—are directly related to the question being pressed harder by Sen. Ervin.

He wants to know the real financial picture in major sports, as distinct from the self-serving statements of teams pleading for special consideration, and he is seeking income tax information to get that picture.

Here is a summary of the bills introduced this year:

**HARD QUESTIONS TO ANSWER**

House of Representatives—Four bills to include baseball specifically under the Sherman Antitrust Act; Two to forbid pro football telecasts on Friday night and Saturday in competition with high school and college games.

Both bills would allow the two to place all sports specifically under the Sherman Act; one to put all sports under the Sherman Act, but to specific owners say that wouldn’t do the first (and if they didn’t, they would merely provoke a players strike) and the second, to be meaningful, involves the creation of a new league. Neither course is palatable to Congress.

Senate—Two bills to place baseball under the Sherman Act; one to forbid local television blackouts for any event that is sold out at the gate; one to permit the basketball merger.

**THE COMMITTEE OF CONCERN**

Mr. PACKWOOD. Mr. President, the Committee of Concern, presided over by Gen. Lucius D. Clay, U.S. Army, retired, is an organization held in high regard in this country whose credentials are beyond repute. Recently they have focused their attention on the plight of the Jewish Community in Syria. The Committee of Concern has issued a “Statement of Concern” dealing with the problems faced by Syrian Jewry. I ask unanimous consent that their “Statement of Concern” be printed in the RECORD, as follows:

There being no objection, the statement was ordered to be printed in the RECORD, as follows:
The distressing and increasingly alarming reports which we have received in recent days from most reliable sources concerning the threat to the survival of the remnants of Syrian Jews who have attempted to flee the country. The threat has been evidenced against twelve Syrian Jews who were suspected of planning an escape and held under strict solitary confinement. Those who succeeded in fleeing the country in the past or early twenties. His wife and his four year old son. The others are all believed to be in their late teens or early twenties.

2. The Syrian security police have interrogated the relatives of the twelve Jews and their neighbors. Their homes were set on fire in the Damascus Ghetto.

3. All who have been released after confessions are exception. They are either to be physically ill or bodily injured or mentally deranged. Jews who did succeed in escaping the country have had their houses and personal arrests. The free world report that those who have fallen into Syrian hands are being subjected to torture, the ripping off of fingernails and cigarette burns on various extremities of the body. Jewish girls have been abducted, raped and thrown naked into the streets of the Jewish ghetto in Damascus. Recently, Jewish homes were set on fire in the Damascus Ghetto.

4. The desperate attempts of groups of Jews to flee the country are prompted by the cruel conditions to which the community has been subjected for years. Among the restrictions imposed upon the Jews of that country are:
   a. A total ban on Jewish emigration. Jews are prohibited from leaving the country for all reasons, whether for visits to relatives or for medical treatment. Moslem Syrians are readily able to visit neighboring countries and more than 500,000 Syrians have visited Lebanon thus far this year. Moreover, the property and assets of those who succeed in fleeing Syria are automatically confiscated.
   b. Even within Syria itself, travel by Jews is restricted to a maximum of 50 kilometers from one's home. Address. Pursued movement is a special permit which is generally not granted.
   c. Distinctive Jewish identity cards are marked with a red stamp, “Member of the Mosaic faith.”
   d. Prohibition for employment in government offices, public bodies or banks. Except for doctors and pharmacists, Jewish professionals are banned from practice.
   e. Other restrictions on the normal conduct of their personal lives, such as non-installation of telephones and non-issuance of new driver's permits.
   f. The authorities have turned over houses in the Jewish quarter to occupation by Palestinian Arabs who harass the remaining Jews.
   g. A Higher Committee for Jewish Affairs (composed of representatives of the Interior Ministry) has set up a special commission to maintain a constant surveillance over the Jewish community and carries out frequent arrests, interrogations and sudden house searches in various parts of Syria.
   h. Jews are prohibited from selling their houses or other real estate. Also, army personnel is not allowed to make purchases in Jewish owned stores.

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and leadership, this approach is a Magna Carta of prison reform for all levels of govern-
ment. We are here to review how far we have come in implementing the reforms already
progressed with policy makers, experts, and others, and to chart a course over the vast sea of
problems remaining.

Until the last two years, it could be said of whatever crime fiction that Mark Twain is sup-
posed to have said about the weather: “Everybody talks about it, but nobody ever does
anything about it.”

Some of the talking was done at a Na-
tional Congress on Penitentiary and Re-
formation in 1911. The Wickersham Com-
mission, among other things, it recommended that:

The prime goal of prisons is not to punish,
but to reform.

Prison personnel should be much better
trained and developed to professional status.
Prisoners should be classified and treated
appropriately and separately.

They should be handled with incentives and
moral suasion, not physical punishment.

They should be given hope of reduced sen-
tence and parole for good behavior.

Their academic education and vocational
training should receive primary emphasis.

They should be induced to find their way in
society after release.

When were these enlightened ideas pro-
posed? Not in 1911.

Forty years ago a National Commission on
Law Enforcement and Administration of
Justice issued a report on a national level. The
Wickersham Commission, devoted an
entire volume of its report to the subject of
corrections. Among its recommendations were
many that have already been recommended in 1870.

Nearly five years ago a President’s Commis-
sion on Law Enforcement and Administration of
Justice endorsed a chapter of the Inter-agency Coun-
cil on Corrections.

Second, in 1970 the Inter-agency Coun-
cil on Corrections was created to focus the
Department of Justice’s efforts on prison
rehabilitation. This consists of re-
presentatives from a dozen agencies within the
Department of Justice, including the De-
fense, and Health, Education, and Welfare,
which as well as from the Department of
Housing and Urban Development, the Office of
Eco-
nomics Opportunity, and the U.S. Civil Ser-
vice Commission.

Third, the United States Board of Parole
was reorganized in 1969 to enable Parele
Hearing Examiners to conduct many of
the hearings in correctional institutions acro-
ss the country. This permits the Board members
to devote more time to the decision-making
process and to hold more appellate reviews

Fourth, the Federal Bureau of Prisons
within the Department of Justice developed a
comprehensive 10-year master plan to im-
prove the effectiveness of the Federal Prison
Corrections System, and to modernize the
correctional endeavor for other agencies in
this country to follow.
ings should be designed to make maximum use of modern correctional methods. I am able to announce that, to meet this need, LEAA has funded a National Clearinghouse for Criminal Justice Architecture at the University of Illinois.

Professional assistance in planning and implementing education programs for inmates is also a need of great urgency. I am today directing LEAA to establish a National Clearinghouse for Criminal Education, using such funds as are available for this new phase of development. This Clearinghouse will give technical help, including curricular guidelines, course content, and training and common performance standards, to correctional agencies establishing education programs for prison and parole areas.

These are only a few highlights, and they do not include numerous research programs to advance the science of corrections. Some of these programs is LEAA funding is now available, state and local correctional administrators have begun to press for change. They are documenting their needs, working closely with those needs will be met. No longer are they voices in the wilderness.

In addition, other Federal agencies are being sponsored by the Rehabilitation Administration-a President who has made prison reform a major part of his program. These are only a few of the many positive responses to the rehabilitation movement. Instead we can make use of the imaginative training of the highest quality, it would provide a continuing meeting ground for the exchange of ideas, in correctional training and in the professions. I am today directing the Federal Bureau of Prisons and the LEAA to work with the States and localities in establishing a National Correctional Program in which the Federal system, including the Federal Bureau of Prisons, and the LEAA to work with the States and localities in establishing a National Correctional Program. It will be that the States can make comprehensive plans with the assurance that they will be met. No longer are they voices in the wilderness.

Recent years have been a time of increased effort and recruitment minority personnel—not only because it can genuinely benefit the correctional process, but because it can genuinely benefit the correctional process. Practically all prison systems, including the Federal system, will begin to change their proportion of minority officers, and I hope that the members of this Conference will give us the benefit of their ideas on implementing this Academy in the most effective way.

Second, let us recognize that correction is an effort to change criminal behavior, and I hope that effort will not be wasted in legislation of the promissory of meaningful reform.

The Senate and the House have approved somewhat different versions of the Federal Elections Campaign Act of 1971, and these bills are now in conference.

To a considerable degree the campaign reform legislation the Senate and the House of Representatives have passed relies on publicity to accompany the disclosure of campaign finances as an indirect but a potentially effective means to counter the influence of money and to reduce the pressure on candidates to obtain and spend huge amounts of money.

A central element in that Senate concept is the creation of a Federal Elections Commission to administer and enforce the proposed new requirements for disclosure of campaign finances. By placing the responsibility in an independent bipartisan commission, the Senate legislation offers needed assurance that a fresh start will be made and that the old "business as usual" filing of statements will be abandoned. The Senate bill also provides for the required financial statements to be filed not only in Washington but in the States of the candidates, and in the States of the candidates, and in the States of the candidates, but also in Federal district courts in the home States of the candidates where such statements would be readily available to local newspapers that are actually reporting on campaigns. Under the provisions of the House bill financial statements would continue to be filed, as now they are, with the Clerk of the House.
of Representatives and the Secretary of the Senate. The House also does not provide for filing copies of these statements in home areas of the candidates. If the tightened requirements for disclosure of campaign funds proposed by both Houses are to receive the respectful attention of all candidates and thereby command the needed confidence of the American people that the facts are being made available to them, it would be highly beneficial to rely on an independent commission separate from Congress to administer the campaign reporting system. I also believe that some provision should be made to require the filing of copies of financial statements of the candidates in their home areas so that they will be readily available for the local media. Therefore as they consider all the differences in the two measures, I would respectfully urge the conferences not to lose sight of the important purposes of these two elements in the Senate legislation and be assured that any provision included in the legislation they recommend to the House and Senate.

FEDERAL AID TO EDUCATION PROGRAMS

Mr. TUNNEY. Mr. President, as we approach the third year of the new decade, we should look ahead to July 4, 1976, the bicentennial anniversary of the Nation's founding, and ask: What progress have we made toward those ideals for which the Nation was founded? And more importantly, what should we do to make those inspiring ideals into living realities?

No American ideal has inspired our own people and the people of the world more than the ideal of equal opportunity. No greater testament of the Nation's commitment to equal opportunity exists than our educational system. Although greatly needing reform and revitalization, it still stands as a significant commitment to the achievement of equal opportunity through the establishment of equal educational opportunity. We must continue our quest to provide equal educational opportunity. But we must do so in light of future needs, striving to reform and revitalize our educational system by July 4, 1976, as a major goal of public policy.

Despite today's overwhelming crises in America, the education, I believe this goal is attainable, and that the future greatness of the Nation depends upon the Federal Government making a substantial investment in our Nation's greatest resource: the desire and ability of our people to learn. I know that many of my colleagues who voted for the higher figures of the Senate Appropriations Committee believe the education appropriations bill, share my regret that the higher Senate figures were not enacted into the final form of the bill. That is why I feel deeply that next year the President must budget and the Congress must appropriate the necessary funds to meet full authorizations for existing programs, while initiating new programs to meet the needs of the 1970's and beyond.

It is time for the Congress to end its overdependence on the Executive for educational leadership, which, all too often, has not been leadership at all. It is time for the Congress to sharpen the cutting edge of its actions to establish the foundations of an educational system that will sustain us during the knowledge explosion and the computer and communications revolution. Such a system services a built-in sensitivity and flexibility for adaptation to change, a quality sorely lacking in American education today. Before Congress is legislation of the kind that is needed, and I urge its swift enactment.

PRE-SCHOOL EDUCATION

Preschool education programs are vital if we are to equalize educational opportunity. It frees children of their present deficiencies and equips them for their futures with basic learning skills that have broad application. I support preschool education programs, and I was delighted when the Senate this year adopted and included in the appropriations for fiscal 1972 appropriations for Headstart to $398 million.

However, many of the best features of the Headstart program have been incorporated into the Comprehensive Child Development Act. I have cosponsored this legislation, which provides for more adequate educational, nutritional, health and other developmental services to preschool children.

S. 1512 also provides day-care and after-school services to communities to meet the needs of older children to whom parents are working. This bill provides the additional advantage of parental involvement in its programs, a revival of an older feature of American education, blending with modern learning methods now in our Nation's future. I am pleased that the basic provisions of S. 1512 were included in the OEO conference report which I voted for last week.

ELEMENTARY AND SECONDARY EDUCATION

The California Supreme Court recently called dramatic attention to the archaic way that our public schools are financed. Clearly, when education is so crucial to our Nation's future we can no longer afford outmoded financing methods for our public schools.

It is said that the administration is delaying adequate budgeting for existing educational programs in the hope that we can emerge out of some emergency through research and pilot projects. I share that hope and I support such research and projects. But we can apply known learning methods now, while continuing to find effective ones. The Federal Government should immediately begin to play a role in developing and funding new forms of financing for our public schools so that the quality of education offered low and middle income districts will be comparable with those offered in an affluent one.

Unfortunately, the administration's budget request for elementary and secondary schools for fiscal 1972 was only $1.85 billion. The Senate, however, had the foresight to increase this amount by $200 million, and I am proud to have supported the Senate version of the bill. But next year Congress must look neither to the Courts nor to the administration, but should appropriate the full authorization for elementary and secondary schools and enact new legislation to close the educational gap between poor and rich school districts.

FEDERAL AID TO IMPACTED AREAS

The Federal Government wisely assists in the construction, maintenance and operations of schools in areas where Federal activities affect school enrollment. The Senate recognized the obligation of the Administration's request for the impacted aid program. The full funding of this program would demonstrate the willingness of the Federal Government to carry its fair share of the expenses for educating our children.

The supplemental appropriations bill which we enacted last week provides $290,000,000 for construction of school facilities under Public Law 81-815 and $65,000,000 for the initial funding of the low income housing authorized under Public Law 81-874. Appropriations for these programs are needed and should be enacted by the Congress.

However, I also believe that additional funds are desperately needed under Public Law 81-874 for A and B category students. Local school districts are presently receiving much less than full entitlement and the quality of their education program has suffered. I hope that the Congress will fund these programs so that each school district can receive up to its full entitlement and when the fiscal year 1973 budget comes to the Congress we should provide full funding for these programs.

LIBRARIES

During the next few years, we must also provide for greater use of our libraries. The Senate recognized this by approving $70 million for the administration's budget request for libraries and educational communications, including $7 million for college libraries. A strong library system increases flexibility in the classroom.

HIGHER EDUCATION

The administration has failed to adequately budget funds for important student assistance programs such as NDEA title III, EOP, and work study. I have long supported these programs. We not only need to expand existing forms of student aid. We also need to establish a flexible program that will meet a broad range of situations during the next decade.

Such flexibility is offered by S. 1161, which I cosponsored. This bill, introduced by Senator Mondale, would assist higher education in a number of ways. It provides for a special educational loan bank to identify and encourage disadvantaged youths. It establishes a higher education loan bank, and it creates a new program of Federal fellowships for graduate students of exceptional ability and demonstrated financial need.

Finally, it moves in the direction of providing more student educational grants rather than depending on a burdensome loan program.
gravel, after all, had taken upon himself to conduct mini-filibusters against the Cambodian invasion, the proposed Aetna Life, and the Equal Rights Amendment. Many senators, furthermore, disapproved of his all-night subcommittee session to get out the Pentagon Papers. Even Sen. Sam Nunn, a Southern conservative who has become the most consistent constitutionalist in the body, bothered to speak out against Senator's attack.

"The administration's motives in pressing this action," said Ervin, who is counted among the Senate's hawks, "are so clear that a senator who dared oppose it on the war, and who had the effrontery to use information the administration desired to keep from the public.

"If the administration were to have its way, we must remain in total ignorance of what has transpired in Vietnam, and anything else the government does, unless it chooses to tell us. By suppressing this information, the executive branch has tried to keep the Congress and the nation in total ignorance.

"Now it tries to dictate what the scope of a senator's business is, and where and when and how he may conduct it.

"The tendency, if not the intent, of this effort is to harangue and to silence, and thereby to silence him and other critics in this body, along with those who are outside these halls."

But Gravel, though gratified by the partial victory that Judge Garrity handed to him, does not think he has won enough. He is going to appeal the ruling.

"No member of Congress who fears retaliation against himself or his staff can repress his constituents in a manner intended by the framers of the Constitution."

As for Judge Garrity's ruling on Rodeg, he says that publication is an integral part of a senator's right of free speech. He argues that if a staff assistant cannot be questioned about the preparation of a speech, the assistant cannot be challenged for a role in getting the speech to the public.

In backing Gravel, Ervin has pointed out that the Senate's right of free speech is a right integral to its independence. If it is denied to Senate aides, he said, it is "stripped of its value."

"What is really at stake is the constitutionality of a law that he has "considerable doubts" about whether the administration appreciates that."

PRACTICAL SPINOFFS FROM OUR SPACE PROGRAM

Mr. HATFIELD. Mr. President, I have spoken several times about the practical spinoffs from the space program. As a member of the Aeronautical and Space Committee here in the Senate for 4 years, I know from first-hand discussions the many ways in which all our lives have been enriched by the activities connected with our space program.

In the Parade section of yesterday's Washington Post, Dr. Wernher von Braun addressed some very lucid, humanistic words about the space program. He said that his thoughts should be of interest to all of us, and I know I read the article at home yesterday with great interest. Much of what he said about the spinoffs from the space program is concentrated in the few days immediately before certain amendments having to do with our space program.

Mr. President, I certainly enjoyed
reading Mr. von Braun’s article. I call it to the attention of Senators 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:

HOW THE SPACE PROGRAM IS HELPING YOU
(By Werner von Braun)

(EDITORS’ NOTE—Some Americans question the wisdom of our multimillion-dollar space program. What do we get out of it? Here is the opinion of NASA’s associate administrator, former director of the Marshall Space Flight Center, and one of our nation’s foremost authorities on space technology.)

Space flight is expensive. Thus you may not believe me when I say that the benefits have already far exceeded the costs. And much more is yet to come. Let me give a few examples.

Until about 10 years ago, a favorite target of comedians was the weatherman. Today he is usually right. Why? Because satellites in the sky look down at the whole earth and tell him what the weather will be. Hurricane warnings have saved thousands of lives because of accurate predictions of the course and intensity of hurricanes. For example, the U.S. National Oceanic and Atmospheric Administration has estimated that 50,000 people would have died when Hurricane Camille hit the Gulf Coast in 1969 if they had not been evacuated. The warning was possible because of picture satellites. How do you put a price tag on that?

Projected experiments give promise of more savings. The most recent results indicate that wobbles occur in the earth’s rotation at about 100 times per year. More wobbles mean an increase in the safety of flight in the crowded air lanes over the Atlantic. Potentially useful of all the applications of space flight is to observe and measure the resources of the earth, to help manage these resources, and to deal with the problems of the environment.

For example, aerial observations in New York City have shown that water use is driven by temperature, precipitation, and map water pollution. An instrument developed by NASA can detect and determine the size of oil slicks at sea. With the help of satellite photographs, the ocean satellites can report worldwide air pollution.

Scientists at Purdue University measured from the air the widespread infestation of Midwestern crops by a rare fungus blight. Off the coast of Iceland, airborne infrared sensors found the new location of the Gulf Stream, which had meandered a considerable distance. This enabled fishermen to continue hauling good catches.

Photographs of a Saudi Arabian desert from Gemini spacecraft identified hills of the type that often indicate the presence of oil. Similar indications were found in pictures of Australia taken from Mercury spacecraft.

By the end of the decade, we can expect satellite systems to:

1. Monitor the results of international efforts to protect the environment.
2. Support the planning and allocation of world food supplies from agriculture and the oceans.
3. Aid the search for oil and mineral reserves.
4. Track glaciers and ice floes.
5. Keep track of the distribution of wildlife as well as humans.
6. Support disaster warning systems and search and rescue operations.

But all of the uses of space flight depend, of course, on the cost. In 1968, the first U.S. satellite, Explorer I, cost more than $100,000 a pound to place in orbit. When we use the largest present launch vehicles, the cost now is less than $1000 a pound. But we can do much better than that.

New technology makes it possible to return entire space vehicles from orbit and use them again. As a result, U.S. industry and government can use vehicles that can be flown 100 times or more before it wears out. It is called the Space Shuttle, and it should cut the cost to about $100 a pound. It tests and launches like a rocket and uses the 3000 miles of runway like an airplane, avoiding the cost of recovery at sea by ships, aircraft, helicopters and frogmen.

SERVICE IN SPACE
Even larger savings will result in the satellites themselves. At present, most of the expense of building satellites is for repeated tests to make sure they will work properly in space. There are no service stations up there. As a result, we pay around $200,000 a pound to many of them. Some are even more expensive. With the Space Shuttle, we will return them to earth for repair. We can make them recondition and eliminate most of these costs.

The Space Shuttle will have a large cargo bay for passengers and cargo. The acceleration forces will be limited to three times earth gravity, so that passengers in ordinary good health can be carried up. The cabin is designed for comfort, with chefs, technicians, television crews, journalists, and many other kinds of people who have business in space.

DOCTOR GOES, TOO
On the 1973 flights in the Skylab experimental space station, a medical doctor will go. This is important so that we can carry out a comprehensive program of experiments. The aim will be to establish how well men live and work in weightless conditions in an enclosed space as big as a three-story house. The flight is planned to last four weeks. Later flights will extend this to eight weeks.

One is indicated earlier in this article, people on earth can realize many benefits from the use of space flight in the years to come. For example, how about the evidence of how human beings go about their daily business in the space environment, we can achieve these benefits in a few years and make them available to people everywhere.

NATIONAL HEALTH INSURANCE
Mr. BROCK. Mr. President, Congress recognizes that there is already a health care crisis in our Nation and has set upon an enormous task in trying to create a national health-care system and to provide medical care to all. This is a prime example of how inclusive legislation must be passed outright, covering the entire population under one governmental program, and virtually eliminating profit making in health and health care. This is a larger commitment to health than made by any other nation in the world. And yet, too often the average American citizen cannot afford the prohibitive price of quality health care—particularly in catastrophic situations.

This is what prompted President Nixon to declare that the Nation faces a crisis in health and medical care. To many, his plea simply means that all-inclusive legislation must be passed outright, covering the entire population under one governmental program, and virtually eliminating profit making in health and health care. Such action would surely be a disaster.

One need not look far into the past to note a similar parallel in the instance of medicare. Literally rammed through Congress, with inadequate consideration of long-term effect and implications, medicare has, to be charitable, not measured up to the claims of its advocates. Now we have a similar course in national health legislation before the House Ways and Means Committee and the Senate Finance Committee, and these bills embody every conceivable approach to our current problems. But not one bill in its entirety fulfills the goals I seek and which I feel are critical to a comprehensive national health strategy. And it follows that I have not sponsored or endorsed any one bill. The fundamental aim of our health strategy must be to bring health and health care to every individual in this Nation by
expanding and improving the quality, quantity, and distribution of health-care services, as we vigorously seek to reduce this American family's health costs. Of the 13 approaches before the Congress, there are four major ones—and each fails in one or more critical areas: reduction of costs, incentives to do so, adequate coverage, broader availability, and so on in the field of mental health, and so forth.

First, National Health Insurance Partnership Act—S. 1623, H.R. 7741—proposed by President Nixon and introduced by Senators (Mr. BENNETT) and Representative BYRNES. The bill has two parts. First, the National Health Insurance Standards Act—NIHISA—would require employers to make group health insurance available to their employees and to contribute to its cost. The House bill provides for limited subsidies to some employers. Second, the family health insurance plan—FHIPS—would subsidize health insurance premiums and provides for lower copayments and deductibles for most low-income families. The administration estimates the Federal cost of the proposal at $67 billion in 1974 when it is fully operational. While no one can argue that changes are long overdue in the delivery of health care in this country, to judge from this Nation's previous experience with the far less comprehensive and more expensive medicaid program, the objectives of the bill can never be achieved. Certainly the Federal Government cannot be expected to keep costs down.

Simultaneously with the implementation of medicare and medicaid in 1966, the rate of inflation in medical prices, which had consistently been higher than that of the general price index, began to increase at an accelerating rate. With the Government acting as a major purchaser of medical care, higher unit prices meant higher tax costs for the public programs, or more simply, higher taxes for everyone.

To some extent, an attempt to offset these rising costs was made by benefit reductions, but to reduce benefits once they have been offered is never very popular with the public. One result of considering this system precludes cost control.

Fourth National Health Care Act—S. 546—introduced by Senator from Minnesota (Mr. HANNESS) and Rep. Representative FEYAL and Representative SHERMAN and others. Under this plan, medicare would be repealed, and the poor, near-poor, and uninsured would be covered by State health plans, others by private insurance. Minimum standards are set which include copayments and deductibles. Welfare recipients would receive their insurance free, the near-poor and uninsurable would receive insurance subsidies financed from State and Federal general revenues, and others would be entitled to a greater income tax deduction if they purchase a policy meeting the minimum standards. The Health Insurance Association of America estimates the program would cost $25 billion when the program is fully operational.

The HIAA approach is a very comprehensive plan and I am impressed with its attempt to affect the availability and financing of health care as well as the lower income families would receive little protection against losses which, for them, may be catastrophic.
In my opinion, we should focus on a program which meets the following objectives:

1. **First**, protect all Americans from catastrophic costs of illness.
2. **Second**, help those who cannot pay for their health needs; and
3. **Third**, control costs of care to both government and the consumer.

**How?**

First, we must develop a program for catastrophic illness coverage, one which I hope would be a fixed scale insurance plan based on a percentage of a family's income. The medi-cred proposal, for instance, contains such a provision based on taxable income. The deducti-ble limits, which in favor of the first $4,000 (15% of income between $4,000 and $7,000); and 20 percent of in-come above $7,000. The formula is de-signated to ensure that a family of four with an adjusted gross income of $6,000 or less would not be required to make any ex-penditure before receiving catastrophic benefits. A family of four with an ad-justed gross income in excess of $8,000, on the other hand, would have to pay $775 be-fore receiving catastrophic benefits. The deductible and copayment expenses in-curred in securing basic benefits could be credited against catastrophic deducti-ble. I strongly believe the health con-sumers, whenever possible, should bear some portion of the cost, regardless of income. He has a stake in the mat-ter. He is more likely to hold down expenses and will be dis-couraged from overusing the system at a time when it is straining under current levels of demand.

Second, in addition, I favor a broader definition of catastrophic illness to in-clude illness-related costs, such as pre-scription drugs, skilled nursing care, and outpatient and inpatient psychiatric treatment. Once the dollar limitation or deductible under the catastrophic part of the plan has been met, all illness-re-lated care should be covered. This, I be-lieve, would go a long way toward pro-viding truly comprehensive medical care.

Along these lines, the bills presently under consideration, in my opinion, fail far short of basic coverage needed for mental illness. A sound, comprehensive plan deals a catastrophic blow. Because men-tal illness is one of our greatest and most costly health problems and because it affects far more Americans than any other single illness, I support the inclusion of psychiatric/psychological services in any national health insurance plan. The use of these vital services should also be viewed as a necessary component of preventive medicine.

Third, to control costs we must stim-u-late competition, and the hospital seg-ment of the health industry—as well as every other segment—should operate within a competitive system. For exam-ple, I believe institutional providers should be reimbursed on the basis of com-petitive charges or costs determined by classification by size and scope of service into other segments such as insurers—should compete among providers, whereas reim-bursement based on individual budgets results in competition against oneself. The use of the “reasonable cost” and “reasonable charge” approaches to reim-bursement have failed to control costs as illustrated by our experience with medi-care and medicaid. To hold down hospital costs we should move toward prospective reimbursement and get away from the current governmental maze of reimbursement—a target rate which en-courages competition and rewards effi-cacy.

Other ways of effectively curbing sky-rocketing medical costs would be NHI coverage of outpatient care; that is, the service of a doctor in his office rather than hospital/inpatient care. We must encourage the use of ambulatory and re-cuperative care facilities, designed to care for the patient recovering from illness or surgery, who no longer needs all the spe-cialized facilities among hospitals with-free a bed in a general hospital for an acutely ill patient while cutting the re-cuperative patient's cost per day almost in half.

We must employ the use of other cost-cutting techniques such as centralized purchasing, better coordination, and speci-fication of certain medical tech-nology. The formula is: don't buy more than we need—within the same community; more efficient utilization of professional staffs and fac-ilities. We need to encourage more doc-tors, especially more paramedical per-sonnel, into the health care field. We must pro-vide incentives to channel these medical personnel and facilities into our rural areas, where oftentimes health care is non-existent.

Finally, to meet our objectives we need to limit government bureaucracy and its administration of NHI, and get away from the current governmental maze of re-dtape. Again, this can only be done by a wide geographical area. Centraliza-tion such as this has made possible the maximum utilization of automated lab-oratory equipment and reduced the unit cost of the service.

Congress should take a look at TVA's automated system of disease detec-tion, termed the Medical Information System. It became operational in 1967 for the entire state of Tennessee with TVA's automated system of disease de-tection, termed the Medical Information System. It became operational in 1967, and it is the most comprehensive and up-to-date medical information system in the country. The system is programmed to provide immediate information to user medical offices by teletype, to automatically schedule medical follow-up and periodic examinations, and to provide special and routine reports about medical service records and status of health. This automated laboratory operating out of Chattanooga has demonstrated the practicability of using a centrally located and determined facility to process laboratory specimens from throughout the state. Centraliza-tion such as this has made possible the maximum utilization of automated lab-oratory equipment and reduced the unit cost of the service.
possible optimum use of physician services, which can be devoted to the area where they are most needed—the care and the cure of the sick.

In this same area, I feel that the development of health maintenance organizations as well as other delivery systems should be encouraged. HMO's— as they have been labeled by users of governmental alphabet soup—are publicly supported organizations which provide health services to enrollees on a per capita prepayment basis. HMO's are supposed to play a major role in the administration of this program, and I do feel that their use could serve as a valuable competitive stimulus as well as an important tool for providing comprehensive health care services. Loans and grants made available for the development of HMO's should be awarded to any organization, whether it be nonprofit or investor oriented, which can effectively do the job and demonstrate its ability. In my view, profit-making in the public interest and economy is an essential part of the concept of national health care. There is inadequate evidence, however, of a plan of controlled cost. But whatever the system, the remaining corporations leave the city—and so it goes. Unless something is done, this vicious circle cannot end in anything short of a total collapse.

Mr. President, recent articles from the New York Times magazine and from the Christian Science Monitor explain the full implications of exclusionary zoning laws, and offer some possible solutions. I ask unanimous consent that the text of these articles be printed in the Record.

There being no objection, the items were ordered to be printed in the Record, as follows:

THE SUBURBS HAVE TO OPEN THEIR GATES

BY LINDA AND PAUL DAVIDOFF

A few years ago, socially conscious residents of the New York suburbs joined in a project that occupied several spring weekends: they chose blocks in the East Harlem and Bedford-Stuyvesant ghettoes and traveled to them every day with paintbrushes, buckets and mops, for cooperative clean-up, fix-up sessions with the residents. This was a way for people to experience and, at the same time, try to help solve the neighborhood problems of the ghetto.

A few weekends and some paint had little effect on the crumbling structures and fostering economic and social problems of the ghetto neighborhoods. But these efforts, worthy enough in themselves, sketched the reality: that is, the exclusionary practices of the suburbs themselves that help create the poverty and ugliness of the slums, and that well motivated suburbians could do more for poor and working-class people trapped in the inner cities by opening up their land, job markets and tax resources to them.

The 1970 Census revealed what had begun to dawn on urbanists in the nineteen-sixties: that the suburbs contain the largest share of America's population. In 1970, 36 per cent of the people lived in suburban parts of metropolitan regions, 30 per cent in the central cities and 34 per cent in rural areas. Some time in the current decade, more people will be employed in the suburbs than in either of these other areas. If this conclusion is correct, the suburbs will continue to have the largest number of Americans for a long time.

Although the suburbs have provided housing and jobs for millions of new families since 1950, many suburban communities have been slow to accept the families which have been forced upon them. Some 200,000 families are forced into the cities for the suburbs to support, the "urban crisis" of the suburbs, the "urban crisis" of America would change sharply. It would be possible to build many more houses on quarters of an acre or more, if the current pattern of construction in the nation since World War II. And it would be possible to build row houses and garden apartments, the least expensive form of housing for families of moderate incomes.

The land supply in metropolitan areas is being kept off the market not by private...
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acts, but by public enactment. In creating private preserves for the wealthy, law has become the instrument of those who want to keep low-income families from owning or renting properties. This leads to a paradox that has been called "Ivy League Socialism": excessive government intervention, which is beneficial to the poor but the rich. The protected property owners are precisely those most able to protect themselves from undesired neighbors. These same owners can easily by-pass or ignore any zoning regulations to transform tracts of land, build high fences around them and put their houses in the middle of their estates and on plots that are irrelevant to them. They do not need the help of the law.

The exclusionary laws are not completely explicit. Just as a landlord can classify his market into racially or economically restricted areas, so labeled. But there are thousands of zoning maps which say, in effect: "We don't want low-income families and their relatives by their own wealth. They can buy large lots if they want. The best and most democratic public instincts, a community must finance its schools; and the easiest way to make the burden bearable is to keep the community costly and exclusive. But if the community is not willing to finance in land-use controls were eliminated? In the private market, the effect would be to dra- matically reduce the number of building lots, both for single-family homes and for garden apartments and row houses. The in- crease in supply would lower the price per square foot, but since the construction in the cost of a new home and an increase in the number of families that could afford one, and finally, a result of lower-cost housing could be produced as the market demands.

Ending aside for the moment the moral question raised by suburban exclusion, another argument against the regulations adopted over the past decade or more by subur- ban municipalities is that they have stifled the natural development of the home-building industry. Today, most of the vacant lots would be sold New York and in other metropolitan areas are zoned for homes on lots of 5 to 10 times larger than Levittown's. Zoning has operated to slow down and spread housing. It has delayed the highly valued growth, it is strange to find growth dis- claimed as a matter of policy. Particularly in green belt land, it is difficult to under- stand the rationalization of zoning taxes on plots of an acre or more do so in full awareness that, as a consequence, almost all blocks will be excluded from such zoning.

In many areas, acreage zoning is the pre- ferred exclusionary device. The bulk of the land is zoned "in perpetuity" off the market. Except for purchasers who are able to afford a house on a tract of one, two, three or more acres of land. Since a single-family home on a one-acre tract cannot be constructed in most suburban areas for less than $50,000, including the lot, families with in- comes under $17,000 cannot afford to buy a house built on this land (under the generally accepted rule of thumb that a family can afford to buy a house that costs twice the annual household income). Thus the hous- ing market in the community is effectively close to the 80 per cent of the population which earns under $17,000 — and to the 90 per cent of the blacks.

In other areas—and in some communities that still go by the old zoning regulations—housing-construction codes have been de- vised which require extremely expensive forms of urban development. Square-frontages, costly materials and equipment, square-footage requirements for house interiors, all beyond what is needed for health and safety.

In almost all suburban municipalities tax laws undergird the structure of land-use controls and provide a rationale for exclu- sion. The real-property tax pays the bulk of local costs for public education, the biggest item in the school budget of most major factors in maintaining the status of the community. If a dozen houses are built at costs within the reach of families, the entire community suffers because the taxes realized from the new houses will be insufficient to carry on the education of the children from the new families.

In New Castle County, in Westchester County, a 1966 League of Women Voters' study showed that local school costs were so high that a new house would have to cost $18,000, whereas, if it were built from city and state grants, it was calculated and near-paralyzed bureaucracies of the cities.

JOBS

If the growth of the suburbs in sheer numbers of people has not yet been fully recognized as a fact of national life, suburban development of jobs is also national—job markets have been barely noticed. Yet in "bedroom" suburbs like Westchester County and Nassau County, workers now commute into the county each day as travel to the city in the customary pattern.

The service sectors of the job market—the shopping centers and colleges, for instance—have followed the roads and the population. One example is the Cherry Hill Mall shopping center in Philadelphia, which employs 2,000 workers and occupies 60 acres of land about eight miles from the center of the city (ac- cessible via three major highway bridges).”

Outgrowth of Employment: single-floor assembly-line and warehouse opera- tions have brought more companies—and jobs—into the suburbs. Suburban warehous- ing requires land; parking lots for employees' cars and for truck storage require land; and land expansion costs (at below-downtown city costs). In Mahwah N.J., for example, the Ford Motor Company purchased about 200 acres just off a New York State Thruway exit and within minutes of New York City and about the same distance from downtown Newark, for a plant which will employ 2,000 workers.

Traditionally, companies that are prestige- conscious or need a communications network near their headquarters have occupied space in downtown skyscrapers. Increasingly, however, they have been able to enhance their
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prestige and satisfy the residential preferences of their executives by moves to long, low buildings in parklike settings in far-out suburbs. Replacing an old plant is just completed a corporate headquarters in Purchase, N.Y., which employs 1,200 people on 265 acres.

The decentralization of the metropolitan job market means that the working population must be permitted to decentralize too, if the possibility of a skilled worker living in the ghettos to find work is to be reduced. Workers must be permitted to follow the jobs rather than the jobs following them. The remoteness of the central city to the suburbs is to be matched with jobs. The decentralization of the metropolitan area aggravates this problem of relocation. For instance, the job market for skilled worker living in the ghettos to find work has been at the Depression level of 12 per cent for the urbanized area, pay them resettlement aid, and only 88, or 2 percent, in the five-acre zones for its 100 middle-income families. To workers must be permitted to follow the jobs, not make housing prohibitive expensive in the ghettos.

The remoteness of the job market for relatively low-skilled workers does not make the ghettos areas aggravates the employment problem. So does the lack of coordination between job-finding agencies in the cities and the suburbs, which makes it difficult for the low-skilled worker living in the ghettos to find out about and apply for low-skilled but decent jobs throughout the metropolitan area. The United States Employment Service and other job-finding agencies must be reorganized so that information about openings can be transmitted to the unemployed in the ghettos. But this will not be enough. Workers must be permitted to travel to the jobs, which means in the case of blue-collar jobs that they must be permitted to find homes near enough to the jobs, and the move does not even an excessive bite out of their incomes.

If the ghettos are viewed as underdeveloped areas—an approach taken by agencies in the sixties—the need for movement of workers to jobs in suburbs is even more starkly evident. Economists who were once skeptical about the capacity of ghettos to attract new business investment into depressed regions in order to create new factory jobs are now beginning to recognize that by far the cheapest solution to the problem is to give unemployed workers information about jobs in thriving industrial areas, help them to learn about the unfamiliar customs and housing patterns of the new areas, pay them resettlement allowances and get them moved. Only in rare cases do these allowances pay for moving families to new areas rather than help families left behind by changing patterns of industrialization to move into the economically mainstream tax base.

Of the 4,200 workers employed at the Ford plant in Mahwah, many live in Newark and New York, and only 68, or 2 percent, in the town where they work. Despite the important role that this factory plays in the metropolitan economy, the local property taxes paid by Ford benefit only Mahwah residents. Taxes on industrial and commercial property that are paid to suburban communities are another example of a metropolitan resource that is paid but is not used to help solve inner-city problems.

The tax rate on business property reflects the tax burden on suburban jurisdiction that levies it. If the suburb has a relatively small public-school enrollment, and few low- and moderate-income families, its local tax rate will be much lower than the rate that would be necessary if the business property were situated in a poverty-ridden urban area. The tax rate is further reduced when, as in the case of Mahwah, the suburb uses its zoning power to keep commercial areas and manufactured housing out of low- and moderate-income households, including those whose breadwinners work in the plant.

In contrast, Mahwah's successful effort to lure new companies and to exclude the companies' employees has resulted in a 1970 tax rate on industrial property of only 60 cents per $100 of full value. By comparison, the city of Newark, which houses and educates nearly 1,000 of Ford's black workers and their families, is compelled to tax business property at the rate of 7½ cents per $100 of full value. Mahwah's tax base included $104,000,000 of business property and yielded $1,612,000 in revenue in 1970. Taxes on property, real and personal, are legislated to answer the question of whether or not to exempt the black.

This, the comparison of Mahwah with Newark, is an example of the black.

The remoteness of the job market for relatively low-skilled workers does not make the ghettos areas aggravates the employment problem. So does the lack of coordination between job-finding agencies in the cities and the suburbs, which makes it difficult for the low-skilled worker living in the ghettos to find out about and apply for low-skilled but decent jobs throughout the metropolitan area. The United States Employment Service and other job-finding agencies must be reorganized so that information about openings can be transmitted to the unemployed in the ghettos. But this will not be enough. Workers must be permitted to travel to the jobs, which means in the case of blue-collar jobs that they must be permitted to find homes near enough to the jobs, and the move does not even an excessive bite out of their incomes.

If the ghettos are viewed as underdeveloped areas—an approach taken by agencies in the sixties—the need for movement of workers to jobs in suburbs is even more starkly evident. Economists who were once skeptical about the capacity of ghettos to attract new business investment into depressed regions in order to create new factory jobs are now beginning to recognize that by far the cheapest solution to the problem is to give unemployed workers information about jobs in thriving industrial areas, help them to learn about the unfamiliar customs and housing patterns of the new areas, pay them resettlement allowances and get them moved. Only in rare cases do these allowances pay for moving families to new areas rather than help families left behind by changing patterns of industrialization to move into the economically mainstream tax base.

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Plan Association of New York, by the Lind­
say administration, and even by suburban
taxpayers, who point to the economic costs in new­ly developing communities. Gov.
William G. Milliken of Michigan, a Republi­
can, moved to establish a state to protect local
educational systems. Michigan's State Board of
its Flesheslaw Commission is about to conclude a study of
school financing by calling for "full state as­
sumption" of education costs. Political pressure to relieve local property
owners of the burden of school costs is building across the country as smaller
numbers of local school budgets are de­
feated.

A recent decision in the California Su­
preme Court is a triumph against the failure of the end of the present system of financing local schools. In Serrano v. Priest, the court said that the wealth of a child's education a founda­
tion in the land of his parents and neighbors. Recognizing, as we must, that the right to an education in our public schools is a fundamental interest which cannot be conditioned on the wealth of the owners, we can accept the compelling state necessitating the present method of financing,"

The court ruled on the fundamental issues raised by the zoning since 1929 when, in the case of Euclid v. Ambler, it declared that zoning in general and zoning ordi­
rances are a reasonable and constitutional method of controlling land use. But the lower courts have begun to rule on the contention that the zoning frequently denies racial
minorities the equal protection of the law guaranteed by the 14th Amendment. In one recent Pennsylvania Supreme Court case, the justices declared:

"We fully realize that the over-all solution to [housing] problems lies with greater regional planning; but until the time comes that we have such a system, we must confront the situation as it is. The power currently resides in the hands of each local
governmental unit, and we will not tolerate their abusing that power in attempting to zone out growth in the expense of neighboring communities."

The Justice Department and the American Civil Liberties Union have raised questions of suburban-exclusion with their suit against Black Jack, Mo., on behalf of a group of blac­
k families who wanted to build housing in the town. The group charged that Black Jack Incorporated itself into a municipality for the purpose of deny­
ing housing to blacks.

Court cases challenging exclusionary laws are in preparation against a number of sub­
urban communities. The South, some say, has the biggest Initial victory has just been won in New Jersey. Judge David Furman of the Middlesex County Superior Court 10 days ago declared invalid an ordinance in Madison Township, N.J., that called for one­
and-two-acre lots, required a minimum floor-area that was even smaller than the state zoning law, which says that localities must zone for the public welfare. Under this law, New York's Old Westchester zoning law can pass land-use regulations must in the fu­
ture take into account not only its own needs but those of the region.

The direction the U.S. Supreme Court may take has been hinted at in recent rulings on the need for school busing to achieve inte­
gration. In the recent Valtierra case in California, which de­
dealt with a referendum that was designed to prevent construction of housing for an
ethnic group. The court noted that the court on matters relating to racial discrimination has been quite uncompromising. It is fair to say that the court's recent inter­
ulatory effects of exclusionary zoning will carry great weight with the court.

PLANNING

The massive spurt in suburban housing construction which followed World War II occurred at a time when new young fami­
dies were desperate for homes—in a full­
dress economic boom. By the end of the war-related restraints on building. The decade of the seventies has brought the be­
ning of a shrinking of the baby boom (as those born in the postwar baby boom come into their own child-rearing years), but without the economic conditions which made the housing surge possible after the

War. Housing construction is now at a low ebb. Even if the vice of exclusionary zoning is removed, government subsidies and controls will be required to see to it that the com­
monwealth of the housing shortage actu­
al produces the needed housing. The Kaiser Commission has called for the con­
struction of one-half a million low-as­
sisted housing each year for the next decade, at a cost of $2.6-billion per year. Aid to the suburbs might help. But if the suburbs with the opening up of vast acres of suburban land, can insure the construction of the housing that is needed to eliminate the slums of big-city housing, the courts and the legislature must also act to permit rebuilding on their land at decent densities.

If the land resources do become available, new residential development can be of a far higher quality than that of the sixties. There is a real fear about "urban sprawl," Levittowns and endless acres of shoddily built bunga­
low. Critics of subdivision have led us to fear the terrible sterility of look-alike suburbs. But the suburbs have offered a very satisfactory form of life to those who live in developments that do look alike in many re­
pects. Suburbanites in Levittown and Scars­
dale have found that despite the similarities of dwellings and ways of life in their com­

dities, they still like to live there. Of course, suburbs have many problems; what form of housing doesn't?

We should not prohibit development be­
cause it may have some undesirable aspects, unless we develop alternatives that provide for suitable housing for all classes of the popu­
lation.

The garden-city movement and the new town concept of the last two decades have been an important force of new development in this country—Columbia, Md., and Reston, Va.—have dem­
senstrated that amenable communities open to all classes can be constructed at far higher standards than those of today's expensive suburban developments, in which each house is a palace in two or more acres. Present acreage development saves no open space for the public. It calls for cookie-cut­
ters. But the right is to demand that every inch of space be devoted to a private lot—even land not suitable for development.

But if new housing in the suburbs need not look like Levittown, it is wrong to think that we need not conform entirely to the rules of the garden-city movement in Europe and Amer­
ica. Housing cannot be planned as one­
size fits all; some of the best real estate in the country is found in the suburbs. Towns, moreover, can assure the preserva­
tion of large amounts of open space through "planned development areas" and "planned-unit development," which permit higher densities on portions of a tract if a certain amount of acreage is set aside for open space. If the elimination of suburban exclusion prevent those who wish to own large amounts of land from doing so—a privilege guaranteed them by our economic system than was previously introduced last year and reintroduced this year. It would forbid a federal installation to move into suburban land sold to provide land for houses for workers.

As the prospect of intensified develop­
mion of the suburbs comes closer, private groups, asking for protection, are now finding that the powers for eventual massive building. One hopes that these developers will be guided by the prin­
ciples of blending growth with economi­
cal growth with new housing, and of a wide mixture of housing types and costs in open neighborhood.
IMMIGRATION PROBLEMS IN THE COMMONWEALTH OF MASSACHUSETTS

Mr. BROOKE. Mr. President, I have today forwarded to Senator McCLELLAN, chairman of the Subcommittee on State, Justice, Commerce, and the Judiciary Appropriations, of the Committee on Appropriations, a report of my findings on immigration problems in the Commonwealth of Massachusetts.

The statements made in my report may well be typical of the problems in other States and it is my hope that this report will lead to effective remedies to what appears to be a national problem. To provide my colleagues with an opportunity to review this report, and I ask unanimous consent that it be printed in the Record.

There being objection, the items were ordered to be printed in the Record, as follows:


I. PURPOSE

The purpose of the two-day hearings was to review the budget and operating procedures of the Boston District Office of the Immigration and Naturalization Service and to evaluate their impact on the Commonwealth of Massachusetts. It was our further purpose to investigate special problems relating thereto.

The first day of hearings was held on May 27, 1971, in Room 252, Post Office Building, New York, New York. John F. Kennedy Federal Building in Boston, Massachusetts.

The second day of hearings was held on May 28, 1971 in Room 252, Post Office Building, New York, New York.

Testimony was received from a total of 27 witnesses, 25 of whom appeared at the hearings and three in writing. The following are the record subsequent to the hearings.

II. BACKGROUND

The Commonwealth of Massachusetts presently ranks fourth among the 50 states in the total number of registered aliens residing therein. And during fiscal year 1970, about 15,000 aliens were admitted through Boston for permanent residence. This brought the total number of registered aliens residing in Massachusetts during that year to 10,208 temporary visitors entered through Boston during the fiscal year ending June 30, 1970.

During my service in the Senate, I have received hundreds of complaints from citizens and aliens alike on a wide range of immigration matters. However, during the past year my office experienced a tremendous upsurge in the number of complaints. After conferences with the Director of INS, I concluded that the practical application of the Immigration Naturalization Act of 1965, as amended, to the aliens in Massachusetts, as well as to other states, while it would be impossible to conduct a complete review of the multi-faceted application of our immigration and naturalization laws, the hearings held by the Subcommittee were able to highlight some of the most critical problem areas.

III. BUDGET AND OPERATING PROCEDURES OF THE BOSTON DISTRICT OFFICE OF THE IMMIGRATION AND NATURALIZATION SERVICE

The testimony during the hearings revealed that the current operating budget of the Boston District Office was approximately $1,575,000. Of that amount, $1,450,000 was expended on a staff of 106 people located in Boston. The second largest regional office, which is located in Springfield and employs only three people. In reviewing the staff breakdown, two specific areas deserve special attention.

In the first instance, it should be noted that there is only one special inquiry officer in the Boston and Springfield offices. It should be further noted that at present there are no plans to assign additional personnel in this area. In the last year for which figures are available, the Boston District Office conducted 682 deportation hearings, which resulted in 116 deportations. The Springfield District Office handled 33 exclusion hearings. This latter procedure is invoked when a person arrives in the United States, receives a nonpermanent visa, is not eligible for admission, and is subsequently found to be here illegally. Another area of complaint centered around the housing of aliens who may be here illegally. In many cases, aliens may be displaced from their housing by aliens alleged to be here illegally.

The testimony also indicated that the Immi-


gination and Naturalization Service, as amended, has itself contributed to the increase of complaints over aliens alleged to be here illegally. Prior to the 1965 Act, there were no numerical restrictions placed on Western Hemisphere immi-

grants. The 1965 Act placed a limitation of 190,000 on those immigrants coming from independent countries of the Western Hemisphere. This has apparently caused a significant backlog of cases. In addition, there is presently a waiting period of approximately 18 months for persons applying for the adjustment of status.

The 1965 Act requires that employers obtain labor certifications before entering the United States. The District Director testified that with our present employment situation, a large number of the Western Hemisphere people find it difficult to obtain job certifications within the United States, and many are relatively easy to get temporary visitors’ visas. Thus, many are able to come here and lose themselves in the labor market without work and remain here in an illegal status.

As the testimony continued, it became apparent that though staffing shortages may be attributed to the large number of aliens facing in Massachusetts, other factors such as the unemployment situation, and the immi-

grant situation may also make it difficult to measure accurately the impact of budgetary restrictions. While the Immigration and Naturalization Service were unable to accurately predict how many aliens may be illegally resident in Massachusetts, it is indicated that the number may well be in the thousands.

It should be further noted that the geographical area expected to be covered by these field investigators extends beyond the boundaries of Massachusetts and include parts of New Hampshire, New Hampshire, and Vermont. Without going into a detailed job description of field investigators, I think it is clear that the size of the heavy caseloads that field investigators are expected to carry, it is worth noting some of the procedural aspects...
of their jobs. The testimony indicated that a lawyer can be of considerable assistance in the operation of the foreign subsidiary, it would appear straightforward that he could use one classification and one form supplied by the Immigration Service to accomplish that end. However, if the employer then indicates that he wants the alien here in a shorter period of time, a different classification is appropriate, and the employment is happening in his business, then a different form for a different type of training program is necessary. It has been in the past that some difference in this case might be that there is a tax consequence to the alien or that there is a selective service consequence or even a correction on the social security card. It is possible which of these approaches should be utilized. Mr. Juceam indicated that if the employer had the foreign national in the country, the representative, he would learn that there are three types of forms to be used and he would be assured that his alien is in the proper place. He would not, however, be given assistance in analyzing the collateral problems raised by the use of the different forms.

It is here that the association feels an attorney is needed. While the testimony did not offer any criticism of contact representatives, the committee was pointed out that they are generally employed at the GS-7 level. It was further indicated that not all legal representatives are given some "in-house" training. They do not participate in the same training course conducted for field investigators. The board of immigration and naturalization law is extensively reviewed. In essence, the contact representative was described as an "open store" person who is supposed to see the alien on a case-by-case basis but rather hands out forms, inspects completed forms, and assists in filling out specific questions only when raised. Further, it is possible that a representative of the Immigration and Naturalization Service might not have the legal training, and in his probable allegiance is to the Service. What is needed in addition to more training is some assurance that aliens will be assured they will have the benefit of the true spirit of advocacy.

All of the testimony seemed to indicate that the role of the alien is an attorney is needed. While the testimony did not offer any criticism of contact representatives, the committee was pointed out that they are generally employed at the GS-7 level. It was further indicated that not all legal representatives are given some "in-house" training. They do not participate in the same training course conducted for field investigators. The board of immigration and naturalization law is extensively reviewed. In essence, the contact representative was described as an "open store" person who is supposed to see the alien on a case-by-case basis but rather hands out forms, inspects completed forms, and assists in filling out specific questions only when raised. Further, it is possible that a representative of the Immigration and Naturalization Service might not have the legal training, and in his probable allegiance is to the Service. What is needed in addition to more training is some assurance that aliens will be assured they will have the benefit of the true spirit of advocacy.

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compromised by the detailed legal analysis suggested by Mrs. Kaufman. Apparently, many attorneys are handling immigration cases, provided the case is not too complex. A vague area of government, provided for in various governmental acts, is the area that had appeared in a newspaper advertisement. The Court’s decision is that it is not against public policy for a lawyer to utilize personal influence to obtain an audience with the Bar or government, provided that in doing so he does not obtain or seek to obtain relief based on influence, but that he does present something on the merits of the case. This is a vague area of the law and one in which it is difficult to distinguish what constitutes an attorney’s use of personal friendship to obtain a hearing on the merits. Mr. Juecem, in his testimony, indicated that the Ethics Committee of the Bar and Immigration and Nationality Lawyers is concerned with this area of the law and is presently reviewing attempts to approach the Judicial Council. Hopefully, the Court’s decision is to be applauded and encouraged. It is clear that the Bar has responsibility for keeping its own house in good order.

Very briefly, it is worth stressing again that this is another problem area stemming from the fragmented and inadequate system of available assistance for aliens upon their entry into our country.

B. TRAVEL AGENCIES AND VISA CONSULTANTS

The background of another special problem area is provided for in a newspaper advertisement that had appeared in a newspaper on a Caribbean Island, announcing the availability of employment in the United States and the way to obtain appropriate visas. The announcement described a job category such that the time were certifiable by the U.S. Department of Labor. The ad gave an address on that island where aliens could go to seek manpower, and it was more than likely an advertisement. As more attention was given to the matter, including a printed advertisement, the office was able to learn that the persons to whom that ad was addressed were only one country.

According to Mr. Juecem, the services rendered by this firm and others consist primarily of processing the papers required for labor certification and entry into the United States. Presumably, this work is done by non-attorneys. We were told that evidence suggests that these firms are cropping up all along the East Coast. We should be concerned as to whether these visa consultants firms or travel agencies are performing a useful function with regard to the administration of the 1965 Immigration and Nationality Act, or whether they have been established for the purpose of circumventing the spirit, if not the letter, of our immigration statutes solely to profit from many non-English-speaking aliens who may be obtaining legitimate entry into the United States. Aside from the potential abuse that may be engendered, there is immediate need to understand the role which these firms can and do play with respect to the services presently being provided by the naturalization Service and those functions which the Service could conceivably fulfill in the future.

Many of the other men from England ran into a troublesome tax consequence as well. According to Mrs. Walshaw, many of these men were required to pay taxes on the income from their wages by their employers, but the men failed to file any returns. The employers were paid by their consultants, and the consultants paid the taxes. Thus eligible to apply for labor certification was not only one employer here in the United States and employees from only one country. If we can judge by the cases that appeared before the Board of Immigration Appeals, it appears that Mr. Walshaw will have to leave the country.

Mrs. Walshaw indicated by her testimony that the total cost incurred by her and her husband in coming to the United States, relocating their family, and undergoing the work we have described was approximately $3,000.

It is worth pointing out that the Subcommission heard testimony with respect to only one employer here in the United States and employees from only one country. If we have any credence to the claim that there are literally hundreds of these consultant firms presently in operation involving many countries, the dimensions of this problem could be far-reaching.

C. LABOR CERTIFICATION

Another special problem area that was brought to our attention prior to the hearings was the issue of labor certification. The hearing room was crowded with those concerned with the requirement of labor certification is contributing to the burden of illegal entries into the United States. The Regional Manpower Administrator, the U.S. Department of Labor, testified on this point along with many other witnesses.

By way of background, Mr. Rogers testified that when the U.S. immigration statutes were overhauled in 1965, preferences were set up within the law specifically for people to come to the United States to work. As a part of the establishment of these preferences, the labor certification offices were established in their present form to prevent adverse effects on our labor market through lower wages and a less productive labor force willing to come to this country and willing to work in substandard conditions for lower wages. Certification by the labor boards assures the employer that the immigrant entering the U.S. seeking employment will not displace an American worker who could conceivably be a candidate for the same job.

Mr. Rogers testified that for the period from January to June 1, 1971, a total of 16 and a half months, the New England Regional Office acted on 6,550 applications. Of these, 6,550 applications received, the Regional Manpower Office approved 3,496 for labor certification. Accordingly, they disapproved 3,054.

To put this in its proper pretext, the 3,496
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approved applications represent less than one-tenth of one percent of the average work force in New England. This latter figure, according to Mr. Rogers' testimony, is in the neighborhood of 250,000.

In a further breakdown, Mr. Rogers testified that during the same 16-month period, there were only 2,556 applications for aliens in Massachusetts alone. During this same period of time, his department approved only 1,262 of these applications. The total number of applications in Massachusetts during this time period came to 2,528. The 1,592 applications approved, or 62.8 percent of the total, was the Massachusetts work force, which, in March of 1971, was 2,550,000 persons.

Mr. Rogers also indicated in his testimony that the cost of administering the labor certification requirement comes to approximately $2 million a year.

In later testimony, Mr. Rogers pointed out that the law only requires the Department of Labor to certify the availability of U.S. workers and possible adverse effects on our domestic labor market. From a practical standpoint, this means that an alien can be in this country temporarily, working illegally, and be eligible for labor certification. As a matter of policy, however, we were told that when a labor certification request is denied, labor officials ascertain that the applicant is either working illegally or is here in the U.S. illegally, they forward such information to the Immigration Service.

The point was made, nevertheless, that the fact that an alien is here working illegally is not necessarily a sufficient reason for denial.

Mr. Rogers went on to point out that the labor certificate, as such, is not recognized by many employers as a formal type of work permit. Many aliens are working in occupations in this country such as England. Of greater significance, he testified, is the fact that anyone can obtain a labor certification request based on estimates of the Department of Labor as to how many can be absorbed. They should not confuse the fact that they are considering any requirement for a particular job. Mr. Rogers, in his testimony, was in general supportive of the program, but he noted that the national office of the Department of Labor is, in fact, considering a change in this area along the lines of Mr. Reisgo.

On one final point, it is my understanding that the labor certification requirement is not necessary to take in the legal influx of great numbers of people across the border. The present system may be creating hardships for immigrants who are not generally threatening our domestic labor market. The last special problem area on which we heard testimony was the case of Mr. Alphonso Reisgo. The facts in this particular case are fairly representative of a number of cases which have been brought to my attention recently and, indeed, in some cases, illegal conduct on the part of the attorneys.

According to the transpired, Mr. Reisgo entered the United States in June, 1969, on a temporary visitor's visa. He was traveling from Spain and was on his way to Canada where he intended to permanently reside. His intention upon entering the U.S. was not to seek permanent residence here. Shortly after he arrived, however, Mr. Reisgo met a friend who told him that he knew a lawyer who could get him permanent residence and, in addition, on the advice of his "friend," Mr. Reisgo went to see the attorney. Mr. Reisgo testified that at the lawyer's request that for $1,500 the attorney could obtain permanent residence status for Mr. Reisgo. On this first visit, Mr. Reisgo gave the attorney $200.00 in cash for the certificate, and Mr. Reisgo left the certificate with the attorney. In October, 1970, approximately four months later, Mr. Reisgo paid an additional $800. At that time, the attorney issued a receipt for $1,800. The attorney assured Mr. Reisgo that everything would be taken care of with the next step in the progress of his application with the Immigration and Naturalization Service. Mr. Reisgo went by himself to the Boston District Office of the Immigration and Naturalization Service and was informed that he had not obtained a certificate. At that time, he was told by Immigration officials that no papers had been filed in his behalf. He then returned to the attorney and requested an explanation. The attorney responded that his papers were over in "the social security office" and everything was being left there. He was later seen the attorney in question since November of 1970 nor does he have any evidence that services were performed in his behalf by the attorney either prior to or subsequent to November of last year.

This case represents what may be a common story of many recent immigrants to the U.S. with little or no understanding of our immigration statutes and is taken advantage of by those in whom he felt that they had been taken advantage of by at least one attorney. On one occasion, Mr. Reisgo, with the help of a representative of Governor W. Sargent, came to our attention to meet with my staff. As time went on, it came to my attention and for some sort of action became evident. While the total picture in any particular case in particular has yet to be determined, the testimony supported the contention that well over 200 have been involved.

The first witness was Mr. Paul Andrade, who is presently employed at WOOG Radio Station. Prior to his employment at the radio station, Mr. Andrade was at the Migrant Education Project of the Commonwealth of Massachusetts. While so employed, he became aware of the problems of the alien residents.

The following is a typical account: A foreign national who visited the United States and became an immigrant as a permanent resident would be referred to by the particular attorney by friends or relatives, and, it was suggested, possibly paid runners. The attorney would assure the new client that he could arrange to have him remain in the U.S. permanently and legally. The attorney, the testimony indicated, often represented himself to be a member of the U.S. Department of Immigration staff as well as "United States" with some administrative authority. It has been in all other attorneys in the United States. The attorney would request in cash a $500 retainer fee, application or one of his staff, for the purpose of obtaining a social security card. Each family indicated, was informed that this card was legal right to work in the United States and that the alien could now find a job, purchase a car, or buy property. It was further stated that, upon payment by the attorney to the Post Office or some other agency by the attorney, the attorney's fee, the attorney was paid by the attorney to the Post Office or some other agency by the attorney, the attorney was paid by the attorney to the Post Office or some other agency.

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It was suggested by Mr. Andrade that the attorney was often dealing with unsophisti­
cated and often uneducated people awed by his apparent position. On many occasions as the attorney ac­
companied them to the offices of the Immi­
gration and Naturalization Service, the court­
testing procedure was intended to corroborate his claims in their eyes.

When in the course of time, communica­
tions were made to the Immigration and Na­
turalization Service, the clients immediately took them to the attorney in question. Their testimony indicated that the attorney was often dealing with unsophisti­
cated and deference tended to corroborate his "legal

claims in their eyes. Even when third parties translated

the notices and advised the aliens of the seriousness of their situation, and in some cases, they would allow them to be not only bona fide

American citizens but American citizens as well.

The testimony indicated that the fee for this "opportunity" had already paid the attorney

$1,000, for in cash, for

the people who were presented with this

witness testimony. I asked Mr. Andrade

if he would be kind enough to

the Bar. If I

in violation of the law.

Mr. RITTENBERG. I looked

around. People

there. You are very well familiar with im­

igration law earlier in his testimony At­
torney Rittenberg employed to keep aliens in this country, the following testimony transcribed.

in 1970.

The same thing hap­

in this country, the

Mr. Andrade and Mr. Cruz. It is worth pointing out that

of the

him

if he would be kind enough to

the hearing volun­

now, what procedure did you adopt?

Mr. RITTENBERG. I looked around. People

him

was arrested by

immigration officials as he was about to board

a fishing boat to go out to sea. He was hand­

cuffed and taken to the New Bedford House

of the

him

had been described

to take it to a particular woman who had

him

of the

him

would be in violation of the

Mr. RITTENBERG. Maybe

him

in the hearing room to this one attorney. We

were then able to determine that one had paid $1,100;

two had paid $1,000; one had paid $600; 17

had paid $500; 14 had paid $400; 4 had paid $300;

had paid $200; and 3 had paid $100.

Again asking the entire group how many had received a permanent resident visa card,

and gave them assurances that he would help to

the rights of the efforts of the attorney, the

answer was none. Finally, as to how many had signed the renunciation of citizen­

Mr. RITTENBERG. I looked around. People

him

had been described

to take it to a particular woman who had
Assistant U.S. attorney in Boston that the United States is not a party to the treaty upon which his claim is based.

On the question of advising his clients to ignore deportation orders, it is worth nothing more than a passing comment.

Senator Brooke: When a client came to you and showed you a deportation notice, why did you tell them to go out and report the facts?

Mr. RITTENBERG: Why? Because I wanted to talk to Immigrations to see if I could get it changed. Very simple. No one was doing anything about it and that is the answer.

At another point, the dialogue went as follows:

Senator Brooke: Have you ever represented a client that jumped ship?

You understand jumping ship?

Mr. RITTENBERG. Yes.

Senator Brooke: You couldn't be in the immigration business and not understand that. Now, a person jumps ship and you advise them to get a job and not worry about anything, you'll take care of it. Do you know that jumping ship in this country is a violation of law?

Mr. RITTENBERG: I imagine it is.

Senator Brooke: You don't need to imagine. I've got a case on it. Mr. RITTENBERG. Of course it's a violation.

Senator Brooke: Number one, to jump ship is a violation of law and number two, after you enter the country by jumping ship, there are no ways that immigration proceedings continue, Mr. RITTENBERG.

Mr. RITTENBERG: I have no work force. The only way they have a record of it. But there is no way for the Immigration really to know what their health problems are. It is here in a legal or illegal status. He indicated that the police may not know who is needy, regardless of their status.

It is clear that his heavy caseload has overburdened the agency. Mr. Maravell testified that, although they have a fairly large agency, they have not been understaffed by about 30 people. It is the present day. His present staff consists of 126 people. In round figures, they rejected 600 and 347, they certified whether there were skilled people available. In the last year, 1969, and nothing is ever received by the United States is not exhausted. Very simple. No matter what the Immigration really to know what their health problems are. It is here in a legal or illegal status. He indicated that the police may not know who is needy, regardless of their status.

Senator Brooke: The situation is that bad?

Mr. Maravell: It is.

Mr. Maravell indicated that he had no way of determining whether an alien is here in a legal or illegal status. He indicated that the police may not know who is needy, regardless of their status.

Director Landreville also indicated that the City of New Bedford provides not only a tuberculosis control program for New Bedford, but also for six other communities as well; namely, Acushnet, Dartmouth, Fairhaven, Freetown, Mattapoisett, and Rochester, comprising a total population of approximately 45,000.

In tuberculosis testing of the non-English-speaking children from the public and private schools, he found that 15 percent of this group had a positive reaction, denoting that either they or their families in the countries from which they came had, without any doubt, been in contact with cases of active tuberculosis. The entire families of those children who reacted were then tuberculin tested and all persons showing reaction were then X-rayed and put on medication which was provided by the State Department of Public Health. This group consisted of more than 1,000 persons receiving medication.

Director Landreville also indicated that public health nurses as well as the nurses in the public school system have found a large number of immigrant children with intestinal parasites causing serious malnutrition. He went on to assert the belief of the Department of Public Health that immigration authorities are not adequately screening the people who are coming to this country from the point of view of screening for communicable diseases, including those suffering from any contagious disease or determining what their health problems may be.

On a practical level, Director Landreville told
us that the public health nurses who are traveling in the field find they are barred from many of the key areas of the community because they are illegally within this country because many of these people, knowing that they may not be accepted, fear a visit from any kind of law enforcement. This fear makes the work of the field nurses doubly difficult, particularly when there is also a language barrier that is not easy to overcome.

In the related area of education, I received a subsequent communication from the New Bedford School System, Mr. James R. Hayden. In describing the impact of immigrants on the New Bedford School System, he indicated that in 1965, prior to enactment of our present immigration statutes, the public school system had 29 immigration classes. These classes have doubled every year since, over 300 children have been enrolled.

What has emerged in essence is a bleak picture of inadequate resources being overtaxed. The people who suffer as a result are not only immigrants but also citizens of the Commonwealth. At the present, we have no accurate measure of the number of illegal aliens in the Commonwealth. We can, however, be sure by the additional services they add to presently available social services. To this extent, we must begin to supplement existing resources while we can try to see some reason to stem the flow of illegal aliens into the United States. The aliens who are here illegally have been driven by the freedoms and opportunities which abound. They came not to thwart the law but to live within its promise of justice. Owing to the fact that they have been generally unfamiliar with our complicated immigration statutes, they have all too often fallen victim to employers and others who seek to profit from their ignorance of the law.

They entered this country not only in the wrenching and wrong time-during a recession when unemployment was high and social services were severely over-taxed. Their plight cannot be ignored. While the Nation's laws must be upheld, our compassionate tradition must be continued. In response to their illegal status, we must be first among equals of our land and understanding as to the individual needs of each alien.

V. CONCLUSIONS AND RECOMMENDATIONS

Recommendation: In the face of the responsibilities that the Boston District Office of INS is expected to handle, the office is very much understaffed in key areas. Recommendation: For the beginning, the budgetary authority for the staff positions of field investigators be at least doubled for the Boston District Office for the next fiscal year. This would provide 32 field investigators and two supervisors where there are now only 16 investigators and one supervisor.

3. Conclusion: The “contact representatives” with the Immigration and Naturalization Service play an important role assisting those seeking legal status and filling out the appropriate INS forms. To the extent that “contact representatives” offer limited and/or inadequate information to aliens, particularly speaking aliens are left subject to the prey of the unscrupulous.

Recommendation: That the job of “contact representative” in the Immigration and Naturalization Service be upgraded and coupled with a more vigorous training program or an extensive training in immigration law.

3. Conclusion: An English-speaking alien who enters the United States on a temporary visa and thereafter decides to remain in an illegal status, has little or no difficulty in securing a social security card for himself in complying with Federal laws relative to alien employment.

Recommendation: I have asked the Commissioner of the Social Security Administration, Robert M. Ball, to determine if it is advisable to prevent the issuance of Social Security application form in such a way as to obtain from it sufficient information for a credit check on aliens. If this cannot be done administratively, I shall seek to amend the Social Security Act to provide for a separate application form and to establish the necessary administrative machinery.

4. Conclusion: The number of aliens here illegally has been growing and may be producing an adverse impact on the economy of Massachusetts and the distribution of available social resources.

Recommendation: The appropriate federal and state agencies have been requested to assist in determining the impact and to prepare specific legislative recommendations to deal with the problem on the federal level.

5. That a number of employers have actually invited and encouraged aliens on expired visitors’ visas to work in an illegal manner. An additional approach of the employers have acted with reckless disregard as to the status of their employees under our immigration statutes and have thereby encouraged alarming rates of violations. Estimates as to the loss of earning power that has resulted to American citizens run as high as $5 billion per year.

Recommendation: I have asked Attorney General John Mitchell to explore alternative methods of enforcement. Consideration may be given to making it more aware of their responsibilities and immigration laws. In addition, I have requested that the Attorney General review existing statutes and determine whether additional authority is needed to take action against those employers who knowingly hire illegal aliens.

6. Conclusion: The requirement of labor certification is costly and is not addressing the problem at hand—that is, insuring that unqualified domestic workers are not displaced by aliens. Furthermore, this requirement appears to be exacerbating the problem by encouraging aliens to circumvent the spirit of the law, in many instances, the letter of the law.

Recommendation: Since this issue is currently the subject of consideration by the appropriate congressional committees, we should await their findings and recommendations.

7. Conclusion: That a number of Portuguese-speaking persons in the Fall River area, as a result of their dealings with at least one attorney, have suffered substantial hardship. Not only is the attorney’s knowledge not sufficient, in my opinion, to justify the introduction of private bills in Congress.

Recommendation: Where additional hardship can be shown, though not sufficient itself to justify the introduction of private legislation, such hardship should be considered cumulatively with the "attorney hardship" for the purpose of introducing the appropriate private measures. In addition, I have requested the Commissioner of the Immigration and Naturalization Service, Raymond F. Farrell, to exercise the greatest leniency permitted under existing immigration statutes in those cases that cannot otherwise be adjusted during the interim period. Finally, I have asked Marshall Medoff, Chairman of the New England Chapter of the Association of Immigration and Nationality Lawyers to continue his review of individual cases to insure that the full benefit of counsel is afforded to those requesting such great volume of fire—both verbal and real—at police departments throughout our country, I would like to call attention to the dedication of a Los Angeles broadcasting company which has taken a very positive step toward the appreciation of law enforcement.

Channel 7, KABC-TV, Los Angeles, has been instrumental in the creation of a police memorial honoring those officers of the Los Angeles Police Department who have lost their lives in the line of duty. The project was nearly 3 years in the making, and involved the direction of John J. McMahon, vice president and general manager of KABC-TV. The memorial, one of the very few—too few—in our Nation, is designed not only as a tribute to fallen policemen, but also as a high corporate demonstration of how very much all officers may be called upon to give.

The engraved granite monument, 20 feet in height, was dedicated on Friday, December 3, at the Los Angeles police headquarters in Los Angeles, with Attorney General John Mitchell as dedication speaker.

I join the people of Los Angeles and police officers nowhere in commending channel 7 KABC-TV for its contribution to the image of law enforcement.

THE DANGER OF CORPORATE AGRICULTURE

Mr. McGOVERN. Mr. President, the controversy surrounding the confirmation of the nomination of Secretary of Agriculture Earl Butz has generated a great deal of public attention on the future of American agriculture. Many of us who opposed his confirmation called attention to the grave fear in rural America, the fear of corporate domination of American agriculture. Despite the claims of the U.S. Department of Agriculture, large corporations are producing more and more of our Nation's food and fiber.

Secretary Butz' longtime association with many of these firms precipitated unprecedented grass roots opposition to his confirmation. During the hearings on his nomination conducted by the Senate Agriculture Committee, Secretary Butz implied that corporations now active in agricultural production were curtailing their farming operations. But at the same time, many of these corporations are telling their stockholders of plans to dominate the food industry "from the seedling to the supermarket," as one of the corporations put it in its annual report. Corporations are able to take unconscionable advantage of tax provisions originally intended for the family farmer. I have long advocated that the laws should be revised to eliminate tax-bonanza farming. It is also time to rewrite the antitrust laws to prevent the spread of corporate agriculture.

If we fail to take measures to turn
A MISLEADING PICTURE

At first glance, corporations do not seem to loom large on the agricultural scene. Of the 2.7 million farms left in the United States, only some 700 are owned by corporations. Yet, a careful reading of the Agricultural Department's books as incorporated or owned by corporations. And many of the farmers and agricultural workers insist that they are "family farmers."

But that picture is misleading.

Corporate farms are big farms. Many consist of thousands of acres of the best land obtainable. Their owners often have back-grounds of development capital and, if diversified, obtain nonfarm income. On the other hand, the average American farm, the unincorporated farm, consists of about only about 80 acres, or of them nonproductive. The man who owns this relatively small plot probably has no big capital back-log, often is deep in debt, and seldom receives any special tax breaks.

Eventually, he may have to sell out, flee to the already jammed city, surrender to those who have the capital to compete in a business where $6,000 deals have replaced $300. This surrender, in one form or another, takes place 2,000 times a week all across America. That is the average number of sales per week in the state of Washington. The Agricultur-Department, often, a well-heeled corporation name in to fill the void, or maybe a partnership, or a team deal or maybe a neighboring farmer who has somehow found the means to expand and is on the brink of incorporation. Actually, nonfarmers are buying corporations own land. Some only lease and thus do not show up in farm statistics.

Other farmers who corporations neither own nor lease land. They simply contract for crops, an operating method that now accounts for almost 40 per cent of the country's total agricultural output.

METHODS CONNECTED

A few corporations use a combination of operating methods.

For instance, the Tenneco Oil Corporation owns and farms about 35,000 acres of Southern California's best crop land. It leases 100,000 acres more. And it contracts for the crops of dozens of other farms in the area.

The overall effect is to make Tenneco one of the nation's leading crop producers and, in the biggest farming areas of a state that provides more than a third of all vegetables eaten in the United States. Tirest surely a monopoly on the vegetable market. But in some other agriculture sectors, corporations have achieved dominance or near dominance.

Three companies-Purex, United Brands and Bud Antle-produce a large share of the lettuce eaten in America, a situation that has led to a rural agricultural antisite investigation by the Federal Trade Commission. Many Government officials contend that a corporate Antle, grow large lettuce any cheaper than a family farmer, a point farm economists have frequently made, not only about lettuce but also about most other crops.

Another sector of agriculture dominated by corporate America is the broiler industry. The Federal Trade Commission has been engaged in producing everything from chicks to feed to packaged drumsticks. Among these companies are Tyson, Purina, with which Secretary Butz was associated.

CHANGE AFTER WORLD WAR II

Until shortly after World War II, many broilers were raised by individual farmers. Today, it's a rare occasion that any farmer comes in contact with a broiler farmer, the unincorporated farm, consists of only about 80 acres, or of them nonproductive. The man who owns this relatively small plot probably has no big capital back-log, often is deep in debt, and seldom receives any special tax breaks.

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Big food chains often buy directly from feed lots or set up their own feeding operations. Thus, they reduce the need for stockyards, the one place where the family farmer can always be sure of getting the best price for his cattle because the bidding there is always competitive.

When I was a member of the National Farmers Union, a large farmers association, I found that several years ago Denver supermarkets were paying as much as 29 cents a pound to 21 cents a pound simply by repeatedly shifting purchases from feed lot to stockyards and back to feed lot or to the producer.

"When the chains weren't buying at the yards, prices naturally would drop. Of course, the chains denied any connection. But interestingly enough, all the while that wholesale meat prices were going down, retail meat prices stayed the same. I figure the people of Denver paid at least $4 million more for food during that period than they should have,"

Here in Kansas City, there is a company that specializes in investing the excess capital of wealthy corporations or individuals into the U.S. agriculture market. Called Oppenheimer Industries, it takes on no client with a net worth of less than $500,000 or an income tax bracket of less than 50 per cent.

Its specialty is "cowboy arithmetic," tax savings for the rich through depreciation, favorable capital gains levies and other loopholes. Of its 12 clients is Gov. Ronald Reagan of California, who paid no state taxes in 1970.

The president of Oppenheimer Industries, H. L. Oppenheimer, argues that the money be steered away from the United States Treasury and into farming actually helps keep the family farmer in business and does not constitute a significant to the corporate invasion of rural America.

Federal tax records indicate that at least three out of every four people with annual incomes of $100,000 or more are involved in farming in some way, most of them reporting agricultural losses that can be written off against taxes on nonfarm income.

If Federal tax laws seem to help the city corporation that farms on the side more than the family farmer who farms full-time, they are contributing significantly to the corporate invasion of rural America.

The biggest farms—the ones with the wealthiest owners—receive the biggest agricultural subsidies. The biggest farmers are also the biggest dollops of Government-supplied irrigation water.

Recently, the Congress placed some limits on subsidies. And the courts are beginning to crack down on the big water users, particularly those who do not live on the land they farm.

But still the gap widens between the rich and the poor.

"In the battle against Earl Butz but the struggle sure swung attention toward the farm issue. I've never seen Washington so much attention paid to a single thing. Maybe Earl Butz will turn out to be the best thing that ever happened to us."--AUDRE L. MURPHY MEMORIAL VETERANS HOSPITAL

Mr. TOWER. Mr. President, I am extremely pleased that the Senate Committee on Appropriations has seen fit to authorize such dispatch concerning H.R. 11220, which is the same as S. 2604, introduced by me on October 15. The bill designates the Veterans Administration hospital in San Antonio, Texas, Superior to the Audie L. Murphy Memorial Veterans Hospital. The entire Texas delegation in the House of Representatives introduced H.R. 11220, indicating the strong bipartisan support which this measure has evoked.

I feel that the dedication of the San Antonio Veterans Hospital is a fitting and proper memorial to a great American and a great man. Audie Murphy was born in Texas. Lieutenant Murphy, as he was known to his comrades in the Defense Department, was the most decorated soldier of World War II. He received 24 medals from the American Government, three from the French, five from the British, and one from the Soviet Union. Besides the Medal of Honor, his awards included the Distinguished Service Cross, the Legion of Merit, the Silver Star with oak leaf cluster, the Bronze Star, the Purple Heart with two oak leaf clusters, and the Croix De Guerre with palm. After being wounded three times, young Audie Murphy was brought home, to receive the admiration and affection of the American people which he had truly earned.

The United States suffered a great loss on May 26, 1971, when Audie Murphy was killed in the crash of a light plane near the town of Zonkolon in the State of San Antonio. The veterans hospital is an appropriate tribute to such a brave and courageous man who sincerely loved his country.

WELL DONE,Judge Bownes

Mr. McIntyre. Mr. President, the media carries continuing reports of leniency on the part of our courts towards those who are convicted of trafficking in hard drugs—heroin, morphine, opium, and others.

I have been devoting much of my time to combating drug abuse. We must cut off the sources of drugs in foreign nations. We must crack down on the production of speed-type drugs in our Nation.

And, we must make certain that our court system is able to move swiftly to bring to trial those who are alleged to deal in illegal drugs.

Finally, when the drug pushers are convicted in court I hope they will receive the kind of judgment that will keep them from going back on the streets in a hurry to begin pushing drugs once more.

A distinguished U.S. district court judge, Hon. Hugh Bowens, in Concord, N.H., has just meted out two concurrent 20-year prison terms to a man convicted in his court on two counts of selling heroin in bulk in Nashua, N.H. This same individual had been arrested 2 years ago in connection with the death dealing in Nashua, New Hampshire, and is wanted in the same on kidnap charges. He is "president" of one of the motorcycle gangs in New Hampshire.

The Manchester Union Leader in a front page editorial says:

WELL DONE, JUDGE BOWNES

I join the Union Leader in praising my friend, Judge Bownes and, Mr. President, I ask unanimous consent that the editorial be printed in the Record.

There being no objection, the Record, as follows:

JUDGE HUGH BOWNES

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WELL DONE, JUDGE BOWNES

Mr. HARRIS. Mr. President, a new low in American diplomacy

Mr. President, a new low in American diplomacy was reached yesterday. A senior State Department official bitterly refused to be identified, called in reporters to declare India primarily responsible for the war with Pakistan and to threaten a reduction in aid to the Indian economy.

This action must rank as one of the shabbest in our diplomatic relations. It is hypocritical in the extreme for our Government ever to issue such a statement. The only possible justification for it is to hide the total failure of the administration's own policy over the past several months.

For nearly a year, the Congress has pushed hard for the continuation of aid to Pakistan, for the contribution which American arms and aid were making to it, and the grave danger of a war between India and Pakistan. Administration officials, almost alone in the country, remained unconvinced.

Even the reality of hundreds of thousands dead and millions in flight did not persuade them. They claimed that by continuing aid to Pakistan the United States gained "leverage" with officials there. They urged others, despite the new high in human misery caused by the flow of Pakistanis to India, to hold their fire.

Mr. President, there is no "leverage" from this policy. The people of Pakistan have driven that country, now to emerge convincingly into Asia, firmly into the Soviet sphere of influence.

Mr. President's trip to a country which because of its system of government proclaims that it must remain our eternal enemy.

Well done, Judge Bownes.
And it was all so unnecessary. Months ago there was a wave of warnings from the press, the Congress and other gov-
ernments. Months ago there was widespread agreement by numerous observers that the only way to bring Pakistan to its senses was for the rest of the world to halt economic and military aid to Pakistan, to stop what amounted to an international subsidy for the slaughter of innocent people in East Pakistan. But this administration would not listen and now we have to suffer the consequences.

I do not contend that in this crisis India has been blameless. No sovereign state ever is. And in my statement issued December 5, I pointed out that India may have exploited this crisis in order to weaken Pakistan. But because of our shameful neglect of India's plight caused by the refugee flow, we should be the last to condemn India. If the Nixon Administration had been in power in Wash-
ington as follows:

The military junta that rules Pakistan under President Yahya Khan has been forced by an election. The largest number of seats was won, democratically, by a Bengali party that fa-

tored independence and self-government for Paki-
stan. Yahya thereupon decided to wipe out the result of the election by force.

Last Monday, 150,000 Indians fled into the East in large numbers and began a policy of slaughter. They murdered selected politi-
cians, intellectuals and professionals, then dispersed the refugees and burned their villages. They held public castrations.

To compare Yahya Khan with Hitler is of course incorrect. Yahya is not a man with a racial mission but a spokesman for zeno-
phobic forces in West Pakistan. But in terms of human beings killed, brutalized or made refugees—Yahya's record compares quite favorably with Hitler's early record.

The West Pakistanis have killed several hundred thousand civilians in the East, and an estimated ten million have fled to India. Not merely that the United

nations attempted to do on December 6 when we introduced a resolution calling for Bangla Desh participation in the Security Council proceedings.

At this point I ask unanimous consent that an article by Anthony Lewis in the New York Times, December 6, be printed in the Record. Mr. Lewis rightly points out that America's policy toward the In-
dian subcontinent is "as much a disa-
Sterhand accounts of the horror inside East Pakistan were published months ago. The refugees were there in India to be photo-
grapped in search of the truth. But President Nixon and his foreign policy aides seemed to close their eyes to what everyone else saw. The President said not a word about the most appalling refugee situation of modern times. Private diplomacy was doubtless going on, but there was no visible sign of American pressure on Yahya Khan for the only step that could conceivably bring the refugees back—political accommodation with the Bengalis.

Pakistan's argument was that it was all an internal affair of East Pakistan. West Pakistan has not destroyed one-

military junta of the West, this issue must at the same time grapple honestly with the root

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The fault was not merely that the United States was wrong on the merits, though we believe that to be the case. The real fault was that the resolution could not conceivably fill its ostensible purposes of relieving Paki-

It is precisely by these minimal standards that the American approach over the weekend—ago to the challenge. The United

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after a 2-year battle with cancer. He was a friend for many years. He was a devoted family man and the father of nine children.

For more than 30 years he was a reporter on Pennsylvania newspapers. For the last 20 years he was regarded as one of the Philadelphia Inquirer's top reporters. He was a reporter's reporter. Such a tribute was offered by his city editor when he said:

"When it was a big story and there was little time, you could rely on Ed Hussie."

Mr. President, I ask unanimous consent to have printed in the Record the story in the Philadelphia Inquirer of December 6, 1971, reporting on the death of Ed Hussie, a great newspaper reporter.

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

[From the Philadelphia Inquirer, Dec. 6, 1971]

EDWARD HUSSE DIESS, INQUIRER

Edward J. Hussie, veteran reporter and rewrite man for The Inquirer, died Sunday at his home, 1611 Spring ave., Noble, Montgomery county.

Mr. Hussie, a native Philadelphiaan, was regarded as one of the area's top crime reporters. He and his wife was one of the most important in the Philadelphia area for the past 20 years. He died of cancer after a two-month illness.

STAR PITCHER

A graduate of Germantown High School, he was a star southpaw pitcher in local sandlot baseball leagues.

He began his career in 1940 with United Press. He worked for the old Philadelphia Evening Ledger, the Seattle Post Intelligencer, the Unontown (Pa.) Morning Herald and the Philadelphia Daily News before joining The Inquirer in 1954.

"He was one of that vanished breed of great rewrite men, who could work with unbelievable speed and accuracy on a big story at deadline," Inquirer city editor Robert Greenberg said. "When it was a big story and little time, you could depend on Ed Hussie."

UNCANNY REPORTER

His colleagues knew him as an uncanny reporter on murder stories, frequently pinpointing the guilty person or persons long before the police caught or charged them.

Some of his more recent major stories were the Mrs. Mary Mamon murder trial in Doylestown for the slaying of a Levittown housewife, a series of articles with reporter Acel Moore on "Terror in the Streets," and coverage of the slaying of Mrs. Laura Carpi, Princeton, N.J., socialite whose body was found in New York's East River last June 8.

He was in the trial and wrote it, dictating his story to The Inquirer by telephone. He paid a high price over his colleagues, however, because he had covered for The Evening Ledger, Mrs. Mamon's murder trial more than two decades earlier for the fatal beating of a West Oak lane child.

MCCLOSKEY SHOCKED

Last fall, Mr. Hussie wrote for The Inquirer's Today Magazine an article on Philadelphiaaso's new McCloskey, which readers said made the prominent millionaire seemed like a next-door neighbor.

Miss Grace, Bellmore, L.I., home, McCloskey was shocked to learn of Mr. Hussie's death, recalling the reporter had spent last Christmas Eve with McCloskey's family as part of his research on the biography.

"He was really a great reporter, a fine writer, and a wonderful man," McCloskey recalled. "First of all, he was able to get your confidence. You'd believe when he wrote it down that it would be exactly the way you told it."

"He was a great fellow. He was honest and he could write. In public life, he had a great place."

NINE CHILDREN

Hussie is survived by his wife, the former Anne Wall; four sons, Edward, Peter, Andrew and Terrance; five daughters, Mrs. Deane Guion, Mrs. Mary Hussie, Mrs. Marian and Judy; his mother, Mrs. Mary Hussie, of Washington, D.C.; two brothers, William and Owen; and two sisters, Mrs. Mary Tomkins, Barbara and Grace, and two grandchildren.

The viewing will be Wednesday evening at the Campbell Funeral Home, 500 E. Bennet St. A Mass of the Resurrection will be at 10 A.M. Thursday at the Church of the Immaculate Conception, Jenkintown, Pa.

Burial will be at Holy Sepulchre Cemetery.

AGAINST CRANSTON AMENDMENT

Mrs. SMITH. Mr. President, the December 2, 1971, editorial of WGAN-AM-FM-TV was most admirable. My only disappointment in it is the failure to note that I was present and voted against the Cranston amendment to exempt the news media from the wage-price guidelines being enacted for all Americans.

I wish that the editorial had been timed for delivery before the vote on the Cranston amendment and that it had been directed to the vote. In contrast, Mr. Malcolm Forbes, president and editor in chief of Forbes magazine, provided much better timing in his telegram of November 19, 1971, that preceded the vote by 11 days and which letter I placed in the Record on November 22, 1971, and characterized as "most refreshing and unusual."

He gave me courage to vote the way I did. I ask unanimous consent to place the WGAN-AM-FM-TV editorial in the Record.

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

SENATE VOTE TO EXEMPT NEWS MEDIA FROM WAGE-PRICE GUIDELINES

We were astonished by yesterday's Senate vote to exempt news media from the wage-price guidelines being enacted for all Americans.

As broadcasters, we don't want such an exemption. If we were purely selfish, of course, we'd be pleased to be able to raise our prices and make bigger profits than any other industry. And, we'd be pleased to think we could get bigger raises than anyone else, because of tremendous inflation.

But, that's an attitude we find distasteful. We don't think we're better than anyone else. Also, we suspect, favored treatment from the national government would be a threat to Freedom of the Press as does government interference. Further, we believe in sharing in the responsibility which Americans are winning against inflation.

Therefore, we hope the Senate will reject the amendment when it is considered.

Beyond that, we pledge that even if Congress should vote to exempt the news media, we will continue to fight for the preservation of the New American Republic.

ASSOCIATION OF FUTURE REPUBLICAN PARTY

Mr. HATFIELD. Mr. President, the Senate, Republicans's vote was a great amount of time and effort this year to reforming the political campaign process in this country. Action by the Congress was clearly overdue, but legislation, un­favored by the media and the overwhelming concerns of most Americans, cannot guarantee that either of our two great parties will be truly responsive, responsible, or representative of the best interests of the American people.

Last Saturday evening, the senior Senator from Maryland (Mr. MATTHIAS) addressed the annual dinner of the national Ripon Society, held at the Radisson Center in Minneapolis, Minn. The Senator appraised the state of our party, suggested a number of steps to help our party and our country, and urged responsible Americans to get more involved with the political process.

I think the Senator's remarks merit the attention not only of Republicans, but also of all Americans interested in increasing this country's strength and security.

I therefore ask unanimous consent that the Senator's remarks be printed in the Record.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

REMARKS OF SENATOR CHARLES MCC. MATTHIAS, JR. (R-Md.) PREPARED FOR DELIVERY TO THE 46TH ANNUAL DINNER OF THE RIPLEY SOCIETY, RADISSON CENTER, MINNEAPOLIS, MINN.

TOPIC: "THE DEMINISHING REPUBLICAN MINORITY"

I have come to Minneapolis to ask your help—for the Ripon Society, for our Party, and for our country. As we reaffirm the spirit and ideals of Ripon, we must not forget that Congress should vote to exempt the news media from the wage-price guidelines being enacted for all Americans."

As broadcasters, we don't want such an exemption. If we were purely selfish, of course, we'd be pleased to be able to raise our prices and make bigger profits than any other industry. And, we'd be pleased to think we could get bigger raises than anyone else, because of tremendous inflation.

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Therefore, we hope the Senate will reject the amendment when it is considered.

Beyond that, we pledge that even if Congress should vote to exempt the news media, we will continue to fight for the preservation of the New American Republic.

We association of future Republican Party that has the capacity for leadership and the will to lead.

And, we'd be pleased to think we could get bigger raises than anyone else, because of tremendous inflation.

Much of the nation's future will depend—not simply on who wins the election next year—but on how the issues of that election are defined. I sincerely believe that Americans can in the next twelve months re-order international and national affairs so as to assure both peace and prosperity for at least a decade. Every country will capitalize on this opportunity only if responsible, responsive, and representative American leadership win the election next year. I believe we have the unique opportunity to clarify public debate, unite our country and move her forward.

The past year has been one of both promises and frustration for the American people. On the one hand, we have seen the President pull together into a coherent package the New American Revolution—a number of programs pioneered by Ripon: "Family Assistance: A plan which would
provide both the incentive and the means for impoverished Americans to achieve real independence, and would lift some of the enormous financial strain placed upon our state and local governments by an inadequate and regressive tax system. Revenue sharing offers the first real hope for a responsive and cooperative federal government that would give real meaning to the words of the Founding Fathers of our country and our Party.

Executive Reorganization: As Congressman Frenzel has undoubtedly learned this year in Congress, a very large number of our people who have been spending money for the education of the illiterate, the job training, and the food and health for the underprivileged, and who are the dream of the major political parties, are Republicans and Independents rather than Democrats.

Revenue Sharing: Over the past decade, there has been a revitalization of state and local governments, principally under Republican Governors and mayors like Nelson Rockefeller, George Romney, William Scranton, and Richard Lugar. More than 30,000 men and women—organized under the auspices of the National Association of Counties and the National League of Cities in May—which seem the unique center that will consistently appeal only to the futurist, the New American Revolution. If we want national action on these programs, we must persuade both the President and the Democratic contenders to confront the problems which they address. Yet some White House staff and White House policy makers are still clinging to a political strategy which betrays substantial Nixon political supporters and may destroy the Republican Party by a permanent minority status. This strategy—evidenced by the divisive and counterproductive sedition campaign launched by the President—alters this condition.

The Volunteer Army: A century after the enaction of the Thirteenth Amendment, we still require involuntary servitude from over 400,000 American men and women. This system is legal, but it is morally wrong. The morale of our fighting men is at an all-time low, and that 70% of our soldiers quit the military after six months of training. Study after study has supported the President's call for a more capable, less expensive military force of volunteers. Yet we have not, nor have the proposals of the President for a New American Revolution at home, so too have we applauded the President, the Congress, and the public in anticipation of the coming presidential election.

Two of these points. I would warn Republicans to guard against this: the progressive Republicans do not feel that the New American Revolution—despite the abundant evidence to the contrary—has been defeated. I believe that this is the most important fact that we have to be sure to attract new members, it is only the lubricant that enables each coordinate branch of government if it so desires to paralyze the system which seems to be a mandate for change. Yet our Party's support among professionals and businessmen has steadily declined over the past thirty years. In 1940, 49% were Republicans while only 29% were Democrats. Today, more businessmen and professionals are Democrats or Independents than Republicans.

The next three weeks, the President will decide the substance and tone of his legislative strategy for 1972 and thereby his campaign strategy for 1972. The President—depending on our party and the mood of the nation dictates that the President take these seven basic steps, which seem to place his highest priority on working cooperatively and forcefully for Congressional action on his New American Revolution, this country in its majesty is too important for any man, be he conservative or liberal, to stay home and not work just because he doesn't agree. Let's grow up, let's do the same. I am going to devote all my time from now until November to electing Republicans from the bottom of the ticket, and I call upon you to do the same.

There are a number of Republicans today who suspect that the Ripon Society and all its fine travelers have been too easy on the Republicans who register Republican is so low that many Republican organizations are afraid to mount new registration drives.

Today Republicans control fewer Governorships, state legislatures and mayoral offices than they did before the 1968 election. And we held only a minority of the seats in both House of Congress.

In a recent Fortune article entitled "That Billion Dollar Army," political analyst James Rechley concludes that "progressive Republicans" are more likely to "serve as the instrument for a new American strategy emphasizing unity, equity, peace and prosperity, and that only the lubricant of the New American Revolution. As Senator Mark Hatfield wrote in the Forum, referring to leaders of both Parties: "We have seen more of a commitment to ending the war as a political issue in America than to actually ending the war in Indo-china." A scheme by which American casualties are reduced but American bombings and civilian casualties are increased is neither politically or morally acceptable. These are some measures which are necessary and proper for the White House to adopt:

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There are plenty of campaigns around the country in which you can hold a responsible political party and practical experience—whether it be with an incumbent like Mark Hatfield, Ed Brooke or Chuck Percy, or with a prospective, like Bob Bensen or John Wydler in Idaho, David Cargo or Pete Domenici in New Mexico, John Chafee in Rhode Island, or Tom Hagedorn in Minnesota, or with the existing state legislatures, as Bill Frenzel, or candidates such as John Price in New York. Find a candidate and work for him or her. The people of the first Ripon will not watch if you cannot find one, be one. Go to the Convention as delegates or alternates. Become a precinct committeeman and committeewoman. Run for the city council, the state legislature, and the Congress.

One hundred and seventeen years ago a small band of men, fearful for their country’s future, frustrated by political fragmentation, and fired by the conviction that principles could solve national problems, came together in a small white schoolhouse in Ripon, Wisconsin, to form a political party that could build a progressive America.

The times were not auspicious for their undertaking. Amidst growing division and strife, the two major political parties had sprung up in the previous 16 years, only to wither away. At the time Free-Soilers, Know-Nothings, Barnburners, Radicals, Abolitionists, Conservative Whigs, Anti-Nebraskans, Union Democrats and Normal Democrats, and the various factions of each party were vying for the attention. It took the founders of our party two years to agree on the name “Republican.” In some states the new party participated in elections with no name at all. When the founders of the party first approached an obscure, small town lawyer named Abraham Lincoln and asked him to lead the Illinois party, he flatly refused, predicting that the country’s future lay with the Whigs.

But the men persevered. Lincoln reconsidered, and they forged a political coalition that forced the country to face up to its moral, intellectual and political choices. The alliance between the members of the Ripon-Lincoln tradition is your mission. It is a very large and difficult undertaking, but a challenge worthy of great men and women. I believe that you have the ability to meet that challenge, if you have the will.

As James Hefley wrote, “Few in the generation will have little chance of leading the Republican party, let alone the country, before 1976—if then. A few more years of maturing experience, however, will give the younger generation of progressive Republicans time to develop their program. Just possibly, some future Lincoln sits in a governor’s chair, in the back rows of Congress, or at some lesser post. If so, the shape of the next national majority probably depends on everything else besides the thoughts and dreams now passing through his head.

This is your opportunity and your responsibility.

CHILD DEVELOPMENT

Mr. MONDALE. Mr. President, on Thursday, December 2, 1971, by a vote of 63 to 17, the Senate agreed to the conference report of S. 2007, H.R. 7025, to extend the Economic Opportunity Act, and for other purposes.

During the debate on that measure, under which a time limitation granted 3 bcox to those opposing the conference report, and only 15 minutes to those supporting it, a number of misleading statements were made concerning the comprehensiveness of child development programs.

I have reviewed the record of the full debate with the distinguished Senator from Wisconsin (Mr. Nelson), chairman of the Committee on Manpower, and Poverty, from which this measure arose. In order to correct any misunderstanding about the purpose of this child development program, we would like to answer four of the concerns expressed about it.

First, and of greatest importance, are the allegations that this child development program represents child control. It was charged, during the debate, for example, that the program would concentrate on the inculcation of collectivist attitudes on helpless children; that it is somehow based on the notion that the parent is a failed experiment; that it is totally alien to traditional American values.

Charges and implications of this kind could not be further from the truth. Neither we, nor any of the other 30 Senators and over 100 Congressmen who introduced this legislation, would support a measure of that nature.

The purpose of this program is totally voluntary, designed to strengthen the family, and vests the major responsibility for the operation and control of child development efforts in the hands of the children these programs serve.

This measure specifically requires that programs or services under this title shall be provided only for children whose parents or legal guardians have requested them.

It expressly states that—

Nothing in this title shall be construed or applied in such a manner as to infringe upon or usurp the moral and legal rights and responsibilities of parents or guardians with respect to the moral, mental, emotional or physical development of their children.

And it deliberately requires that parents of children served by child development programs will compose at least one-half of the membership of both the governing boards created to administer these programs—the Child Development Councils and the Project Policy Committees—will decide which programs to fund, and approve the content, curriculum, and policy of each individual project.

Finally, to the extent consistent with the capacity of local governments, these programs will be administered locally—like the public school system—so as to assure that programs are accessible and responsible to the parents and the people concerned.

Rather than establishing Federal or State control of children, as some opponents contend, this measure returns tax dollars to help the parents decide and control programs in community centers, schools, churches, and Headstart programs.

We believe these provisions are absolutely consistent with the traditional American value on parental responsibility. The emphasis we placed in the bill on parental decisionmaking and parent governed councils reflects our belief in the strength and wisdom of parents and families—not, as some have charged, on an admission that the parent is a failed experiment.

Second, a number of our opponents criticized the delivery system in the bill, and argued that there was not a sufficient role for States, and local governments, in the delivery of comprehensive services. We placed this priority on local administration precisely in order to assure that these programs will be designed and tailored to the concerns of parents, and will avoid the danger of remote governmental control.

Yet within this framework the measure provides a significant role for the States:

Every local application must be submitted to the Governor for review and comment.

Five percent of the funds are reserved for States for technical assistance, coordination, and review of these local applications.

And States, as well as other public and private nonprofit agencies, may serve as prime sponsors where localities do not have the ability or the capacity to provide comprehensive services.

Moreover, States can administer programs for migrant children, programs in areas where the city or county is not capable of providing comprehensive services.

In my opinion, and from my past experience, I believe that the various provisions of Sections 512(2)(c), 515(6), 517(3)(4), 534, 553, 572 would enable the Secretary of HEW and the Governors of the various States to establish appropriate State coordinating arrangements to assure effective statewide planning and review of local projects.

Reasonable men may disagree with the initial priority this measure places on local administration which we believe is essential to assure maximum parental involvement and responsibility. But no reasonable man who has read this legislation or discussed it with the Secretary of Health, Education, and Welfare, has substantial discretion with respect to which prime sponsorship applications are approved, or that States have a significant role in the planning and operation of these programs.

Third, the suggestion was made that this measure had not received sufficient consideration by the Congress and the
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The response from New Hampshireites has been overwhelming.

The Joseph MacDonald family of 360 Winnacunnet Road in Hampton, N.H., responded to Father Wells’ request with so much enthusiasm and generosity when they mailed a package on November 15.

When all the talk about people being afraid to get involved and unwilling to give their time to help others, it certainly has been heartwarming to me to see this kind of response from people in New Hampshire. I am proud to serve them in the U.S. Senate.

SUBVERSIVE ACTIVITIES CONTROL BOARD

Mr. ERVIN. Mr. President, I ask unanimous consent to have printed in the body of the Record the following articles and editorial, as follows:


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

[From the Washington Star, July 28, 1971]

DO-NOTHING SACB SHOULD KEEP ON DOING JUST THAT

(By Carl T. Rowan)

It seems such a shame to have the United States Congress tied up for years in argument about a do-nothing relic of the postwar witch-hunts called “The Subversive Activities Control Board.”

Unfortunately, such action by Congress is necessary if we are to prevent the use of the SACB to impose another spell of McCarthyism and ease the country a little further into police state.

As things stand, the SACB is no big threat to the people’s liberties. The courts long ago clipped the boards’ wings to the extent that it is just a $450,000-a-year boondoggling sop to conservative Catholics who still see Communists under every bed.

The board now rarely meets, and, according to testimony by its chairman, interviewed only three people last year. So it is hardly the great protector of the nation’s security.

But the SACB has been of convenience to President Nixon. When LBJ was on the campaign trail, SACB was quick to favor one of his secretaries, he named her groom to a seat on this board.

When Richard Nixon took over, SACB was eager to curry favor with the right-wingers, he named one of their favorites, Otto F. Otepsa, to a $36,000-a-year seat on the board. The Senate has yet to confirm Otepsa, who is a sort of Daniel Ellsberg in reverse. Whereas Ellsberg leaked the “Pentagon papers” out of liberal, anti-war convictions, Otepsa was fired by the
State Department for leaking secret documents to senators known to share his right-wing sentiments.

"left-wing" and conservative Democrats like Sen. Allen J. Ellender of Louisiana) complaining about spending half a million dollars on civics education. President Nixon decided to give the SACB at least the appearance of doing something.

The President's subcommittee's executive order that would empower the SACB to "determine whether any organization is totalitarian, fascist, Communist, subversive, or..." would be empowered to "decide that one organization is true-blue peace, who are these five members of the board must continue, let it doze off..."

The Senator served on intellectual freedom by the Aeronautics Board, established by law - to discharge certain official duties and regulate the executive order, the House had passed a major appropriation bill the nation's First Amendment freedoms. The SACB had enacted by law - to discharge certain official duties and regulate the executive order, the House had passed a major appropriation bill the nation's First Amendment freedoms.

"The President got funds for his new-fangled SACB by a clever legislative maneuver. His executive order was issued after the House had passed a major appropriation bill in which no more than a trivial role. The President approved an amendment forbidding use of any of the appropriated funds to carry out the executive order. That amendment was eliminated in conference; and the appropriation passed in its deleted form because Congress wanted to get out of town and knew the departments and agencies had to have money to carry on their work..."

"Mr. McCormick said the association would also file a brief in behalf of the Rev. W. Bradford Duston, vice president of Doubleday and chairman of the association's Freedom to Read Committee, reported that, among other activities this year, the committee..."

"I am a critic, Mr. Chairman, I am now faced with the necessity of defending the First Amendment," W. Bradford Willey, chairman of the association, said at a morning meeting. "Nothing like this had happened since the days of Senator Joseph R. McCarthy..."

"Mr. McCormick said the association would also file a brief in behalf of the Rev. Philip P. Biltmore, editor of the Columbia Broadcasting System for refusing to supply out takes, or unseeable film, from its documentary "The Selling of the Pentagon" and had filed a brief opposing the Government action against The New York Times and other newspapers for publishing the Pentagon Papers..."

"Powers held widening PRESSURES DECLARED..."

Declaring that pressures from private groups to have certain titles removed from public and school libraries were no longer confined to pornography and sex education, he said:

"It is more and more the book that really talks about the war and gives two sides of it, that presents the race problem as more than an unfortunate split between two regions, that presents that this is a country that's been right sometimes and wrong at others..."

"The Senator, who expressed concern that the political animosity was interfering with the free exchange of ideas were John C. Frantz, executive chairman of the National Book Committee; William North Seymour, a former president of the American Bar Association, and Harrison E. Salabury, editor of the Op-Ed page of The United States News..."

In introducing Senator Ervin, Robert L. Bernstein, president of Random House, who is serving as chairman of the committee, said that the senator's subcommittee planned to start hearings on Sept. 28 on "the meaning of the current attacks against abridgement of freedom of the press" and that publishers, newspaper editors and government officials were promised a favorable hearing..."
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FAITH IN ONE ANOTHER

When the founders of the American Republic dissolved the political bands that con­nect nation to nation, they signed their names to the Declaration of Independence, they had as yet no country to which they were loyal, nor any allegiance to which they were subject. For the support of this Declaration, they declared, "that Kind of faith in each other served as the cement of the American society for 175 years.

In the 1930s, however, Sen. Joseph McCarthy began to make a cult of distrust among Americans. Fear of communism, fear of subversion, fear of non-conformity—if of each other—replaced mutual confidence to a terrifying degree. The super self-confidence that had been an identifying trait of Americans all disillusioned. Institutions, such as the Subversive Activities Control Board and the House Committee on Un-American Activities were forged to keep an official eye on Americans, to search out dis­loyalty among them, to penalize unpopular opinions and associations in short, to protect the people from themselves.

It was always a funny thing about the heresy hunters that they never supposed that they were doing any real damage. They were going to "get" subversives but they were con­verted by Communist propaganda or by other dangerous ideas; it was always and only the loyalty to country of the American folk that they doubted. They had so little confidence themselves in the gospel according to Mr. McCarthy that the people forever fearful that "ordinary" Americans would easily be won over to the gospel according to V. I. Lenin. They had so little faith in freedom as a way of life that they could never bring themselves to rely upon the free institutions established by the American Constitution.

The bluntest instrument of the heresy hunters was the Subversive Activities Control Board. A menace to individual liberty at its inception, it was ultimately transformed by its own iniquity as soon as the political health of the American people began to be restored. It was the instrument of inhuman, costly, detested when President Nixon, for some unexplained reason, chose this summer to restore the loyalty of the thoroughly totalitarian duty to perform—the compilation of lists of officially disapproved organizations which the McCarthyites would join only at their own political peril.

That inveterate believer in freedom, Sen. Ervin, has taken another swing at the Sub­versive Activities Control Board and the oner­ous task the President has assigned to it. In a recent speech to the Association of Ameri­can Journalists, he gave expression to his own faith in Americans and in the American dream. "I affirm my faith," he said, "in the sanity and steadfastness of the overwhelming majority of all Americans. I shall continue to use the power of my coun­try as long as love of liberty abides in their hearts, and truth is left free to combat error."

That faith needs to be restored to America. It is time for us to take a new pledge of allegiance to each other.

[From the Evening Star, Washington, D.C.]

SICKLE CELL ANEMIA

Mr. TUNNEY. Mr. President, I invite the attention of Senators to an article describing a new approach to the treat­ment of sickle cell anemia.

The Subcommittee on the National Sickle Cell Anemia Prevention Act, which was cosponsored by a bipartisan group of 44 Senators, is the purpose of the bill to conduct testing, counseling, treat­ment, and public education on a regional and community basis.

Sickle cell anemia has been tragically neglected in the past and new approaches for effective treatment and care have been developing much too slowly. The funding of research efforts has been almost negligible, and it has been a con­tinuing tragedy that no hope could be found to the millions of affected Americans. The research on cyamate treatment at Rocke­feiler University is a most hopeful de­velopment.

Mr. President, a unanimous con­sent that the article, published in the November 19, 1971, issue of the New York Post, and entitled "A Weapon Against Sickle Cells," be printed in the Record.

A NEW APPROACH TO TREATING SICKLE CELLS

(Barbara Yuncker)

A new approach to treating sickle cell anemia, the serious, incurable hereditary blood disease of blacks, is being tested here, it was revealed today.

At Rockefeller University 35 volunteer patients with the life-shortening blood disease are being given a chemical called sodium cyanate in the hope that it may do in their blood what cyanide is supposed to do—a de­forming "sickling" of oxygen-carrying red blood cells.

The hope has already produced the hope­ful clue that the survival of abnormal red cells treated outside the body, then read­justed to be near normal (about 120 days) from the variable but much shorter span that is typical of sickle cells. The report was made today by Dr. James M. Manning, a member of the Rocke­feiler University's team to a Symposium on Sickle Cell Disease at the Commodore Hotel.

The two-day meeting which has attracted 1200 doctors and allied professionals, about half of them white, is the first major conference in the U.S. devoted to the long-neglected genetic disease.

Nearly 10 per cent of American blacks are believed to be sickle carriers, having one mutant gene. About 1 in 100 blacks inherits the mutant from both par­ents and suffers the overt disease. It is virtually unknown in whites.

The Rockefeller report represents 11 months of crash research following a 1970 report from Dr. Robert M. Siegel of Grand Rapids, Mich., that a body waste chemical, urea, could be used as a drug to ease pain and apparently to decimate de­forming sickle cells.

That report has been greeted with con­siderable professional caution. (The sponsors of the anti-cyramte program—Markham­ian to be on the program.) But at least four other clinics are now trying to confirm his encouraging results.

And it prompted Dr. Arthur Cerami, a cell biologist at Rockefeller, working with...
Manning, to hypothesize that a simple component of the urea solution—cyanate—might be getting whatever results were showing up in Malvin Green's patients. "And indeed we found cyanate did inhibit sickling in the test-tube," Cerami said in an interview. "It is also able to fit into the exact location on the hemoglobin portion of the red cell where the cyanate hooked on and stayed, making the reversal of the sickling phenomenon possible for that cell.

Much of the damage of the disease process arises because the misshapen cells snag in the blood vessels, the outgoing arterioles and incoming veins, slowing blood cell traffic like a jack-knifed truck on a turnpike. Not only does blood flow get snarled, cells die young in the process.

"If sodium cyanate ever works as therapy," Cerami pointed out, "treatment will have to be continuous throughout life, because each new red cell would have to be doctor ed."

"REASONABLE" TOXICITY

Safety tests on animals indicated cyanate is "no more than three times as toxic as aspirin," regarded as a reasonable range for proceeding to human trials.

Dr. Peter Gillette, assistant professor at Rockefeller University School of Medi­cine and a hospital resident on the loan to the project, are now treating the 25 sickle cell anemias, from 7 to 50 years old, either by mouth, by intravenous injection, or by taking out blood, treating it and putting the red cells back.

The patients are treated continuously.

"We don't wait for a sickle cell crisis," Cerami said. "The hope is to use sodium cyanate to prevent the disease process." The tests, under Food and Drug Administration experi­mental drug rules, are expected to yield answers in about six months.

Cyanate is a comparatively cheap in­dustrial substance (a ton in powder form, easily dissolved. It is a three-atom molecule of nitrogen, carbon and oxygen. The Rockefeller team has been using material from an American firm which is giving up production because German and Japanese firms make it more cheaply.

FULL OF IMPURITIES

The unsolved problem for future medical use, Cerami said, is that "much of the stuff bought for industrial use is full of junk, impurities," which could damage patients and falsify the true toxicity of the pure drug would be hard to determine.

But if the pure drug works and is ade­quately safe, it would be the first point therapy for an ailment that can now be treated only symptomatically in most cases.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

EXECUTIVE SESSION—NOMINATION OF LEWIS F. POWELL, JR., TO BE ASSOCIATE JUSTICE OF THE SUPREME COURT

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session for further consideration of the nomination of Mr. Lewis F. Powell, Jr., to be an Associate Justice of the Supreme Court, with the vote coming at 4 o'clock p.m.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the roll be made and the clerk proceed to call it.

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

Mr. BYRD of West Virginia. Mr. President, I move that the Senate stand in recess until 1 p.m. today.

The motion was agreed to; and (at 10 o'clock and 44 minutes a.m.) the Senate took a recess until 1 p.m.; where­upon the Senate reassumed when called to order by the President of the Senate (Mr. McIntyre).

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

A PERSONAL EVALUATION OF LEWIS E. POWELL, JR., AND WILLIAM H. REHNQUIST, NOMINEES TO BE ASSOCIATE JUSTICES OF THE U.S. SUPREME COURT

Mr. FONG. Mr. President, I support the nominations of Lewis E. Powell, Jr., and William H. Rehnquist to be Associate Justices of the Supreme Court of the United States.

Because of the questions which have been raised in connection with these nominees, I should like to state my analy­sis of the qualifications of these candi­dates and my reasons for reaching the conclusions I have.

Mr. Powell is a person of unusual pro­fessional competence. His outstanding legal ability is beyond question. His personal integrity is unimpeachable. His sensitivity to the problems of his stockholdings present under the Can­ons of Judicial Ethics and his efforts to minimize these problems is in itself worthwhile and by doing so he will prove not only his considerable financial cost to him, as so to avoid even the "appearance of impropriety," is further indication to me of his sensitivity to and commitment to the concept of assuring not only equal justice under law to all Americans, but of avoiding any appearance which may lead to questions as to the basis of his actions.

Senators are well aware that I am most concerned about preserving our constitutional rights and especially the rights of the people guaranteed under the first 10 amendments to our great Consti­tution—our Bill of Rights.

I am one of the four Senators who voted against final passage of the omni­bus crime bill. I did this because of its provisions which I am convinced are in derogation of these most sacred constitu­tional rights.

At the hearing on Mr. Powell's nomina­tion before the Judiciary Committee, I very carefully and at length questioned Mr. Powell as to his position in regard to these most valuable and valued guarantees of the liberty and very safety of minorities—and we are all members of some minority in these United States—against the oppression and tyranny of the majority or of the Government.

The Supreme Court of the United States is the last bulwark of freedom and justice for all our peoples.

I am fully satisfied of Mr. Powell's complete and sincere dedication to the preservation of these vital, constitutional rights and of his ability to so interpret our great Constitution as to assure equal justice under law to all persons in this country.

I urge my brethren to confirm the nomination of Lewis F. Powell, Jr., to be Associate Justice of the Supreme Court of the United States.

Now I turn to the nomination of William H. Rehnquist, which is also before us for confirmation, to be Associate Justice of the U.S. Supreme Court. In Mr. Rehnquist, we have before us a much younger man, one likely to serve in that exalted capacity for many, many years. Fortunately, in the nomination of Mr. Rehnquist, we have a person of outstanding legal ability and scholarship and unquestioned personal integrity. Even his most severe critics have not questioned these qualifications, which he so abundantly has demonstrated.

What four of the distinguished Senators who opposed Mr. Rehnquist's nom­i­nation, the Senate Judiciary Committee and various witnesses questioned was largely Mr. Rehnquist's interpretations of and dedication to the concepts contained in the Bill of Rights.

In the case of Mr. Rehnquist, his vari­ous utterances on these subjects should be put in context of time and circum­stances.

Much is made of his opposition in 1964 to the proposed Phoenix public accommodation ordinance and to a letter to the editor published in the Arizona Republic on the proposals of the Phoenix school officials to eliminate de facto segregation in that city.

Little is made of the nominee's actions at those times or his very humble and human confession of error of an earlier judgment.

Throughout the period in question, Mr. Rehnquist's own children attended fully integrated schools in the downtown area of Phoenix. Surely, his recognition of the benefits of integration to the children he loved and cared for most—his own chil­dren—must give credence to his recogni­tion of the value of equality of opportu­nity for all, else he could readily have chosen to live in one of the suburban areas where de facto segregation was almost assured. In view of his actions in this regard, I feel compelled to conclude the nominee does not endorse or prac­tice segregation.

It takes a big man to reverse himself—a bigger one to admit in public that he was wrong—and a still bigger one to alter his position on one Court for the two.
State Laws he supported the proposed public accommodations provision of the draft model State antidiscrimination act.

When he appeared at the confirmation hearings before the Judiciary Committee, he admitted he was wrong in his 1964 opposition; that he was aware of that error of judgment; and that his understanding of the significance of, the need for, and the scope of the concept of equal protection was changed and broadened since that time.

As the distinguished senior Senator from Pennsylvania (Mr. Scopes) brought out in his presentation, Mr. Rehnquist altered his course of thinking, and he reflected this in his conduct.

In 1980, the opinion of the Comptroller General of the United States was that the Philadelphia plan was unconstitutional. The Philadelphia plan, as Senators well know, required, as a condition of receiving a Government construction contract, a commitment to achieve certain goals. This was a major breakthrough in the fight for equality in employment opportunity—a basic right to be afforded all men equally under the law.

On the subject of civil rights, I am fully satisfied as to the nominee's position and commitment to equal rights.

Insofar as Mr. Rehnquist's approach to civil liberties and the Bill of Rights is concerned, I questioned Mr. Rehnquist very carefully on the subject of wiretapping and electronic surveillance, and on the subject of certain Federal grand jury practices which I fear are in violation of the fifth amendment.

I spelled out to him at considerable length my long and firmly held conviction that if wiretapping and electronic surveillance were allowed on a wide scale, we would soon become a nation in fear—a police state. I also indicated that, whether based on fact or fancy, many people feel that they are under surveillance, so in my opinion we are coming close to being a nation in fear.

While Mr. Rehnquist as the attorney to the Attorney General had spoken in support of positions of the Justice Department, his response to my questions and his prior statement when he addressed a symposium on law and individual rights held in December 1970, at the University of Hawaii, clearly indicated to me that despite his advocate's position and the attorney-client relationship with the Justice Department, the nominee himself is fully aware of the, as he put it, "chilling effect on one's feeling of freedom of certain alleged Government procedures and is capable of dissociating himself therefrom if he feels so inclined.

Again, I quote his response, in part: "I believe that I could divorce my role as an advocate from what it would be as a Justice of the Supreme Court, should I be confirmed."

When I pressed him on comments made by a Phoenix Democrat, but representative of other such comments, that he was a "retrograde" in terms of race relations, "a supporter of police methods," "restrictive" on free speech, and so forth, his response, even under the pressure he was subjected to, showed his humor, a sense of humor, and the approach to be expected from him to problems presented to him as a Justice of the Supreme Court.

He stated on page 144 of the hearings before the Committee on the Judiciary:

"My first comment would be I can defend myself from my enemies but save me from my friends.

But then in a most serious vein, he continued.

"I think that that is not a fair characterization even of my philosophical views. My hope would be if I were confirmed to divorce as much as possible whatever my own preferences, perhaps, as a legislator or as a private citizen would be to how a particular question should be resolved and address myself solely to what I understand the Constitution and the laws enacted by the Congress to require.

I am satisfied Mr. Rehnquist is a man of esteemed legal and intellectual ability, a man of moral and personal integrity, a philosophy as shown by his actions may, in fact, prove to be not too far removed from that of his critics.

In any event, feel that as a Justice of the Supreme Court he would apply his great talents "simply to what he (he) understood the Constitution and the laws enacted by Congress to require."

I will, therefore, vote for the confirmation of his nomination.

I urge the confirmation of his nomination to be Associate Justice of the Supreme Court of the United States, for I am certain he will serve all the people of this great country with distinction.

THE NOMINATION OF LEWIS F. POWELL, JR., TO BE AN ASSOCIATE JUSTICE OF THE SUPREME COURT

Mr. JACKSON. Mr. President, the Senate will vote today on the nomination of Lewis F. Powell, Jr. to be an Associate Justice of the Supreme Court.

It is no surprise that this nomination has been highly supportive of our cause and to his record to remain silent today.

Of course Justices come to the Supreme Court influenced by their pasts. But to be fit to serve there, a nominee must inspire faith that he can overcome these influences when he must. No group—not the organized bar, not business, not labor, not the law schools, not the politicians of any party or region, no racial group—has the right to veto a nominee because they would prefer someone more sympathetic to their side of particular issues. But they do have a right to expect fair treatment and to expect that the nominee will hold to the belief that disputes which come to be settled through the courts will be settled by law and justice alone. I believe that Mr. Powell is a man that he will bring to high judicial office the qualities of decency and fairness that are a crucial component of judicial decision-making.

Because Mr. Powell has shown in his life and work those qualities of distinction which we should expect in every Justice of the Supreme Court, I hope the Senate will vote—overwhelmingly—to confirm this nomination.

Mr. HOLLINGS. Mr. President, ordinarily I would take this occasion to speak in behalf of the appointment of Lewis Powell to the Supreme Court of the United States. He has been highly supportive of our cause, and is noncontroversial; and he is certain to be approved. But a speech in his behalf would only be an exercise in headlinesmanship of the "Yes" on the floor from me. The man I rise to defend today, on the other hand, is not from my section of the country. He is controversial; and his nomination is being contested.

It is the unfairness of the opposition that and to his record to remain silent today.

I have studied the record. I have looked closely at the man. And I am convinced that his appointment to the Supreme Court is not merely satisfactory—it is excellent. I know Bill Rehnquist, and I have worked alongside him. I know his beliefs and his reactions. I know he is no racist. Everyone who knows him knows that. I recently received a letter from Mr. Ben Holman, the Director of the Community Relations Service, in Mr. Rehnquist's behalf. The Community Relations Service is a Government agency charged with working for the improvement of minority groups in America. As Mr. Holman points out, Bill Rehnquist "has been highly supportive of our cause and on several occasions sought to broaden our statutory mandates." Mr. President, I ask unanimous consent that the full text of Mr. Holman's letter be printed at the conclusion of my remarks.

(See exhibit 1.)

Mr. HOLLINGS. Mr. President, of all the tasks which come before the Senate, none is more important to the Senate’s institutional duty to act on the President’s appointments to membership on the Supreme Court.

Throughout most of its history, the Court has held a rightfully exalted position in the esteem of the American people. And because it had the trust of the people, it worked for the inestimable benefit of the Nation. The Supreme Court lacked a bureaucracy, yet it became a powerful force for good. Fragile in form yet enduring in substance, it be-
come a strong pillar for the support of the Republic.

Today—among a sizable, and growing, percentage of our people—the Court has lost ground. The loss is not sectional, nor is it generational. It is as old and new. This is simply a statement of fact. No Member of the Senate who has recently been among his constituents is likely to claim that this is the heyday of the Court, or the period when honors are paid for the highest tribunal. While its past is still occasionally sung, celebrations of its present are few and far between. The question is obvious—Why? Why this declining enthusiasm, this normal activities—far beyond its jurisdiction? In its activities far before, 2 years ago, with Judge Haynsworth. The smokescreens went up then, too. "Appearance of impropriety" was the bow to the pack, and a promiscuous use of power was ended before it could begin. Now—with the possibility of Judge Haynsworth's going to the Court gone—many of his opponents admit how flimsy those charges had been. The record shows William Rehnquist are just as flimsy. He is closed-minded, some say. He starts out with the conclusion and works backward toward justifying evidence. There is no value of the rights of the individual and would give the stamp of judicial approval to police-state tactics. The attack on this nominee is a display of dizzying gymnastics the likes of which we have not seen for a long, long time.

Mr. President, there is just no truth in the charge that Mr. Rehnquist is insensitive to civil liberties. His statements show a rational and balanced, and constitutional position from which the Court can only benefit. As the nominee himself put it:

A government which does not restrain itself from unwarranted official restraints on individual rights fails in its assurance of men's access to freedom; but a government which does not or cannot take reasonable steps to prevent felonious assaults on the persons of its citizens would do well in failing one of the fundamental purposes for which governments are instituted among men. A society that has as its right, indeed a duty, to protect all individuals from criminal invasions of the person.

Would Mr. Rehnquist put a microphone under every table and desk, a wiretap on your phone, an agent in the footsteps of every citizen? Ridiculous. Again, I quote from the nominee.

I do not conceive it to be any part of the functions of the Department of Justice or any other governmental agency, no matter how we are called, or otherwise observe people who are simply exercising their First Amendment rights.

The record demonstrates very clearly that the nominee would never be willing to go the logic of the basic freedoms which protections afforded our people simply in the interest of governmental efficiency. For him, the Constitution clearly places restraints on the activities of government. On the other hand, the record makes clear that he would use the powers afforded the Government by the Constitution-makers at Philadelphia to preserve, protect, and defend the well-being of the American people. Any judge who is too shallow to raise the question of how to maintain order is ignorant of one of the basic questions of all government. He is a judge. As the late Mr. Chief Justice Warren said, "The duty of judges is to research, to question, to analyze, and ultimately, to write his experience." Anyone who seriously expects Bill Rehnquist to be the slave of some narrow ideology or defunct theories does not know the man or his record.

There is not the slightest doubt in my mind that as Associate Justice of the Supreme Court, Justice Rehnquist's allegiance will be to the Constitution, and his dedication to making it the honored and revered fountain of law and trust that it deserves to be. He will be there to research, to question, to analyze and ultimately to write his experience. Anyone who seriously expects Bill Rehnquist to be the slave of some narrow ideology or defunct theories does not know the man or his record.

It is the charge of the jurist to judge just as it is our charge in this chamber to legislate. Mr. Rehnquist has the discretion to keep the two functions separate. His opponents cannot make the same claim.

I urge the President of the United States for the excellent choice he has made. And I urge my fellow Members...
of the Senate to vote “aye” when the moment of decision is upon us.

EXHIBIT 1

DEPARTMENT OF JUSTICE

COMMUNITY RELATIONS SERVICE


Hon. Ernest F. Hollings,

U.S. Senate

Washington, D.C.

DEAR SENATOR HOLLINGS: You have asked that I share with you my regard of William H. Rehnquist who has been nominated by the President to be an Associate Justice of the United States Supreme Court.

I have always worked in close association with Bill Rehnquist during my 2½ years as Director of the Department of Justice's Community Relations Service. I have always found him to be of impeccable integrity and of gentlemanly conduct.

On many occasions Bill Rehnquist and I have discussed issues relative to the welfare of the Community Relations Service, which, as you know, is a civil rights agency whose sole direction is guided by the improvement of the status of minorities in America. He has been highly supportive of our cause and on several occasions he sought to broaden our statutory mandate.

His "conservative" philosophy while practicing law in Arizona was unknown to me until I read about it in the newspapers. As a black man sensitive to the various forms of racist behavior I can assure you that Bill Rehnquist's nomination is an insult to the integrity of the nominee. I always thought of Bill Rehnquist as a conservative who is resistant to civil rights, but I do not think of him as an "outside" nor as a "segregated" society that we are, in fact, being forced to deal with. The Rehnquist philosophy is one of "integrated" society... Yet at least on the level of the Supreme Court, of the briefs and the arguments, the nominee's philosophy is one of "outside" the mainstream of American thought and should not be confirmed.

Mr. Rehnquist's extremist position on civil rights, then, turns out to be nothing more than the familiar proposition that the Constitution does not protect the "outsider" in American society. He believes that at this moment the scales are not tipped in such a way that dissent is protected by the Constitution. He believes that the government side of the national security question deserves its day in court. These opinions, his public pronouncements, are outrageous. The nominee should be defeated.

Then, the most important paragraph of the editorial in relation to the remarks of the distinguished Senator from South Carolina:

As the Senate debates the nomination, it seems, we are more interested in whether it's proper to weigh a nominee's philosophy. It also needs to weigh whether words like "extremist," "outside the mainstream" better describe Mr. Rehnquist's philosophy, or the position his critics have been forced to take to oppose him.

Without objection the article was ordered printed in the Record, as follows:

REHNQUIST AND CRITICS: WHO'S EXTREME?

(BY ROBERT L. BARTLEY)

WASHINGTON.—The most powerful impression to emerge from the microscopic public analysis of the Supreme Court nominee William H. Rehnquist is that his critics are precisely to the right. As the minority report suggests, are so extreme the nominee should be defeated.

The minority report says, "Mr. Rehnquist does not have a "mainstream" philosophy. Despite the fact that the nominee, in his comments, has been accused of extremism, the minority report argues, he is outside the mainstream of American thought... Yet at least on the level of the Supreme Court, of the briefs and the arguments, the nominee's philosophy is one of "outside" the mainstream of American thought and should not be confirmed."

The minority report, rather, focuses mostly on Mr. Rehnquist's views on certain issues, and as such is an intriguing document. It volunteers that there is no question about Mr. Rehnquist's qualifications in terms of his legal training. Mr. Rehnquist, the minority report suggests, judiciously avoids the less substantial allegations that have appeared in the press... For example, no suggestion that Mr. Rehnquist is guilty until proven innocent of membership in extremist organizations because his name appears on a list compiled by a little old lady and willied to someone else.

OUTSIDE THE MAINSTREAM

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A FREE SOCIETY

The statement in the original letter that "Mr. Rehnquist's views are nothing more than a "mainstream" society run, "Mr. Seymour declares that we are "outside the mainstream of American thought and should not be confirmed."

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A fascinating proposition, this. How can someone with legal standing and personal integrity fit to grace the Supreme Court be that far out of the mainstream? What would be the opinions of a man who is such a pillar of the establishment? What would be the opinions on government surveillance or of individuals, that is, not wiretapping but the recording of their activities in public surveillance?
Mr. President, for these reasons I shall take delight in voting for the confirmation of the nomination of this distinguished American lawyer.

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

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

The PRESIDING OFFICER (Mr. Cranston). Without objection, it is so ordered. The nomination will be stated.

U.S. DISTRICT JUDGE

The legislative clerk read the nomination of Richard A. Dier, of Nebraska, to be a U.S. district judge for the district of Nebraska.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

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

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

The splice.pdf is opened.

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

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.

QUORUM CALL

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. 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.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. P. G. T. Beauregard, one of its reading clerks, announced that the House had passed, without amendment, the following bill and joint resolution of the Senate:

S. 952. An act to declare that certain public lands are held in trust by the United States for the Summit Lake Paiute Tribe, and for other purposes; and
Nomination of Lewis F. Powell, Jr.

The Senate continued with the consideration of the nomination of Lewis F. Powell, Jr., to be Associate Justice of the Supreme Court of the United States.

In 1929, Mr. Powell graduated magna cum laude from Washington and Lee University, and in 1931 he received his law degree from the same university. He earned his masters in law from Harvard the very next year.

From that time until the present, Mr. Powell has been engaged in the general practice of law in Richmond, Va. The only break in this period was his service from 1942 to 1946 as a combat and staff intelligence officer.

The nominee is recognized throughout the Nation as a lawyer of outstanding ability and has served as president of the American Bar Association, president of the American Bar Foundation, president of the American College of Trial Lawyers, and vice president of the National Legal Aid and Defender Association.

In 1965, Mr. Powell was appointed by the President's Commission on Law Enforcement and Administration of Justice. President Nixon appointed Mr. Powell to serve on the blue ribbon defense panel in 1969.

The American Bar Association's committee on the judiciary said that he met the "high standards of professional competence, judicial temperament and integrity" necessary for this high position. The committee also noted that he met the standard in an exceptional degree.

The list of outstanding lawyers who have enthusiastically endorsed his nomination is indeed impressive. I would like to list just a few of these lawyers and legal scholars,

Orison S. Marden, former president of the American Bar Association.

Bernard G. Segal, former president of the American Bar Association.

Hicks Epton, president, American Trial Lawyers.

Maynard J. Toll, former president of the National Legal Aid and Defender Association; O'Melveny and Myers, Los Angeles.

Dean Phil C. Neal, University of Chicago Law School.

Geoffrey C. Hazard, Jr., Yale University Law School.


Earl F. Morris, former president of American Bar Association, Columbus, Ohio.

Dean Conrad F. Paulsen, University of Virginia Law School.

Dean James F. White, Jr., William and Mary Law School.

Dean Roy L. Steinheimer, Jr., Washington and Lee University Law School.

Charles S. Rhine, former president of the American Bar Association.

Whitney North Seymour, former president of the American Bar Association, New York City.

Sylvester Smith, former president of the American Bar Association, New Jersey.

David F. Maxwell, former president of the American Bar Association, Pennsylvania.

Bernard Segal, in his statement before the committee summarized the thinking of everyone associated with Mr. Powell when he said:

"It is therefore with profound satisfaction that I speak in support of a nominee who in every aspect of his judgment is needed to serve on our highest judicial tribunal as anyone who has come before the committee since the time has been concerned with such matters, and I dare say for many years before that as well. In legal education, legal experience and legal competence, he ranks among the elite of the Nation's bar."

Mr. Lewis Powell is quite obviously one of the most distinguished nominees to come before the Senate in some time. No one has been more highly recommended. Further documentation would surely be redundant. The committee hearings and the Senate report speak for themselves.

Temperament

I believe that all members of the committee were impressed with the manner in which the nominee handles himself at the hearings.

In a statement urging favorable consideration, Andrew P. Miller, the attorney general of Virginia declared that:

"But more importantly, Lewis F. Powell, Jr. possesses the judicial temperament for the great task to which the President of the United States has nominated him. He has the quality of mind which will enable him to serve with distinction as a Justice of the Supreme Court of the United States."

"He is neither given to all men to have that quality of mind, yet I think no one is better endowed with it than Mr. Powell. Many men exhibit a knee-jerk reaction to the issues of the day, and render clipped treatment in response, but not the nominee before you."

Of course, like Mr. Rehnquist, we would expect such comments from his friends who not only know him, but generally agree with him. Therefore, I would once again like to turn to those who come from different backgrounds and who have different philosophies.

Jean Camper Cahn, director of the Urban Law Institute, University of Chicago, knew Mr. Powell personally through their work together on the legal services pro-
gram for the poor. While admitting a disagreement with him on many matters, she has seen fit to concede that the profession has to offer—a man imbued, even driven, by a sense of duty, with a passion for the law as the embodiment of private man—the honors and the source is ever burdened, hurried, under strain or effort. I sense in every conversation, no communication which was brought to the Doctor Reed is the Mr. BYRD, who was nomination in the of philosophy or ideology. something examination or indiscretion. To the contrary, there is much that he speaks on these nominations which parallel mine, on the job. I wish to be uniquely qualified to sit on the Supreme Court of the United States. Mr. President, I urge the immediate confirmation of Mr. Lewis F. Powell, Jr., to be Associate Justice of the Supreme Court.

Mr. BAYH. Mr. President, will the to these nominations. As I look through the qualifications of a man, Senator has rendered the from In- court. It is significant that Mr. Powell has again rendered the for Mr. Mr. BAYH. Mr. President, will the to the Senate in considering advice and consent to these nominations. Mr. COOK. I yield.

Mr. BAYH. I suggest to my friend from Kentucky that I am deeply impressed by the reference that he made to the letter of Jean Camper Cahn. I found that to be one of the most emotional, persuasive bits of correspondence that I have been relative to the human qualities of the man. Certainly the fact that the Senator from Kentucky used it in support of the nominee from Virginia I think is a point well taken. I just want to make one observation about the feeling of the Senator from Kentucky—he and I agree on many things and disagree on a few, and each of us arrives at this own conclusion as to what is best for the States. The Senator from Kentucky is aware that should the Senate totally disregard in its consideration the philosophical views of a prospective Supreme Court nominee, we would be at odds with the strong and eloquent position taken by the other nominees, William F. Rehnquist, in a very persuasive article that he has published in one of the Harvard Law Journals, in which he suggested that it was not only the right but the responsibility of the Senate to consider the philosophy of the nominee.

Mr. COOK. I thank the Senator from Indiana. I must say to him I am one Senator who does speak for himself. I lost one speech in which I felt a dogmatic attitude a long time ago, and I should think to a considerable degree one's attitude is one's own criterion; and that would reflect itself on any other individual. I recognize as has been demonstrated by the remarks of the Senator from Indiana, that there is some concern regarding the distinguished jurist from Virginia. I look forward to being on the same side with him at 4 o'clock.

Mr. SPONG. Mr. President, will the service in trying to outline what he believes to be the constitutional role of the Senate in considering advice and consent to these nominations.

Mr. COOK. I thank the Senator from Virginia very much, Mr. President, and I yield the floor.

Mr. FANNIN. Mr. President, during the weekend a columnist observed that it was a difficult task for the Senate to sustain a debate on the nomination of Lewis F. Powell, Jr., to be an Associate Justice of the Supreme Court. 

Debate is not very exciting when—as in this case—there is nothing to debate. After the first round of wonderful praise for Mr. Powell, all else is repetition. Nevertheless, I am pleased to join in this discussion and to add my voice to those who have, no doubt, the excellent qualifications of Mr. Powell.

He is a legal scholar; he has had a distinguished career as an attorney, including service as president of the American Bar Association; he has been a leader on a number of important boards and commissions.

It is significant that Mr. Powell has been deeply involved in the educational affairs of an important Southern city during a very trying time in history. He carries to the Supreme Court some practical knowledge of the problems which face schools, school officials, parents, and...
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children. We need this experience on the Supreme Court.

Mr. Powell is a man of high intelligence, unquestioned integrity, vast experience, and total devotion to law and to the Constitution of the United States.

Mr. President, it is without reservation that I support the confirmation of the nomination of Lewis F. Powell, Jr., to be Associate Justice of the Supreme Court of the United States.

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

The PRESIDING OFFICER. The chair will 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.

RECESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess until 3 p.m.

The PRESIDING OFFICER. Is there objection?

There being no objection, at 1:51 p.m. the Senate took a recess until 3 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. Buckley).

Mr. MANSFIELD. Mr. President, I ask unanimous consent that a number of nominations at the desk be called up at this time. It is my understanding that they have been cleared all the way around.

The PRESIDING OFFICER (Mr. Buckley). Without objection, the nominations will be stated.

GOVERNORS OF THE U.S. POSTAL SERVICE

The legislative clerk read the following nominations, which had been reported earlier:

Elmer T. Klaassen, of Massachusetts; Frederick Russell Kappel, of New York; Theodore W. Haggerty, of Nevada; Andrew D. Hargrove, of Tennessee; George E. Johnson, of Illinois; Crocker Niven, of New York; Charles H. Coding, of Oklahoma; Patrick E. Haggerty, of Texas; and M. A. Wright, of Texas, to be Governors of the United States Postal Service.

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

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

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

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

Mr. MCGEE. Mr. President, the Post Office and Civil Service Committee, without objection, this morning, reported the names of the Board of Governors. These names were sent to the committee a little over a year ago. The committee read about their appointment in the various newspapers, the first notification it had. Because the new Postal Reorganization Act of 1970 specified that the Board of Governors would be selected with the advice and consent of the Senate, the members of the Senate Post Office and Civil Service Committee felt that they might better be less than forthcoming in its procedures in this regard. The consequence was, only now has the Senate committee seen fit to approve the nominations.

Why now, rather than some other time? The answer is that there are now changed circumstances in the Postal System. Some of the elements that contributed to the lack of communication, or the "handicap," whatever we might call it, between the Senate and the operation of the system have since been removed or changed in other ways.

The committee was delighted to approve this panel of nominations for the Board of Governors. They are all very astute gentlemen, distinguished individuals in their own right in their various pursuits. They are, many of them, and of many talents. I think it is urgent that their approval be followed without delay in their pursuit of the responsibilities of getting the new Postal System off the ground and on its feet. It will take time yet, and the patience of this body, as well as the patience of users of the mails which will still be taxed heavily in financial, psychological, as well as in the monetary sense, for the reason that a transition with new structures is a relatively slow process and yet the ultimate goal is laudable, indeed, the reason that a transition with new structures has been less acceptable. Because we hope that in tackling the big problems of getting the new Postal System efficient and responsible postal system, we will achieve the efficient and responsible postal system, we ought when the bill to reorganize the Postal Service was passed.

INDEFINITE POSTPONEMENT OF S. 3722, COMPARABILITY PAY OF FEDERAL EMPLOYEES

Mr. MANSFIELD. Mr. President, I ask unanimous consent, as in legislative session, that Calendar No. 422 (S. 3722), the comparability pay of Federal employees bill, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, the Senator from Idaho is recognized.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent, as in legislative session, with no Senator seeking to speak on the pending nomination at this moment, that the distinguished Senator from Idaho (Mr. Churen) be recognized on that basis.

The PRESIDING OFFICER. Without objection, the Senator from Idaho is recognized.

WAR BETWEEN INDIA AND PAKISTAN: THE NEUTRALITY OF U.S. POLICY

Mr. CHURCH. Mr. President, the war that has erupted between India and Pakistan is no affair of ours. Whichever side prevails, we can live with the result. Our vital interests as a nation are not at stake on the Indian subcontinent, as long as the great powers refrain from direct intervention in the conflict.

The American role, therefore, should be confined to the efforts within the international community to restore peace, as taken in the organization of the United Nations through the office of the Secretary General of the United Nations. We should also contribute—as no doubt we will—to humanitarian relief efforts on behalf of the millions of refugees who have fled from the war zone. Beyond this, however, we should withhold our hand. The American people have been satiated with too much war already, without mixing in another.

This calls for neutrality, something we have not practiced for a long while. Neutrality means that we keep our Navy out of the way; it means that we refrain from sending our merchant ships into the harbors of either country; it means an arms embargo applied even-handedly for the duration of the hostilities; and it means scrupulous avoidance of favoritism toward either side.

Already the postulate of nonfavoritism had been breached. The Nixon administration, speaking through the State Department, has expressed that India bears the major responsibility for the war, while the President's personal spokesman, Ronald Ziegler, charges In-
I watched the special over one of the networks last evening, and noticed the military maneuvers and the strategy that appeared to bring sizable Indian forces into East Pakistan in a very convincing and somewhat frightening manner.

Having just returned from that part of the world, and being familiar with the situation, plus the tradition and the past animosity, does the Senator feel that once the Indian forces have been placed in such a manner as to control East Pakistan that it would be relatively easy to have them removed.

Mr. CHURCH. This question was very much on my mind as I discussed the possibility of impending war with leaders of the Indian Government in New Delhi.

I spoke with the President, Mr. V. V. Giri, with Prime Minister Gandhi, with the Foreign Minister, the Foreign Secretary, the Defense Secretary, and others. And I raised with each of them the question of India's objectives, should war come. All of them stressed that India's only objective is to defend the lives and liberties of the Bengali people to achieve independence, in accordance with the results of the election that had taken place a year ago.

I asked them if India entertained any ambition to annex East Pakistan and make it a part of India. They denied this categorically. They said repeatedly that the purpose of the Indian Government was to help the Bengalis in East Pakistan achieve Bangla Desh, which means a free East Bengal. Every Bengali leader I have talked with has expressed his determination that Bangla Desh be a free and separate nation. So I have no reason to believe otherwise; my remarks are predicated upon the assumption that a new nation is in the making. Should. Should the United States support a new nation in the making?

India cannot possibly support 10 million refugees indefinitely. She is a poor country to begin with. A person has to go out there and witness the tragedy to appreciate its true dimensions. Not only had an enormous economic burden been imposed upon India, but the most severe political and social strains as well. It is the very existence of these refugees, some of whom actually outnumber the indigenous Indian residents in the bordering states of Meghlaya and Tripura, that is creating for the Indian Government a very serious political problem; and the longer this festers, the more radicalized the political legions become.

Calcutta is already a seething caldron, largely as a result of the fallout effects of the tremendous influx of refugees following partition in 1947. Now this new burden. So India really had to do some-
thing and, it is to her credit, first of all, that she compassionately took in these refugees and attempted, at great cost, to administer to them, to shelter them, and to feed them with food, medicines, and hope.

But clearly, having waited 8 months for the problem to disappear, it was apparent that we have been set back not by the magnitude of the responsibility that some action had become essential, that India could not wait much longer.

I came away realizing that war was imminent, but I did not think within the week, and we repeated it not have left my wife and son in India. They came out on the last airplane, leaving just under the wire.

Mr. BAYH. I appreciate the additional thoughts of the Senator.

I have been amazed in reading and in studying, and, on the one opportunity I had, to visit India as a member of our delegation, a year, or so all the way in which our relationship with India was not what I would like for it to be. I do not know if acronyms is a proper word to use but it is close to some of the commentaries that I am doing.

So, without belaboring his remarks, would the Senator, for the benefit of those of us who would like the Senator’s opinion, give an appraisal of the assistance which our relationship with India has been kept economic aid we have given India is kept for all countries combined.

And I do not think, that the confidence that we favor Yahya Khan's military plight of Pakistan, both to both adversaries, how we could let that amount of assistance slip through to one side. I still have not had that explained.

Mr. CHURCH. Yes.

Mr. BAYH. It is impossible for one removed from the foreign policy area to understand, if, indeed, our policy was to try to recapture and lose the goodwill of the Indian people.

And given the character of the root cause for this war, it is exceedingly difficult for India to understand that American Government can take that attitude, and it is difficult for me to understand it, too. The people of Bengal will prevail. Anyone who believes the status quo can be restored has not faced up to reality on the subcontinent, and I am afraid we have ended up siding with a loser, once again.

Mr. BAYH. I thank the Senator.

Mr. CHURCH. I thank the Senator for his questions.

All of this seems to me a tragedy. India is the only major democracy on the continent of Asia, yet we lack close and cordial relations with her. Our top leaders have never taken the time to appreciate India’s diversity. For sure the United States refuses to recognize India’s sovereignty.

Today, I will merely point to certain key conference recommendations, which give solid support to proposals made earlier by the Senate Committee on Aging:

Adequate retirement income—the No. 1 problem of older Americans—is described as an immediate goal of older Americans and a basic floor of benefits is sought through a combination of payments from the social security system and payments from the general tax revenue.

Medicare should be improved by elimination of deductibles, coinsurance, and copayments, and a coordinated delivery system for comprehensive health services should be developed, legislated, and financed to insure universal coverage in short- and long-term care for the aged.

Housing funds now impounded by the administration should be released and the only effective direct loan section 202 of the Housing Act with its benefit guidelines related to space, design, construction, and particularly favorable financing restored. Minimum production of federally assisted housing was put at 120,000 units annually, a goal identical with that expressed by the Committee on Aging.

Mr. President, these preliminary comments have not touched upon many other heartening recommendations, including those made by participants in 16 special conferences held earlier by the Senate Committee on Aging, or harmonious in concept with committee goals.

As chairman of that committee, I feel that the conferences have provided the Congress, the executive branch, and every citizen of this land with a stirring declaration, not only of need, but of confidence that the need can be met.

Even in its preliminary form, the 176-
The income of elderly people in the past left the greater number of them with insufficient means for decent, dignified living. Despite the fact that the elderly as a whole enjoyed improvements through greater employment opportunities and better old age security, if other public and private benefits. The last two years may have witnessed the reversal of these trends toward improvement as inflation continued to outstrip purchasing power of fixed incomes, and rising unemployment reduced job opportunities for older workers. The economic situation of the elderly in 1970, if anything, is worse.

**RECOMMENDATIONS**

**Income adequacy.**—The immediate goal for older people is that they should have total cash income in accordance with the "American standard of living."

We therefore recommend the adoption now, as the minimum standard of income adequacy, of an income test on all elderly couples prepared by the Bureau of Labor Statistics (nationally averaging about $400 a year in Spring 1970). This level must be sufficient to cover the basic cost of living and the national standards. For single individuals the minimum standard of living as for couples (not less than 70 percent of the couple's budget). For the handicapped with higher living expenses, the budget should be appropriately adjusted. The level of income for older people should be provided through a combination of payments from the Social Security system and payments from private sources.

This proposal would retain the basic features of the Social Security program. In addition, there should be a supplementary payment system based on an income test to bring incomes up to the minimum, financed entirely from Federal General Government revenues and included in a single check from the Social Security Administration.

Liberalizing the retirement test.—Many older persons go on to extend their retirement income. The exempt amount of earnings under the Social Security retirement test should be increased to no less than $3,000 a year (adjusted periodically to changes in the general level of wages).

Remission of property taxes.—It is desirable that older persons be enabled to live in their homes. The States should be encouraged to have the property taxes of older persons be paid from part or all of the resid­ental property taxes on housing occupied by older persons as owners or tenants who qualify on the basis of an appropriate measure of income and assets. Remission is to be achieved by Federal and State grant programs to State and local taxing authorities to compensate for reductions in property taxes.

Meeting health needs.—This Nation can never attain a reasonable goal of income security so long as heavy and unpredictable health costs threaten income of the aged. The aged are responsible for the population who are responsible for securing an adequate supply of health manpower and essential facilities and for improving the organization and delivery of health services.

We support the establishment of a special committee of the House of Represent­atives and the Senate to give full attention to all social and economic problems of the aged, including income, health, housing, and other needs areas reflected in the organization of this Conference.

The recommendation to the President's Committee to effectively carry out the proposals made by this section provided there is a reordering of national priorities.

**NOMINATION OF LEWIS F. POWELL, JR.**

The Senate continued with the consideration of the nomination of Lewis F. Powell, Jr., to be Associate Justice of the Supreme Court of the United States.

Mr. WEICKER. Mr. President, despite the fact that he went to Washington and the University of Virginia, he went to Harvard and I to Yale, it is with a great deal of pride and affection that I speak on behalf of Lewis Powell to my colleagues as a young father.

I came to know this distinguished American 23 years ago when he and my father returned as comrades in arms and friends from World War II. I was 19 and my father was 48. At that time the President's Committee to investigate the assassination of President Kennedy, more familiarly known as the Warren Commission, I had the duty of serving as one of the members of that Commission. Mr. Powell was one of the advisers of the Commission. During the hearings of the extensive and at times complex evidence, many difficult ques-
tions arose. His advice and counsel, and the trust that we held in him, proved of the greatest value. One could not only understand his great legal ability, his competence, but gain confidence in his great ability, which great lawyers have, but one could learn also of his intellectual qualities, his sympathy in the subject of our investigation, and judicial restraint in dealing with the issues. I was glad I had that experience with him, and I am happy to join with Members of the Senate in voting to confirm the appointment of one who I am sure will make a great Justice of the Supreme Court.

ORDER OF BUSINESS

Mr. COOPER. Mr. President, may I speak on another subject?

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senator may speak in legislative session.

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

WAR BETWEEN INDIA AND PAKISTAN

As in legislative session, Mr. COOPER. Mr. President, a full-scale war has broken out between India and Pakistan—a war caused by the internal conflict in East Pakistan and Pakistan's refusal to allow the flight of refugees to India. There are already reports of mounting casualties on both sides, as the armies of India and Pakistan go into battle against each other armed with modern weapons of war.

This is the third time since the independence of India and Pakistan that a war has broken out. The war between India and Pakistan is the final step in the series of devastating human tragedies in East Pakistan. It is my view that an end to the present conflict between India and Pakistan will not take place until a settlement is reached which will assure the safety of the refugees now in India and will enable India to return in safety to Pakistan, from which they fled, because of the repressive action of the Government of Pakistan.

I support the President's efforts to secure action by the Security Council of the United Nations, which, it is hoped, will bring the war in the Indian subcontinent to an end.

The primary purpose of the Security Council is to take action for the "maintenance of international peace and security."

The Charter of the United Nations provides under article 33 that, upon the request of any member of the United Nations in the event of war, "the continuance of which is likely to endanger the maintenance of international peace and security," shall first of all, "seek a solution by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice."

It is my hope that the Security Council will act, and the Governments of India and Pakistan will accept the good offices of the Security Council, and the United Nations as a whole, to bring the war to a quick end.

The United Nations was created to provide a way for the nations of the world to resolve their conflicts peacefully, and to prevent disputes between nations from developing into war. It has this responsibility which it should assume, if it is to maintain the faith of peoples through the world—this is the central issue, rather than the problem and interests of the Soviet Union, the United States, or the Peoples Republic of China.

The United States should continue to urge the United Nations to carry out its great responsibility in the Security Council if possible, and in the General Assembly if efforts in the Security Council fail. I repeat what I said a minute ago. I have kept up with the problems of India and Pakistan. I have said that the cause of the flight of the refugees to India is the result of the Government of Pakistan's repression in East Pakistan. But now that they are at war, the real question is whether the United Nations will undertake the responsibility which belongs to that body. I hope very much that it will do so.

NOMINATION OF LEWIS F. POWELL, JR.

The Senate continued with the consideration of the nomination of Lewis F. Powell, Jr., to be Associate Justice of the Supreme Court of the United States.

Mr. STEVENS. Mr. President, a thorough knowledge of the basic and essential fundamentals of our legal system is of course necessary for a member of the Supreme Court of the United States, and if that member is going to effectively fill the role of a Justice. However, it is not merely learning in the law that makes a member of that Court a capable member. Rather, it is the knowledge of the law and the fundamentals of the system properly applied to a given set of facts—this is the true test of the contribution any given member may be able to make to the Court.

Mr. Powell is unusually well qualified in this manner through his many years of active and extensive law practice. This included personal and direct participation in hundreds of major courtroom trials before juries and capable judicial officers.

The trial courtroom is the place where the better judicial timber is grown for any court, including the Supreme Court of the United States.

This qualification, along with many others that Mr. Powell possesses, will make him an outstanding member of the Court, and is my belief that his qualities will strengthen the Court greatly in this highly important field. I am pleased to support his confirmation and predict for him a splendid judicial career of value and consequence to the Nation.

Mr. President, I yield the floor.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on the nomination.

The yeas and nays were ordered.

Mr. BYRD of Virginia. Mr. President,

I ask unanimous consent to speak as in legislative session.

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

FINANCIAL REPORT ON THE UNITED NATIONS

As in legislative session, Mr. BYRD of Virginia. Mr. President, a factual report as to the financial condition of the United Nations seems in order. The United States has been the largest contributor to the United Nations since its founding 26 years ago on June 26, 1945.

During the 25 years that contributions have been made, the U.S. taxpayers have contributed $4.1 billion to the United Nations and its affiliated agencies and programs.

This $4.1 billion contributed by the taxpayers of this country represents approximately 40 percent of the total contributions by all members during the period 1946 through 1971.

U.S. contributions over the years is enumerated as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Total U.S. Contributions</th>
</tr>
</thead>
<tbody>
<tr>
<td>1946</td>
<td>$600,000</td>
</tr>
<tr>
<td>1947</td>
<td>$700,000</td>
</tr>
<tr>
<td>1948</td>
<td>$800,000</td>
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<tr>
<td>1949</td>
<td>$900,000</td>
</tr>
<tr>
<td>1950</td>
<td>$1,000,000</td>
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<tr>
<td>1951</td>
<td>$1,100,000</td>
</tr>
<tr>
<td>1952</td>
<td>$1,200,000</td>
</tr>
<tr>
<td>1953</td>
<td>$1,300,000</td>
</tr>
<tr>
<td>1954</td>
<td>$1,400,000</td>
</tr>
<tr>
<td>1955</td>
<td>$1,500,000</td>
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<tr>
<td>1956</td>
<td>$1,600,000</td>
</tr>
<tr>
<td>1957</td>
<td>$1,700,000</td>
</tr>
<tr>
<td>1958</td>
<td>$1,800,000</td>
</tr>
<tr>
<td>1959</td>
<td>$1,900,000</td>
</tr>
<tr>
<td>1960</td>
<td>$2,000,000</td>
</tr>
<tr>
<td>1961</td>
<td>$2,100,000</td>
</tr>
<tr>
<td>1962</td>
<td>$2,200,000</td>
</tr>
<tr>
<td>1963</td>
<td>$2,300,000</td>
</tr>
<tr>
<td>1964</td>
<td>$2,400,000</td>
</tr>
<tr>
<td>1965</td>
<td>$2,500,000</td>
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<tr>
<td>1966</td>
<td>$2,600,000</td>
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<tr>
<td>1967</td>
<td>$2,700,000</td>
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<tr>
<td>1968</td>
<td>$2,800,000</td>
</tr>
<tr>
<td>1969</td>
<td>$2,900,000</td>
</tr>
<tr>
<td>1970</td>
<td>$3,000,000</td>
</tr>
<tr>
<td>1971</td>
<td>$3,100,000</td>
</tr>
</tbody>
</table>

In addition the United States has purchased in excess of $141 million of United Nations bonds. Sixty-five million dollars interest free and $78.3 million at 2 percent.

The 1971 calendar year expenditures of the United Nations are estimated at a total of $1,115,000,000. This is an all-time high and is 17.7 percent higher than last year's expenditures.

Of this $1.1 billion which the United Nations will expend in 1971, the U.S. contributions and assessments total $335,443,000 or approximately 31 percent.

An article in the New York Times dated April 19, 1969, stated:

The United States, Britain and France told Mr. Thorne, in separate identical notes that the United Nations budget must be frozen at its present level for the next two years except for adjustments to be made in 1971, due to increased operating costs. The United States, Britain and France told Mr. Thorne, that the United Nations budget must be frozen at its present level for the next two years except for adjustments to be made in 1971, due to increased operating costs.

Yet, the total budgets rose from $821,500,000 in 1969 to $1,115,000,000 in 1971, an increase of over 35 percent in that 2-year period.

One hundred seventeen of the 131 members of the United Nations collectively pay less than the single contribution of the United States in a 1-year period.

So that my colleagues in the Senate...
may be familiar with the exact figures surrounding the financial condition of the United Nations, I will quote from Secretary General U Thant's address October 6, 1971, before the Budget Committee.

Secretary U Thant stated:

It would be foolish in the extreme to fall to take account of the melancholy fact that the Organization (United Nations) is, as of now, in a state of near and hopeless insolvency... The Working Capital Fund of $40 million has been fully utilized. More than $30 million of debts incurred for past and present peace-keeping operations remain unpaid.

Further, Mr. Turner, Controller of the United Nations, when questioned by my office on Friday, November 5, 1971, as to the exact cash position of the United Nations said that he was unable to state the exact cash position. He could, however, state that the organization—United Nations—did not at present have sufficient liquid assets to meet the mid-month payroll.

Eighty-eight members of the United Nations are in arrears on their payments for a total of $185,867,884 as of January 1, 1972.

Secretary General U Thant when appearing before the Budget Committee of the General Assembly placed much of the blame for the insolvency of the United Nations on:

**Russia which is in arrears on its payments as of Jan. 1, 1971...** $86,894,900

France which is in arrears on its payments as of Jan. 1, 1971... $21,780,942

11 Communist members (other than Russia) which are in arrears on their payments as of Jan. 1, 1971... $32,731,785

Article 19 of the United Nations Charter denies a country in serious arrears its vote in the General Assembly. This has never been invoked.

I ask unanimous consent that the tabulation of 88 countries in arrears be published in the Recno, together with other financial figures.

There being no objection, the tables were ordered to be printed in the Recno, as follows:

**United Nations family of agencies and programs, Nov. 30, 1971**

Total estimated budget for 1971... $1,115,500,000

**United Nations, specialized agencies and International Atomic Energy Agency...** $443,200,000

**United Nations peacekeeping force, Cyprus...** $12,400,000

**Special programs...** $659,900,000

Total estimated U.S. contributions for 1971... 335,443,000

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**SUMMARY AS OF JAN. 1, 1971, COLLECTIONS AND ARREARAGES FOR 1970 AND PRIOR YEARS OF UNITED NATIONS ACCOUNTS FOR THE REGULAR BUDGET, WORKING CAPITAL FUND, EMERGENCY FUND AND THE CONGO I**

<table>
<thead>
<tr>
<th>Year</th>
<th>Gross assessments</th>
<th>Credits and reductions</th>
<th>Net amount received</th>
<th>Balance due</th>
</tr>
</thead>
<tbody>
<tr>
<td>1959</td>
<td>15,028,988</td>
<td>15,628,885</td>
<td>11,472,402</td>
<td>3,556,580</td>
</tr>
<tr>
<td>1960</td>
<td>26,000,000</td>
<td>22,770,228</td>
<td>18,565,928</td>
<td>5,308,406</td>
</tr>
<tr>
<td>1961</td>
<td>9,000,000</td>
<td>1,759,000</td>
<td>12,253,688</td>
<td>6,221,464</td>
</tr>
<tr>
<td>1962</td>
<td>3,760,000</td>
<td>4,267,006</td>
<td>6,052,743</td>
<td>2,286,864</td>
</tr>
<tr>
<td>1963</td>
<td>9,504,794</td>
<td>6,812,891</td>
<td>6,368,546</td>
<td>2,443,243</td>
</tr>
<tr>
<td>1964</td>
<td>17,770,056</td>
<td>16,138,760</td>
<td>11,714,728</td>
<td>3,996,972</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Year</th>
<th>Gross assessments</th>
<th>Credits and reductions</th>
<th>Net amount received</th>
<th>Balance due</th>
</tr>
</thead>
<tbody>
<tr>
<td>1965</td>
<td>185,556,141</td>
<td>133,680,787</td>
<td>48,853,163</td>
<td>3,379,437</td>
</tr>
<tr>
<td>1966</td>
<td>185,550,000</td>
<td>13,045,944</td>
<td>5,504,956</td>
<td>3,950,965</td>
</tr>
<tr>
<td>1967</td>
<td>17,315,000</td>
<td>10,817,414</td>
<td>6,497,588</td>
<td>49,546,212</td>
</tr>
</tbody>
</table>

**United Nations Congo Account:**

<table>
<thead>
<tr>
<th>Year</th>
<th>Gross assessments</th>
<th>Credits and reductions</th>
<th>Net amount received</th>
<th>Balance due</th>
</tr>
</thead>
<tbody>
<tr>
<td>1966</td>
<td>15,000,000</td>
<td>5,775,035</td>
<td>105,314</td>
<td>5,890,686</td>
</tr>
<tr>
<td>1967</td>
<td>15,000,000</td>
<td>5,775,035</td>
<td>99,245</td>
<td>5,890,686</td>
</tr>
<tr>
<td>1968</td>
<td>80,000,000</td>
<td>44,755,145</td>
<td>3,244,855</td>
<td>22,806,907</td>
</tr>
<tr>
<td>1969</td>
<td>35,023,186</td>
<td>44,755,145</td>
<td>1,203,972</td>
<td>22,806,907</td>
</tr>
<tr>
<td>1970</td>
<td>15,000,000</td>
<td>44,755,145</td>
<td>1,203,972</td>
<td>22,806,907</td>
</tr>
<tr>
<td>1971</td>
<td>1,998,886</td>
<td>5,775,035</td>
<td>1,203,972</td>
<td>22,806,907</td>
</tr>
</tbody>
</table>

**Total amount due, regular budget, UN, UNEF and UNOCC:** 186,867,884

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2 Contributions to the regular budget prior to 1967 are fully collected.

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**CONGRESSIONAL RECORD — SENATE**

**December 6, 1971**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regular budget assessment...</td>
<td>$1,115,500,000</td>
</tr>
<tr>
<td>U.N. peacekeeping force pledge</td>
<td>4,800,000</td>
</tr>
<tr>
<td>Special programs pledge...</td>
<td>218,784,718</td>
</tr>
<tr>
<td>Total (30.7% of total estimated budget)</td>
<td>338,443,000</td>
</tr>
</tbody>
</table>

(The aforementioned pledges are partly contingent on other member contributions.)

Arrears due from 88 members as of Jan. 1, 1971... $185,867,884

Arrears due from 75 members for regular budget... 55,222,426

Arrears due from 66 members for Middle East (U.N.E.F.) operations... 49,546,212

Arrears due from 66 members for Congo (U.N.O.C.) operations... 82,099,247

In connection with these arrears, Article 19 of the United Nations Charter states:

**Article 19**

A Member of the United Nations which is in arrears in the payment of its financial contributions to the Organization shall have no vote in the General Assembly if the amount of its arrears exceeds the amount of the contributions due from it for the preceding two years. The General Assembly may, nevertheless, permit such a Member to vote if it is satisfied that its failure to pay is due to conditions beyond the control of the member.
Mr. JAVITS. Mr. President, I ask unanimous consent that I may proceed as in legislative session.

Mr. DOLE. Mr. President, the nomination of Lewis F. Powell, Jr., to be an Associate Justice of the Supreme Court, provides an opportunity for President Nixon's continuing commitment to bring Americans of the highest personal and professional qualifications to the Court as well as his recognition of the great importance of a nomination to the Court.

In his statement announcing the nomination of Lewis Powell the President pointed out the significance of a nomination to the Court. A Justice's appointment is for life. Once seated, his only obligation is to the Constitution and to the people of whom the Government is constituted. A President has more influence by design or by happenstance—through a Supreme Court appointment than by any other act in the domestic area. If a President's deeds can be said to endure beyond his term in office they do so in the men he places on the Supreme Court. Thus, a great opportunity and a great responsibility is given a President and consequently to the Senate in considering those who might be chosen to fill one of the nine seats on the world's most powerful and important judicial body.

Distinction and honor have been the hallmarks of Lewis Powell's lifetime of service to the law, his State, and his Nation. Both in private practice and in public service he has consistently exemplified the qualities of intellect and character required of those who would sit on the United States highest tribunal. In addition, he is an individual possessing the judicially conservative attitudes the President seeks to have represented on the Court.

He will bring to the Supreme Court the same assets and strengths which have already propelled him to high positions of responsibility and respect among his colleagues and fellow citizens.

His philosophical dedication and practical devotion to our system of "equal justice under law" give every indication that he will emerge as a powerful influence within the Court.

President Nixon has been afforded a unique opportunity to reshape the prevailing attitude of the Supreme Court. Four vacancies within a 3-year period have made it possible for him to move directly and decisively toward fulfillment of his commitment to the American public that he would provide the Court a conservative judicial outlook.

The records of Chief Justice Burger and Associate Justice Blackmun illustrate the impact President Nixon has had in his campaign to balance and redirect the Court. Lewis Powell, I am sure, will make further contributions of significant value to the Court's work of interpreting the Constitution and laws in such a way as to preserve the fullest measure of freedom for all citizens without sacrificing the rights of the majority of peaceful, law-abiding and conscientious Americans.
The number of individuals who have spoken in behalf of Lewis Powell's nomination has been impressive. But even more impressive is his own record which demonstrates the necessity of his appointment to the Supreme Court. Mr. Powell is a judicial conservative who has all of the qualifications of experience and sensitivity that one could ask for in a member of the Supreme Court. In my view, Mr. Powell will make an outstanding successor to the late Justice Hugo Black and I give him my unhesitating support.

Mr. GRIFFIN. Mr. President, as we know, the United States is an extremely diverse and complex country. The Nation has been marked by the most ardent, but also the most perceptive, of the judicially most volatile areas have seen. The heavy work load and begin what will be an extensive, in-depth, in the Nation as a whole. He was graduated from Washington and Lee University in 1929 magna cum laude, and received his LL.B. from that same institution. In the next year, he received a Master of Laws from Harvard Law School. The achievements of Mr. Powell in the field of judicial education are impressive, and I know that he will add to the expertise of the Court in many areas.

Mr. President, Mr. Powell has practiced law in his native Virginia since 1932, which is a tremendous amount of time that has been dedicated to the practice of law in the service of World War II. He has distinguished himself in his practice and has been honored in nearly every possible way by his fellow attorneys. He has served as a member of the United States Bar Association, as president of the Legal College of Trial Lawyers, and as the president of the American Bar Association. He most probably knows more about the everyday practice of law than anyone on the Court and will be of a tremendous help to the Chief Justice in his attempt to modernize court procedures so that the very largest number of cases can be processed in the shortest time possible in the many areas of the Country.

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fying and resolving the basic issues. He is not led aside by minutiae or technicalities. He has an intimate knowledge of the law, with deep sensitivity and understanding of the problems of individuals and society. He has an understanding of the fact that is mature and advanced in literal thinking, including techniques and uses of empirical research. Yet, more important than his legal skill and abiding loyalty to the principles of our Constitution and to the fundamentals of character and integrity and honor that undergird all of our institutions, I urge you to vote for his confirmation, and do all in your power to hasten the day when he can assume his position and commence his service in what I am certain will be an illustrious career on the United States Supreme Court.

Sincerely,

DALLIN H. OAKS.

Mr. BROOKE. Mr. President, I am pleased to vote to confirm the nomination of Lewis F. Powell, Jr., to be an Associate Justice of the Supreme Court. Since President Nixon nominated Mr. Powell on October 21, I have had the opportunity to meet with him and to carefully examine his record. And Mr. Powell will be exceptionally well qualified to serve on the Nation’s highest court. He is unquestionably a man of great intellect and integrity. But I believe he is much more. I believe he is an intensely human man, aware of and concerned about changing social tensions.

During the confirmation proceedings on past Supreme Court nominees, I have said I could not render a conscious vote on a judicial candidate though I am a moderate; a southerner though I represent a Northern State; and a strict constructionist though I favor a liberal interpretation of the Constitution. I mean what I said then and I mean it now. And I shall vote to confirm Mr. Powell.

I do so with the confidence that he will uphold the sacred dictum of the Supreme Court: Equal justice under law.

THE PRESIDING OFFICER (Mr. SPROVE). The hour of 4 o'clock having arrived, under the previous order the question of adjournment will be taken up. Mr. Powell, of Virginia, to be an Associate Justice of the Supreme Court.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Georgia (Mr. GAMMELRE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), and the Senator from Idaho (Mr. Moss), are necessarily absent.

I further announce that, if present and voting, the Senator from Georgia (Mr. GAMMELRE), the Senator from Utah (Mr. MOSS) and the Senator from Minnesota (Mr. HUMPHREY), would each vote "yes." Mr. GRIFFIN, I announce that the Senator from Utah (Mr. BENNETT) and the Senator from South Dakota (Mr. MURPHY) are absent because of illness.

The Senator from Colorado (Mr. DOMINICK), the Senator from Iowa (Mr. MILLER), the Senator from Illinois (Mr. PERCY) and the Senator from Vermont (Mr. STAFFORD) are necessarily absent.

If present and voting, the Senator from Utah (Mr. BENNETT), the Senator from Colorado (Mr. DOMINICK), the Senator from Illinois (Mr. PERCY), and the Senator from Iowa (Mr. MILLER) would each vote "yea.

The yeas and nays resulted—yeas 89, nays 1, as follows:

[No. 439 Ex.]

YEAS—89

Allen
Allen
Allott
Anderson
Baker
Bayh
Bell
Bellmon
Bentzen
Bible
Boggs
Brooke
Buckley
Byrd, Va.
Byrd, W. Va.
Case
Chiles
Church
Cook
Cooke
Cotton
Crandon
Curtis
Dole
Eldridge
Eastland
Elliender

NAYS—1

Hart
Hatch
Hollings
Hruska
Jackson
Javits
Jennings
Jordan, Idaho
Kennedy
Kennis
Keating
Long
Magnuson
Moore, N.C.
raising
Mathias
Massachusetts
McCollum
McGehee
McGovern
Mankoff
Mondale
Mondale

So the nomination was confirmed. Mr. BYRD of Virginia. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nomination.

The PRESIDING OFFICER (Mr. SPROVE). Without objection, the President will be notified forthwith.

THE NOMINATION OF WILLIAM H. REHNQUIST TO BE AN ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of the nomination of William H. Rehnquist, of Arizona, to be an Associate Justice of the Supreme Court of the United States.

The PRESIDING OFFICER. Without objection, the President will report the nomination.

The second assistant legislative clerk read the nomination of William H. Rehnquist, of Arizona, to be an Associate Justice of the Supreme Court of the United States.

AMENDMENT OF SECTION 906(c) (2) OF THE SOCIAL SECURITY ACT

Mr. MANSFIELD. Mr. President, as in legislative session, I ask unanimous consent that the Senate turn to the immediate consideration of Calendar No. 533, H.R. 6065.

The PRESIDING OFFICER. The bill will be stated by title.

The second assistant legislative clerk read as follows:

A bill (H.R. 6065) to amend section 906 (c) (2) of the Social Security Act.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? The Chair hears none.

The Senate proceeded to consider the bill.

Mr. LONG. Mr. President, this is a bill to extend for an additional 10 years, the period through which the States may obligate for administrative purposes certain funds transferred from excess Federal unemployment tax collections. The committee report is available.

Mr. President, I ask unanimous consent that an explanation of the bill be printed at this point in the Record.

There being no objection, the explanation was ordered to be printed in the Record, as follows:

EXPLANATION OF H.R. 6065

A bill to extend for ten years the period during which certain funds of the unemployment tax system may be used for State administrative expenses.

Passed to 1954, one-tenth of the 3-percent Federal unemployment tax, or 0.3 percent (called the net Federal tax), was intended to cover the cost of a State administration of the unemployment insurance and employment service programs. However, the net Federal tax was not earned because of this point in the Recession. The revenues had been exceeding administrative costs by about $65 million annually, the excess merely served to increase the general funds of the Treasury.

The Employment Security Administrative Financing Act, signed into law August 5, 1954, earmarked revenues from the net Federal tax for the employment security system, with this order of priority for their use: (1) to create a reserve that could first be used to pay the cost of Federal administrative purposes (3 percent). (Table 1 on page 3 of the House report shows amounts credited to each State).

The Employment Security Administrative Financing Act, signed into law August 5, 1954, earmarked revenues from the net Federal tax for the employment security system, with this order of priority for their use: (1) to create a reserve that could first be used to pay the cost of Federal administrative purposes (3 percent). (Table 1 on page 3 of the House report shows amounts credited to each State).

Since 1954, advances, if any, would be placed in a loan account (until the account reached $100 million) from which States could get advances when the cost of State unemployment trust funds (and may be used for administrative purposes) exceeded the Federal unemployment tax, or the (with the specific approval of the State legislature) for additional administrative purposes. If a State wished to use the excess funds for administrative purposes, Federal law required them to use the funds within 5 years of their transfer.

During the next few years, revenues continued to exceed administrative expenses as in the years preceding the 1954 Act. In this period, to State needed to use the loan fund, which quickly reached the $200 million limitation. In 1956, 1957, and 1958, a total of $138 million was credited to State unemployment trust funds (Table 1 on page 3 of the House report shows amounts credited to each State).

In conclusion, the three general areas of concern for the future of the Federal unemployment tax system:

1. The excess of revenues over tabulated funds required to be used to reestablish the loan fund, which would have been transferred to the States.

2. The $138 million transferred in 1956, 1957, and 1958 provides the only funds transferred to date; no additional transfers are anticipated in the foreseeable future. These transferred funds have been used by the States to meet the necessary Federal assistance for the States.
use in the employment security program. Thirty-eight States have obligated funds under the Unemployment Compensation Act of 1950, which is amended by the Federal-State Extended Unemployment Compensation Act of 1970, and paid out and reimbursed claims for land rentals and building rentals, and one State (Alaska) has also spent funds for benefits.

Purpose of H.R. 6608. Each year the Congress appropriates funds for State administration of the unemployment compensation program; these grants have included amounts to cover the cost of rent. These portions of the $138 million transferred to the States which have been spent for rent, and the re-purposed funds may then be replenished over time out of these annual Federal administrative grants for rent, and the re-purposed funds may then be used again for land and buildings—but only within the period specified in the law. That period has been extended twice, and is now due to expire in 1973; H.R. 6606 would extend the period for ten years until 1983.

Mr. LONG. Mr. President, this bill is one which passed the House of Representatives and was on the consent calendar. I understand, I do not believe there is any objection to the bill.

The Senate was in conference with the House conferees. The conference was unable to agree to the unemployment insurance amendment agreed to by the Senate for the reason that the gerrymandering rule which was imposed upon the Senate by the Reorganization Act requires that an amendment to a House-passed bill cannot be accepted in the conference report except as a separate matter and separately voted on by the House of Representatives unless that amendment is germane to the bill under the rules of the House of Representatives.

By virtue of that gerrymandering rule which was imposed upon the Senate by the Reorganization Act which was recently passed by the Senate, we were unable to persuade the House conferees to agree to the trade amendments, to the unemployment insurance amendment, or to the amendment related to the Highway Trust Fund.

Mr. President, I understand an amendment will be offered. One of the reasons the bill is being called up at this time is in order that an unemployment insurance amendment, of which the Senate agreed to, may be offered to the bill, which could be regarded under the House rules, as I understand those rules.

Mr. MAGNUSSON. Mr. President, I send to the desk an amendment, on behalf of myself, Senator Ribicoff, Senator Jackson, and Senator Tunney.

THE PRESIDING OFFICER (Mr. BUCKLEY). The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

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

THE PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the Record.

Title to the amendment, ordered to be printed in the Record, is as follows:

At the end of the bill add the following:

TITLE II—EMERGENCY UNEMPLOYMENT COMPENSATION

Sec. 201. This title may be cited as the "Emergency Unemployment Compensation Act of 1971." Federal-State agreements

Sec. 202. (a) Any State, the State unemployment compensation law of which is approved by the Secretary of Labor (hereinafter referred to as the "State law") or extended unemployment compensation law of the Internal Revenue Code of 1954, which desires to do so, may enter into and participate in an agreement with the United States (as defined in section 202 of the Federal-State Extended Unemployment Compensation Act of 1970) by virtue of that gerrymandering rule which was imposed upon the Senate by the Reorganization Act (hereinafter referred to as the "Federal-State agreement") and such State law contains (as of the date such agreement is entered into) a requirement that extended compensation be payable thereunder as provided by the Federal-State Extended Unemployment Compensation Act of 1970. Any State which is a party to an agreement under this title may, upon providing 30 days' written notice to the Secretary, terminate such agreement.

(b) Any such agreement shall provide that the States and the United States will make payments of emergency compensation—(1) to individuals who—(A) have all rights to regular compensation under the State law; (B) have exhausted all rights to extended compensation, or are not entitled thereto, because of the ending of their eligibility period for extended compensation, in such State; (C) have no rights to compensation (including both regular compensation and extended compensation) with respect to a week of unemployment under the State unemployment compensation law or to compensation under any other Federal law; and (D) have rights to such compensation with respect to such week under the unemployment compensation law of the Virgin Islands or Canada;

(2) for any week of unemployment which begins in—(A) an emergency extended benefit period (as defined in subsection (e) (3)); and

(B) the individual's period of eligibility (as defined in section 205 (b));

(c) (1) of the Federal-State agreement (b) (1) (A), and individuals shall be deemed to have exhausted his rights to regular compensation under the State law when—(I) he begins a period of regular unemployment which shall be computed, of which the weekly benefit of any individual which is payable to him during the week beginning with the expiration of the eligibility period for regular compensation, after which he was disqualified from receiving regular compensation, as specified in section 202 of the Federal-State Extended Unemployment Compensation Act of 1970; (2) any payment of extended compensation which is made under any other Federal law, when such State law is extended under the terms of this section; or (3) any period of unemployment which is unpaid under such law; (d) The Emergency Unemployment Compensation Act of 1970, and (e) of the Federal-State Extended Unemployment Compensation Act of 1970, or (f) of the Federal-State Extended Unemployment Compensation Act of 1970, or (g) of the Federal-State Extended Unemployment Compensation Act of 1970, or (h) of the Federal-State Extended Unemployment Compensation Act of 1970, or (i) of the Federal-State Extended Unemployment Compensation Act of 1970, or (j) of the Federal-State Extended Unemployment Compensation Act of 1970, or (k) of the Federal-State Extended Unemployment Compensation Act of 1970, or (l) of the Federal-State Extended Unemployment Compensation Act of 1970, or (m) of the Federal-State Extended Unemployment Compensation Act of 1970, or (n) of the Federal-State Extended Unemployment Compensation Act of 1970, or (o) of the Federal-State Extended Unemployment Compensation Act of 1970, or (p) of the Federal-State Extended Unemployment Compensation Act of 1970, or (q) of the Federal-State Extended Unemployment Compensation Act of 1970, or (r) of the Federal-State Extended Unemployment Compensation Act of 1970.

(II) the 13-week exhaustion rate (as determined under clause (ii)),

(i) The "13-week exhaustion rate" should be equal to—(2) 5 percent of the sum of the exhaustions, during the most recent 12 calendar months ending before the week with respect to which such rate is computed, of regular compensation under the State law, divided by

(ii) the average monthly covered employment (as that term is used in section 203 (f) of the Federal-State Extended Unemployment Compensation Act of 1970) of the State with respect to the 13-week period referred to in paragraph (B) (II).

(c) For purposes of any agreement under this title—(1) the amount of the emergency compensation which shall be payable to any individual for any week of total unemployment shall be equal to the amount of the regular compensation (including dependents' allowances) payable to him during his benefit year under the State law; and

(ii) the terms and conditions of the State law which apply to claims for regular compensation and to the payment thereof shall (except where inconsistent with the provisions of this subparagraph and the amendment to the Federal-State agreement promulgated to carry out this title) apply to claims for emergency compensation and to the payment thereof.

(e) (1) Any agreement under this title with a State shall provide that the State shall establish, for each eligible individual whose application for emergency compensation is accepted, an emergency compensation account.

(ii) The amount established in such account for any individual shall be equal to the lesser of—(1) 100 per centum of the total amount of regular compensation (including dependents' allowances) payable to him with respect to such claim, but in no event to exceed the amount of regular compensation paid to such individual under the State law, or (2) any State (as defined in section 202 of the Federal-State Extended Unemployment Compensation Act of 1970).

(3) (A) (1) For purposes of subsection (b) (3) (A) (2) of this title, the term "emergency compensation" means—(I) regular compensation, in the case of the current week for which such "emergency compensation" is claimed; and

(II) extended compensation, in the case of the current week for which such "emergency compensation" is claimed.

(4) (A) (1) For purposes of paragraph (A) (1) (B) (I) of the Federal-State Extended Unemployment Compensation Act of 1970, the term "week of unemployment" means any week during which the individual has been unemployed; and (B) (I) For purposes of paragraph (A) (1) (B) (I) of the Federal-State Extended Unemployment Compensation Act of 1970, the term "period of unemployment" means any period during which the individual has been unemployed.

(5) (A) (1) (B) (I) of the Federal-State Extended Unemployment Compensation Act of 1970, the term "emergency compensation" means—(I) regular compensation, in the case of the current week for which such "emergency compensation" is claimed; and

(II) extended compensation, in the case of the current week for which such "emergency compensation" is claimed.
recently received regular compensation: or

(1) the Social Security Act is amended by striking out "and in the case of any month after March 1973," and inserting in lieu thereof "in the case of any month after March 1972 and before April 1974, to nineteen percent (19 percent), and inserting in lieu thereof "at the end of clause (iv);"

(b) by striking out the period at the end of clause (v) and inserting in lieu thereof "and;"

(c) by inserting after clause (v) the following clause: "(vi) an agreement entered into under the Emergency Unemployment Compensation Act of 1971.".

DEFINITIONS

Sec. 205. For purposes of this title—

(a) the terms "compensation", "regular compensation", "extended compensation", "base period", "benefit year", "State", "State agency", "State law", and "week" shall have the meanings assigned to them under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970;

(b) the term "period of eligibility" means, in the case of an eligible individual, the weeks in his benefit year which begin in an extended benefit period or an emergency extended benefit period, or within such extended benefit period, any weeks thereafter which begin in such extended benefit period or in such emergency extended benefit period;

(c) the term "extended benefit period" shall have the meaning assigned to such term under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970.

REPORT BY SECRETARY OF LABOR

Sec. 206. (a) The Secretary of Labor shall conduct a continuing and comprehensive study and review of the program established by the Emergency Unemployment Compensation Act of 1971, with a view to submitting to the Congress the report required to be submitted under subsection (b). Such study and review shall be conducted with particular regard to (1) the benefit payments made under such program, (2) projections of benefit payments; if payments under such program after the period covered by such report, (3) the desirability of continuing such program after June 30, 1973, and (4) the desirability of extending such program and the funding of benefits thereunder if such program should be continued after June 30, 1973.

(b) On or before July 1, 1972, the Secretary of Labor shall submit to the Congress a full and complete report on the study and review provided for in subsection (a). Such report shall cover the period ending May 31, 1972, and shall contain the recommendations of the Secretary under section 205 of the Federal-State Extended Unemployment Compensation Act of 1974 (relating to computation of Federal unemployment tax).

Amend the title to read as follows: "An Act to amend section 903 (c) (2) of the Social Security Act, and for other purposes."

Mr. MAGNUSON. Mr. President, it will be recalled that on November 12 the Senate overwhelmingly approved an amendment to the Revenue Act which I had introduced in the following terms: "That the Committee on Finance, Senator TUNNEY, Senator JACKSON, and many other Senators. That amendment would have provided 26 additional weeks of unemployment compensation benefits to workers who have exhausted all other unemployment benefits and who live in States where unemployment is 6 percent or higher. You will also recall that the amendment received the support of the distinguished chairman of the Finance Committee, and I wish at this time to thank Senator LOWE for his strenuous efforts in behalf of this amendment at the conference held on the Revenue Act.

Tragically, Mr. President, some of the House conferees, working under the President's threat to veto the Revenue Act, were unable to reach agreement. But I think we can all agree that my amendment from the Revenue Act. That was a terrible blow, Mr. President, to the 100,000 workers in my State who have exhausted all of their unemployment benefits and to the 1.7 million workers throughout the Nation who have exhausted all of their benefits. This is not to imply, of course, that this was the intent of those House conferees for I know that they are just as concerned about those unemployed people as am I.

But the desperate plight of these unemployed Americans is too great to be ignored, or to be left undone until after the Congress returns from Christmas recess. It is to the great credit of my very good friend and colleague, Senator LONE, that he made a very special effort to bring H.R. 6065 to the floor today, so that the Senate would have an opportunity to pass this amendment prior to the recess. I can think of no action which would be more appropriate at a time when Christmas is so near than would be the Senate's approval of the amendment we are offering today to H.R. 6065.

Mr. President, with one exception, the amendment which Senator RINGLOW, Senator TUNNEY, Senator JACKSON, and I are offering to H.R. 6065 is the same as that which the Senate overwhelmingly approved just a few short weeks ago. This is a very simple amendment and I would like to briefly summarize its basic provisions:

It would provide 26 additional weeks of unemployment compensation benefits to eligible workers.

All States that have enacted an extended unemployment compensation law pursuant to the Federal-State Extended Unemployment Compensation Agreement would be eligible.

A State unemployment rate of 6 percent, computed by counting both the insured unemployed and those who have exhausted their benefits, would trigger the extended benefits.

To finance these emergency benefits, section 3301 of the Internal Revenue Code of 1954 would be amended to increase the tax rate from 3.2 to 3.29 percent.

Finally, under this amendment, the participating States would not be required to pay any portion of the costs of the emergency benefits. Senators will recall that the amendment to the Revenue Act would have required participating States to have assumed 20 percent of the cost in the third and following fiscal years.
Mr. President, in closing I want to emphasize three important points:

First, every State which would have been financially responsible under the amendment which I proposed to the Revenue Act would also be eligible under this amendment.

Second, this amendment will not impose any financial burden upon participating States.

Third, and I wish to underscore this final point, the distinguished chairman of the Finance Committee and the Ways and Means Committee have both been consulted and both have personally assured me that this amendment will have their strong support in conference if it is passed here today by the Senate.

Mr. President, I ask unanimous consent to have printed in the Record a summary of the amendment and two charts.

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

SUMMARY OF MAGNUSON AMENDMENT

The Magnuson amendment would add a new emergency unemployment compensation entitlement to the Revenue Act of 1971 with the following provisions:

1. Additional Benefits.—Provides an additional 26 weeks of unemployment compensation benefits to persons who have exhausted their rights to 26 weeks of regular benefits plus 13 weeks of extended benefits.

2. Temporary Program.—Benefits under the new program would be payable only until July 1, 1973.

3. Unemployment Rate Triggering Benefits.—Additional 26 weeks of benefits would be available only in States in which insured unemployment rate plus rate of exhausting benefits exceeds 6.0 percent.

4. Federal Share.—Additional benefits would be paid at the rate of 85 percent.

5. Financing Provisions.—Increases net Federal tax 0.09 percent in calendar years 1972 and 1973 (net Federal tax is now 0.5 percent).


In summary, benefits would be payable under Magnuson amendment:


- States where the unemployment rate plus rate of exhausting benefits is 5 percent or over at the age of 50 or 55. It breaks his spirit, and he says, "Oh, well, so what?" And he stays there. His dignity is lost.

I think this is a good compromise of the situation with the House. I think the Senator knows, and he probably wants us to do this, that come next spring, we are going to have to get into the whole matter again, and perhaps basically change the laws. This is an emergency matter. That is what it amounts to.

Mr. CURTIS. I have no further questions.

Mr. RIBICOFF. Mr. President, on November 12 the Senate approved the Magnuson amendment as modified by the distinguished Senator from California (Mr. TUNNEY), to extend emergency unemployment compensation benefits to individuals in States with unemployment rates over 5 percent or who have exhausted their existing regular and extended unemployment benefits.

Unfortunately, the conference on H.R. 10947 eliminated this provision from the final version. Today, however, the need is even greater for this legislation. Last week the Labor Department revealed that unemployment in this country had again risen—from 5.8 percent to 6 percent. In many areas unemployment is far above the national average. In Connecticut, for example, figures released that unemployment now exceeds 9 percent and is over 10 percent in three of its major cities.

Today, I ask that the Senate again approve the vitally needed measures to assist American workers. The long-term economic reforms recently approved by the Senate will hopefully create thousands of new jobs. But the sad reality is that there are over 5 million unemployed men and women in this country, many of whom have exhausted their unemployment benefits.

In the first 6 months of 1971, an estimated 1,052,423 workers exhausted their benefits under the regular unemployment insurance program, a national increase of 33 percent over the same time last year. Of these men and women, 34,139 were in my home State of Connecticut. Thousands of other workers exhausted their regular unemployment rights before this time. Since extended benefits run for only an additional 13 weeks, some have already exhausted them for those whose regular insurance terminated before July.

Unemployed Americans without unemployment compensation face a bleak New Year unless legislation is enacted.
immediately to provide emergency unemployment assistance.

But if the Senate will accept this vital amendment to the pending unemployment compensation legislation, H.R. 6065, which changes the formula limiting the amount obligated to a State for unemployment compensation under the Federal-State unemployment compensation programs.

Mr. President, the Senate has already gone on record in support of this program. Because there is no decrease in insured unemployment, and partly because benefits have run out, I hope that my colleagues will again act to assist those men and women who have exhausted their benefits before they could find another job.

Mr. President, I ask unanimous consent to include an article from the Hartford Times.

They being no objection, the article was ordered to be printed in the Record, as follows:

**JOBLESS PAY GONE, MOMS TURNING TO WELFARE**

(From James N. Mason, Jr.)

The unemployment checks have run out for Dorothy Carney of 290 Farmington Ave.

A few days ago she became one of the 2,400 mothers who have applied for public welfare, and who were plunged into destitution in July. Total caseload in aid to dependent children jumped from 27,000 in June to almost 76,000 in September, the State Welfare Department reports.

Mrs. Carney put off her trip to the Welfare Department as long as she could. Her last unemployment check came on Oct. 2, but she had $50 saved at the time, and got an income tax return of $102.

This year, she spends $25 a week child support from her 13-year-old son's father, kept them going for several weeks while Mrs. Carney was living on the wait lists and taking babysitting jobs or doing typing jobs.

But the cupboard is now bare. She's a month behind on her $120 monthly rent. There was nowhere to go but the State Welfare Department.

Nobody knows how many men and women like Mrs. Carney have reached the end of their unemployment benefits. The State Labor Department said it was so deluged with page after page of heavy unemployment roll-up data in July that its computer could not keep up-to-date records on how many people were on its rolls.

But the claims for unemployment benefits have been dropping since August, either because people are finding new jobs, partly because they were on brief vacation lay-offs in August (which pushed up the statistics), and partly because benefits have run out, and they don't have jobs.

In September, the Department of Social Services in Hartford anticipated an increase in the number of residents needing emergency assistance because their benefits had run out.

So far, the number is small, but the figure for November (available in early December) may indicate a trend. In September, said a Hartford official, 19 persons who applied for emergency assistance had said their unemployment benefits had been exhausted and they still couldn't find a job.

In Connecticut, the rate jumped more than twice as high, up to 62 cases.

A spokesman at the State Welfare Department said the increase in mothers receiving aid to dependent children doesn't necessarily mean that they were previously in jobs.

"They may just have been recently de­

reed. But one of the major reasons cited for a man deserting his family is that he can't find a job to support them.

He gets discouraged and takes off, assuming his wife and children can somehow get by."

Mr. TUNNEY. Mr. President, I am pleased to join with Senator MAGNUSON, Senator RIECOFF, and Senator Jackson in offering once again to the Senate an emergency unemployment compensation to States hard hit by joblessness.

Senators will recall that on November 12, the Senate adopted a proposal substantially identical to the one we offer today. That proposal was an amendment to the Revenue Act of 1971, and it would have allowed 26 additional weeks of un­employment compensation in States where joblessness-weighted to take ac­count of those who have exhausted all benefits-reached 6 percent or more. The program would have been financed through the Federal Government by an increase in payroll taxes from 3.2 to 3.29 percent.

This amendment would have reached up to 330,000 unemployed persons in California alone, who have exhausted all available benefits during the past year. It would have allowed 26 further weeks of aid at an average of $54 weekly. Without this additional help, those people who have exhausted un­employment compensation and do not yet have jobs would have no choice but the indignity of welfare.

I was deeply disappointed that the overwhelming will of the Senate, to­gether with this amendment, was frustrated by procedural technicalities in the House-Senate conference, and by the admin­istration's threat to veto the entire tax bill. Under these pressures, this emer­gency program was dropped from the Revenue Act, and thousands of jobless persons in California and throughout the country were left unprotected.

Under the distinguished and imaginative leadership of Senators Magnuson and Riehoff, we have been able to bring to the floor today H.R. 6065, a House-passed bill to which our amendment can be attached. The Senate can read the bill in its entirety on December 12 to establish this emergency aid program.

This program will provide a new bridge to a time of economic recovery for thousands who want jobs and can find no work. It will reduce our welfare rolls as well, and lift a disastrous financial strain from local governments and property taxpayers. As the distinguished Senator from Connecticut, Senator Riehoff, pointed out in discussing this proposal on November 12 over 800,000 persons were receiving welfare in June 1971, solely because the father of the family was unemployed, a 33 percent increase above the number of welfare recipients in July 1970, 12 months earlier. In Los Angeles alone, one in eight persons receives welfare. We know that 18 million people exhausted their unem­ployment benefits last year and that the average cost of welfare per family of four is $3,000. Public assistance costs for put­ting these unemployed workers on wel­fare would result in as much as 123 billion of local and State tax revenues. We cannot afford this burden. We cannot hold local communities hostage, because of the failure of national economic policies.

Mr. President, our amendment does the following:

Provides 26 further weeks of federally funded unemployment compensation to eligible persons, payable until July 1973;

Would be available to any State in which the unemployment rate, computed by a formula taking account of those who have exhausted all benefits, reaches or exceeds 6 percent;

Would be funded through an increase in the payroll tax rate from 3.2 to 3.39 percent;

Would be funded through the Federal Government for all years, unlike our propo­sal of November 12 which would have shifted some financial burden to States following the first year.

I urge Senators to join us in opening once again the opportunity for meaningful additional aid to hundreds of thou­sands of unemployed persons.

THE PRESIDENT. The question is on agreeing to the amend­ment.

The amendment was agreed to.

The PRESIDENT. The bill is then ordered to further consideration.

If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time.

The PRESIDENT. The bill having been read the third time, the question is, Shall the bill pass? [Putting the question.]

The bill was passed.

Mr. LONG. Mr. President, I move that the Senate insist on its amendment and request a conference with the House of Representatives on the disagreeing votes thereon; and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. LONG, Mr. ANDERSON, Mr. TALMADGE, Mr. CURTIS, and Mr. MILLER conferees on the part of the Senate.

MESSAGE FROM THE HOUSE ENROLLED BILLS SIGNED

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills:

S. 1116. An act to require the protection, management, and control of wild free-roaming horses and burros on public lands; S. 2349. An act to authorize the Secretary of the Interior to engage in certain feasibility investigations; H.R. 3652. An act to amend title 5, United States Code, to provide equality of treatment for married women Federal employees with respect to preference-eligible employment benefits, cost-of-living allowances in foreign areas, and regulations concerning marital and child support generally, and for other purposes; H.R. 8381. An act to authorize the sale of certain lands on the Kalsipell Indian Reserve, in the State of Washington; H.R. 8458. An act to curtail the mailing of certain articles which present a hazard to...
The Senate continued in executive session with the consideration of the nomination of William H. Rehnquist to be Associate Justice of the Supreme Court of the United States.

Mr. EASTLAND. Mr. President, I rise to speak to the nomination of William H. Rehnquist to be an Associate Justice of the Supreme Court of the United States.

In my judgment, the hearings on his nomination clearly demonstrate that Mr. Rehnquist is a man of great legal ability and impeccable character. I am certain that he will be a distinguished addition to the Supreme Court.

The esteem in which his fellow lawyers held him is attested by the fact that in 1968 Mr. Rehnquist was named in Martindale's Legal Directory. This rating is made by one's fellow lawyers and is the highest rating given by Martindale's. One must have practiced law for at least 10 years before receiving an "a.v." rating, and Mr. Rehnquist received it shortly after the expiration of the minimum period. This is an exceptional tribute to a young lawyer.

In January 1969, President Nixon nominated Mr. Rehnquist to be Assistant Attorney General in charge of the Office of Legal Counsel, a position he presently holds. By all accounts he has served in that office with great dedication and ability. The quality of his legal mind and his skill in presenting arguments in formal proceedings is evidenced by the fact that his statements on legislation are acknowledged even by his opponents.

I can add my own personal testimony as to Mr. Rehnquist's great legal ability. As chairman of the Judiciary Committee, I have had occasion to personally observe his work. It is outstanding. I did not know Mr. Rehnquist until he assumed his position in the Department of Justice and in his position of personal knowledge of this man, I can assure the Senate that he is of the highest character and intellect.

Mr. President, those who know Mr. Rehnquist best know that he is a very fair-minded person of great legal and intellectual capacities. A number of persons have written letters to the Judiciary Committee in support of his nomination. These letters were not printed in the hearings. I ask unanimous consent that these letters be printed at the conclusion of my remarks.

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

Mr. EASTLAND. The opponents of this nomination cannot and do not say that Mr. Rehnquist is not a qualified and intellectual person. What they say is that he is not the right person for the Supreme Court.

They cannot and do not say that his nomination is based on any questions of ethics or conflicts of interest.

They cannot and do not say that he does not possess a high character and the proper judicial temperament.

In my judgment, there is not much left for the opponents of this nomination to go on.

The opposition to this nomination has boiled down to dislike for alleged personal and philosophical views of Mr. Rehnquist. The first series of attacks on the Rehnquist nomination were made shortly after President Nixon made the nomination on October 21, 1971. These attacks consisted of desperate and irresponsible efforts on the part of so-called "liberals" in the news media and the academic community to undermine Mr. Rehnquist in his personal actions and associations, had shown himself to be an "extremist" and "hostile to the rights of minorities."

These charges and attacks were given wide circulation in the press and on TV. They are untrue.

First, it was charged that Mr. Rehnquist was a member of the John Birch Society.

Next, it was alleged that he had been instrumental in challenging black voters in Phoenix at various elections, including those of 1962, 1964, 1966, and 1968.

Lastly, it was charged that Mr. Rehnquist had been a member of For America and/or Arizonans for America, which were alleged to be right-wing extremist groups.

These charges were made and published through the press in the academic community and in the news media, who are horrified at the prospect that the Supreme Court might not be dominated by liberal judicial activists in perpetuity.

The Judiciary Committee carefully investigated all of these untruths and smears. Each of these charges designed to show that Mr. Rehnquist was or is an "extremist" or a bigot were exploded.

Mr. Rehnquist gave sworn statements to the committee that he had never been a member of the John Birch Society or of For America or Arizonans for America.

I say further, Mr. President, that I have had access to the FBI file, and that the Bureau, after a full field investigation, completely exploded each of those charges.

Here is a letter that I received on November 20 from Frank Hardy, Ariz. It says:

"By William H. Rehnquist.

Dear Sen. I was on the board of Arizonans for America from its inception to its end, and was its last president.

To my knowledge, Mr. Rehnquist was never a member of Arizonans for America. He did make a speech to us, and was subsequently put on the opposing list.

Sincerely,

George E. Hardy"

He also gave the same statement to the Senate when its agents called upon him.

Mr. Rehnquist further gave testimony to the committee that he had never acted as a challenger to voters in elections. He further testified that as a legal adviser to the Republican Party in Phoenix, Ariz., he had instructed a party worker who was zealous in challenging voters to refrain from such actions.

Judge Charles L. Moore, of Phoenix, who was chairman of a committee of Democratic lawyers in the 1962 elections, gave a statement to the committee which confirms the fact that Mr. Rehnquist did not engage in any improper activities in this respect.

There was no testimony obtained by the Judiciary Committee to support these irresponsible and baseless charges against Mr. Rehnquist. Every opportunity was given to those with any evidence to produce it before the Judiciary Committee. The fact that some members of the academic community and the news media chose not to present any evidence to the committee, but chose rather to broadcast fresh charges to the press gives a strong indication of the motivation, responsibility and veracity of such persons.

The hearings conducted by the Judiciary Committee thoroughly discredited these allegations. So now the opponents of the Rehnquist nomination have had...
to fall back on the issue of the judicial philosophy of the nominee.

Each Member of the Senate has the right and responsibility to determine what influence, if any, he will give the personal or judicial philosophy of a nominee in making a decision of whether to advise or consent to a nomination.

Thus, I do not qualify with my colleagues to support Mr. Rehnquist on the basis of his supposed judicial philosophy. I do think it is very important, however, to recognize that judicial philosophy should carefully be weighed and should be a large consideration in all future nominations for the Supreme Court.

During the hearings those who wished to use what they supposed to be Mr. Rehnquist's judicial philosophy against his nomination made repeated efforts to distinguish the Rehnquist nomination from other Supreme Court nominations. What the opponents of Rehnquist's nomination said to him in essence was:

It is especially appropriate for us to inquire into your judicial philosophy because you did not have an opportunity to make an oral statement or to respond to President Nixon's public statements on the judicial philosophy of nominees into the news media and academic community.

The Senate has the responsibility to advise and consent to the judicial philosophy of a nominee for the Supreme Court. It is especially appropriate for us to inquire into the judicial philosophy of the nominee as we make our decision. Our predecessors have publicly stated that judicial philosophy was one of the criteria used by them in making your nomination.

In all honesty, I do not believe that this distinction withstands analysis. If this distinction were valid, suppose that a future nominee for the Supreme Court had written an article in which he stated his opinion that it was improper for a Senator to inquire into the judicial philosophy of a nominee for the Supreme Court, and suppose that the President who nominated such a person stated that the judicial philosophy of the nominee had no bearing on the nomination.

Would this mean that it would not then be proper for the Senate to attempt to ascertain the judicial philosophy of such a nominee? Of course not. The Senate cannot allow its constitutional responsibility and obligation to inquire into the judicial philosophy of a nominee for the Supreme Court to depend upon such fortuitous circumstances as the past writings of a nominee and the statements or silence of a President who makes the nomination.

As a matter of fact, it is common knowledge that Presidents usually take the judicial philosophy of nominees into account when they make nominations.

Supra, Bork's unfailing unbalance the Supreme Court, the former President has recently written a book entitled "The "Vantage" Point" dealing with his tenure as President. Excerpts from this book have appeared in various newspapers. I will quote from the New York Times of October 27, 1971, which quoted excerpts from President Johnson's book dealing with the Fortas appointment. First, President Johnson reveals the reason why he appointed Mr. Fortas to be an Associate Justice of the Supreme Court to succeed Mr. Justice Goldberg:

I was confident that the man would be a brilliant and able jurist. He had the experience and the liberalism to expose the cause that both I and President Garold believed in. He had the strength of character to stand up for his own convictions, and he was a humanitarian.

In discussing his nomination of Mr. Fortas to be Chief Justice of the United States, President Johnson tells us:

When I nominated Fortas to succeed Chief Justice Warren three years later, I did so for the same reasons I had first appointed him to the Court.

This is what the former President said of Mr. Fortas' rejection by the Senate:

In the end, Abe Fortas' chief assets — his progressive philosophy, his love of country, his frank views always spoken from the heart — were the downfall.

A consideration of what appears to be the judicial philosophy of Mr. Rehnquist leads me to the conclusion that his service on the Supreme Court would be highly beneficial to the Nation.

On the basis of the record of the hearings on his nomination, I believe it is fair to say that Mr. Rehnquist possesses what might be termed a conservative judicial philosophy. However, the record amply indicates that he is not the prisoner of any judicial philosophy, and that he will decide cases on the basis of the appIication of his innate sense to the question of the proper result as mandated by the Constitution and laws of the United States and applicable judicial precedents. He is certainly not bound by his views.

I would like to read from a letter written by Mr. Martin F. Richman, former law clerk to Chief Justice Earl Warren, and Deputy Assistant Attorney General in the Office of Legal Counsel under the previous administration, who gave the following assessment of the cast and quality of Mr. Rehnquist's approach to legal issues:

"The key question for inquiry here, in my opinion, is whether as a Justice Mr. Rehnquist will bring to the decision of the cases not only his own views, however long held and well thought out but his innate mind. Will he approach each case on the basis of the facts in the record, the briefings by counsel, the arguments of his Brethren in the following assessment of the cast and quality of Mr. Rehnquist's approach to legal issues?"

"In my experience with Mr. Rehnquist, and because of his innate ability and his service to his President—brought his experiences in the Congress, his love of country, his creed and his character to the service of his President, and because of his innate ability to think and his innate ability to reflect the values which are held in highest esteem by the document, the Declaration of Independence, the Constitution, and the Bill of Rights, and the American people, and in his innate ability to discern the right and responsibility to determine what influence, if any, he will give the personal or judicial philosophy of a nominee in making a decision of whether to advise or consent to a nomination. Thus, I do not qualify with my colleagues to support Mr. Rehnquist on the basis of his supposed judicial philosophy. I do think it is very important, however, to recognize that judicial philosophy should carefully be weighed and should be a large consideration in all future nominations for the Supreme Court.

During the hearings those who wished to use what they supposed to be Mr. Rehnquist's judicial philosophy against his nomination made repeated efforts to distinguish the Rehnquist nomination from other Supreme Court nominations. What the opponents of Rehnquist's nomination said to him in essence was:

It is especially appropriate for us to inquire into your judicial philosophy because you did not have an opportunity to make an oral statement or to respond to President Nixon's public statements on the judicial philosophy of nominees into the news media and academic community.

The Senate has the responsibility to advise and consent to the judicial philosophy of a nominee for the Supreme Court. It is especially appropriate for us to inquire into the judicial philosophy of the nominee as we make our decision. Our predecessors have publicly stated that judicial philosophy was one of the criteria used by them in making your nomination.

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The truth is that Presidents have taken the judicial philosophy of nominees into account when they make nominations. Supreme Court nominations depend upon such fortuitous circumstances as the past writings of a nominee and the statements or silence of a President who makes the nomination.

The Right Reverend Joseph M. Hatte, the Bishop of Arizona, wrote the following letter:

Mr. Robert H. Bork, professor of law, Yale University, wrote a letter to me as chairman of the Judiciary Committee, in support of Mr. Rehnquist's nomination. He stated, in part, as follows:

Mr. R. Bork: The Hon. William Rehnquist from Arizona is a man of erudition, modesty, and, speaking from the platform of the Arizona, I can assure you and your Com.
CONGRESSIONAL RECORD—SENATE
December 6, 1971

Mr. EASTLAND. Mr. Chairman, I am writing to commend to you my favorable action on the nomination of Mr. William H. Rehnquist to the United States Supreme Court. This recommendation is based upon the enviable reputation which Mr. Rehnquist enjoys in his university and teaching, as well as in his high position as a member of the Arizona bar. Mr. Rehnquist is a man of great integrity, intelligence, and the highest moral character.

I am pleased to be able to write to you in his behalf.

Yours very truly,

The Rev. Dan Good, Rector
Grace Lutheran Church

SENATOR JAMES O. EASTLAND, Chairman, Senate Judiciary Committee, New Senate Office Building, Washington, D.C.

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Grace Lutheran Church
December 6, 1971

CONGRESSIONAL RECORD — SENATE

 fortune to have had with him, is balanced objectivity, a scholarly detachment, a rooting in the basic values of the Western tradition that are likely to make him in time one of the great Justices of the Court. The power of his mind, which combined with his rhetorical skills and personal charm, will make an immediate contribution to the Court, and I believe, once he becomes a member of its intellectual leaders.

I have worked closely with Bill Rehnquist since 1968, in my capacity as Assistant District Attorney and then as Chairman of the Administrative Conference of the United States, an independent Federal agency which has been greatly benefited by Mr. Rehnquist's legal capabilities and his sound judgment.

Since I regard the nomination of Mr. Rehnquist as a man of convictions—a deeply "principle" man—then I am sure he will continue to serve with distinction in the capacity that has brought him this important appointment. I am certain that he will make a contribution to the Court that will be of lasting importance.

Very truly yours,

ROGER C. CRAMTON

Chairman

TUCSON, ARIZ.

October 30, 1971.

DEAR SENATOR EASTLAND:

In my opinion, integrity, intellect and philosophical position, whether it be a man of compassion and humanity, or a hard-nosed realistic hardliner, Mr. Rehnquist meets the highest standards in these respects.

It would be impossible for a lawyer of Mr. Rehnquist's experience, standing in the community, and interest in his State and nation, not to have assumed some philosophical stance by the time he had attained professional status. In my opinion, a man is not qualified to become a judge if he has not taken a philosophical position, whether it be liberal or conservative, but this is only to the extent it reflects his helpful attitude and his sincere public spiritedness. He was industrious and thorough at all times and was not afraid to do the pedantic; he truly was a problem-solver for our Town Council and never, not even once, did he mislead us.

From our close association with Mr. Rehnquist we know that it would be a credit not only to the Town of Paradise Valley, Arizona but to the nation as a whole to have him confirmed and appointed to the United States Supreme Court.

Sincerely,

JACK B. HUNTBRESS

Mayor

O'CONNOR, CAVANAGH, ANDERSON,
WESTOVER, KILLINGSWORTH & BISHOP,

HON. JAMES O. EASTLAND,
Chairman, Senate Judiciary Committee, New Senate Office Building, Washington, D.C.

DEAR SENATOR: I am writing to you in connection with the nomination of William H. Rehnquist to the Supreme Court of the United States, and to express my opinion as to the merits of the appointment. I wish to express my unqualified and whole-hearted endorsement. I have known him through law school, in legal practice, and personally in civic, social, and church settings for more than twenty years. He has rare legal talent in depth, humor, balance, integrity, experience, and character. He is both a student of the law and a student of life. I believe him to be ideally suited in ability, temperament, and background for the office. So, I believe, will feel anyone of whatever affiliation or group, who will look into his qualifications deeply, fairly, and objectively.

Yours very truly,

FREDERICK K. STEINER, JR.

TOWN OF PARADISE VALLEY,

HON. JAMES O. EASTLAND,
Chairman, Senate Judiciary Committee, New Senate Office Building, Washington, D.C.

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Yours very truly,

FREDERICK K. STEINER, JR.
and have tried a lawsuit against him; as a friend, I take this time to write to him on the subject of law in general, about cases, and the practice of law. As a registered Democrat--the least bit concerned about Bill Rehnquist's allegedly ultra-conservative Republican views. Most significant to me as a lawyer is his deficiency in professional philosophical abilities and complete integrity, that fit him superbly for this position.

Very truly yours,

JAMES H. O'CONNOR.

[Signature]

LISHER & SCRUBS,

TUCSON, ARIZ., November 1, 1971.

Senator JAMES O. EASTLAND,

Chairman, Senate Judicial Committee,

New Senate Office Building,

Washington, D.C.

DEAR SENATOR EASTLAND: I am writing you with reference to Senate confirmation of Mr. William Rehnquist's nomination to the Supreme Court. I have been reading newspaper and magazine accounts of reaction to Mr. Rehnquist's nomination. My views have not been shared in me a deep and growing concern for the whole process of Senate confirmation, which I am taking the time to discuss with you.

I am unable even in my imagination to conceive any basis for legitimate attack on the integrity of Mr. Rehnquist. I have been aware of enough of the man and his record to be confident that no attack can be made on his character, his integrity, his professional competence or his personal integrity. I now read, nevertheless, of opposition to his nomination, opposition based, presumably, on his failure to share the political, social or economic philosophies that seem to motivate his detractors. He is reputedly a "judicial conservative." So, I suspect, am I. In my lifetime I have watched Presidents nominate to the Supreme Court lawyers whose political and ideological philosophies, and I have sat silent when, as in the case of Justice Goldberg, for example, the nominee was a man whose professional qualifications I could not challenge.

I deeply respect the function that the United States Senate performs in giving or withholding its consent to these nominations. It seems to me quite clear that any group degrades that function when it attempts to condescend to the public from a position based on fact, character, and professional qualifications into a contest of extra-judicial philosophies.

Such a take to be the nature of much of the effort now made in opposition to Mr. Rehnquist's nomination.

I am deeply opposed to the notion of making a credit both to him and to the President. I hope and trust that the Senate in considering it will focus its attention on the relevant issues--the quality and competence of the lawyer nominated.

Yours very truly,

ROBERT O. LISHER.

[Signature]

ALENMcCLNNEN AND FELD,

PHOENIX, ARIZ., November 2, 1971.

S E N A T E J U D I C I A L C O M M I T T E E

S E N A T E O F F I C E B U I L D I N G,

WASHINGTON, D.C.

DEAR SENATORS EASTLAND:

Mr. William H. Rehnquist has been charged with the safeguarding of the Supreme Court by his act in support of Mr. John M. Holmes in the suit filed against the University of Arizona. This suit was later dismissed by the Arizona Court.

I am deeply concerned about the integrity of Mr. Rehnquist and the way in which he has handled this suit. I cannot understand how any educator could be so insensitive to the rights of minority groups.

Yours very truly,

ROBERT O. LISHER.

[Signature]


GERARD F. O'CONNOR,

Chairman, Senate Governmental Affairs Committee,

New Senate Office Building, Washington, D.C.

DEAR SENATOR EASTLAND: I am writing you with reference to Mr. William H. Rehnquist's nomination to the Supreme Court. I have been reading newspaper and magazine accounts of reaction to Mr. Rehnquist's nomination. My views have not been shared in me a deep and growing concern for the whole process of Senate confirmation, which I am taking the time to discuss with you.

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CHESTER H. GROEN,

Chairman, Senate Judiciary Committee,

New Senate Office Building, Washington, D.C.

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JERRY H. GLENN,

Chairman, Senate Judiciary Committee,

New Senate Office Building, Washington, D.C.

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Yours very truly,

JERRY H. GLENN.

[Signature]
Justice of the United States Supreme Court and believes that his nomination should be speedily confirmed by the United States Senate.

Now, therefore, it is resolved that the Judges of the Superior Court of Arizona, in and for the County of Maricopa, do hereby approve the nomination of William H. Rehnquist as an Associate Justice of the United States Supreme Court and do hereby urge the United States Senate to take speedy action to confirm his nomination.

Dated this 28th day of October, 1971.

OFFICE OF THE ATTORNEY GENERAL,
Hon. JAMES O. EASTLAND, Chairman, Senate Judiciary Committee, New Senate Office Building, Washington, D.C.

DEAR SENATOR EASTLAND: I am writing this letter in support of the nomination of William H. Rehnquist for appointment to the United States Supreme Court.

As an attorney, I can attest to Mr. Rehnquist's capabilities as a practicing attorney of the highest caliber. Those of us who have been associated with him as an attorney recognize him as a man of the highest dedication to the law, and the high ethical standards that he evinced in the private practice of law.

Very truly yours,

GARY K. NELSON,
Attorney General.

FRED J. BARRETT,
Chief Assistant Attorney General.

SUPREME COURT, STATE OF ARIZONA,

Senator JAMES O. EASTLAND,
Chairman, Senate Judiciary Committee, New Senate Office Building, Washington, D.C.

DEAR SENATOR EASTLAND: I should like to indicate to you and to your committee my support of the nomination of William H. Rehnquist which has been nominated by the President for a Supreme Court vacancy.

I have known Mr. Rehnquist for many years and have a very high opinion of his personal integrity and ability. Not only is he an outstanding legal scholar, but he is a man dedicated to the rule of law. When I was on the trial bench in Maricopa County, Mr. Rehnquist appeared before me numerous times while he was with the firm of Rehnquist and Jackson, and he made a significant contribution to the U.S. Supreme Court. I urge you and your committee to support his confirmation.

Very truly yours,

JACK D. H. HAYS,
Vice Chief Justice.

SUPREME COURT, STATE OF ARIZONA,

Senator JAMES O. EASTLAND,
Chairman, Senate Judiciary Committee, New Senate Office Building, Washington, D.C.

DEAR SENATOR EASTLAND: I am enclosing in this letter a copy of the petition in support of William H. Rehnquist as Associate Justice of the Supreme Court of the United States and an expression of my unequivocal conviction that he is in every respect eminently qualified for the supreme tribunal.

Mr. Rehnquist is possessed of unquestioned legal scholarship. His academic record, his professional contacts with Mr. Justice Jackson, and his practical experience in the widest spectrum of difficult areas of legal challenge attest to this. Among his colleagues at the bar he is known as a master of professional skills.

We urge the Senate to act promptly to confirm the nomination of Mr. Rehnquist so that the important business of the Court may move forward with dispatch.

JACK D. H. HAYS,
Vice Chief Justice.

THE SECRETARY OF STATE,
Hon. James Eastland,
Chairman, Senate Judiciary Committee, U.S. Senate,
Washington, D.C.

DEAR SENATOR EASTLAND: The nomination of William H. Rehnquist to the United States Supreme Court by President Nixon prompts me to write you.

Mr. Rehnquist was on the bar committee when the Uniform Commercial Code was adopted by Arizona, and I cannot thank him enough for the help he gave us, he did a magnificent job. Due to his work on the Code we have had no problems.

In my estimation Mr. Rehnquist would make a very important addition to the Supreme Court. I have found him to be highly intelligent and a very fine person in every respect. He is the type of man who would contribute to the state of Arizona.

I urge that prompt and favorable consideration be given to Mr. Rehnquist's appointment, and I trust that the Senate will act speedily.

Yours very truly,

CHARLES L. HARDY,
Secretary of State.

OFFICE OF THE GOVERNOR,
Hon. JAMES O. EASTLAND,
Chairman, Senate Judiciary Committee, New Senate Office Building, Washington, D.C.

DEAR SENATOR EASTLAND: May I commend to your favorable consideration the nomination of William H. Rehnquist for confirmation as Associate Justice of the Supreme Court of the United States? His record of service in Arizona, his scholarly achievements, and lately his federal service all combine to affirm his qualifications for such confirmation.

During his term of service in the State, I appointed him to our Commission on Uniform State Laws in which he rendered yeoman service.

Your favorable consideration and action will be appreciated.

Sincerely yours,

WESLEY BOLIN,
Governor.
analysis. His presentations have been quiet and respectful and at the same time thorough and effective.

We have been neighbors, though not close friends. He has an excellent personality.

Mr. Rehnquist has devoted himself to the service of his profession. He is a past president of the Maricopa County Bar Association. The County Bar was then one of the chief financial supporters of Legal Aid. There was an important recruiting of volunteer lawyer service. As an officer of and as president of the County Bar Mr. Rehnquist gave full devotion to the needs and services of Legal Aid. As a sidelight and as an insight to Mr. Rehnquist’s personal equation with people I mention that Mr. Rehnquist and I traded at the same neighborhood gas station. The people there knew him as a man and as a customer. I bought gas there shortly after the nomination was announced. The enthusiasm of these men for Mr. Rehnquist was genuine and heartwarming.

In my opinion based upon my great respect for Mr. Rehnquist as a man and as a lawyer, it is my sincere recommendation that his nomination be given favorable consideration by the United States Senate.

Because Senator Paul Fannin and Senator Barry Goldwater, I am sure, share my views I feel confident in stating that Mr. Rehnquist is a lawyer of outstanding learning and ability. He has an excellent reputation in the community and enjoys high standing in the State Bar of Arizona. His moderate temperament and willingness to consider all viewpoints equip him well for appointment to the United States Supreme Court.

Respectfully yours,
HENRY S. STEVENS.

DEAR SENATOR EASTLAND:

I am writing this letter to express my personal support of the proposed appointment of William H. Rehnquist as Justice of the United States Supreme Court. I am well acquainted with Bill Rehnquist on both a professional and a personal basis. Recent newspaper articles have made much of Mr. Rehnquist’s conservative political philosophy and the statements which he has made in the past relative to his political views on various subjects. Let me express the hope that the question of Mr. Rehnquist’s appointment to the United States Supreme Court does not degenerate into a political popularity contest. His integrity is beyond question. His sound legal scholarship, combined with his varied professional experience, would, in my opinion, enable him to contribute immensely to the court of matters brought before the Supreme Court.

Sincerely yours,
LEW HAIR.

DEAR SENATOR EASTLAND:

I am writing in support of the President’s nomination of William H. Rehnquist to the United States Supreme Court. From 1961 to 1965 I practiced law in Phoenix and knew Mr. Rehnquist. He was in my opinion an able, effective lawyer whose intellect was well respected by the bar profession in Phoenix. He was known to be a sound counsel and advocate. I believe that he has a high regard for the rule of law and the integrity of the legal process. Although my political views differ sharply from his, I have no hesitancy in urging his confirmation.

Sincerely,
ROBERT A. MILLS.

Mr. HRUSKA. Mr. President, after long and thorough hearings, the Senate Judiciary Committee reported the nominations of William Rehnquist and Lewis Powell to the Senate for confirmation as Associate Justices of the Supreme Court of the United States. Mr. Powell has now been confirmed.

As a member of that committee who has followed the confirmation hearings carefully, I feel compelled to answer what I consider mistaken and unfair attacks upon William Rehnquist.

To begin, let me say that that there is no challenge to the legal ability or integrity of the nominee. The attack directed at Mr. Rehnquist is focused principally on his alleged shortcoming in the field of civil rights which, in the words of the Senator from Indiana, “displays a dangerous hostility to the great principles of equal justice for all people.” Such a view, the Senator from Indiana suggests, was ascribed to Mr. Rehnquist’s law partner for almost ten years.

I will make an outstanding member of the Supreme Court.

If I can provide any assistance at all to the deliberations of your committee, please call on me.

Very truly yours,
JAMES POWERS.

SIGNED COURT OF APPEALS,
STATE OF ARIZONA,

Hon. JAMES O. EASTLAND,
Chairman, Senate Judiciary Committee, U.S. Senate, New Senate Office Building, Washington, D.C.

DEAR SENATOR EASTLAND: I am writing this letter to express my personal support of the proposed appointment of William H. Rehnquist to the United States Supreme Court. I am well acquainted with Bill Rehnquist on both a professional and a personal basis. Recent newspaper articles have made much of Mr. Rehnquist’s conservative political philosophy and the statements which he has made in the past relative to his political views on various subjects. Let me express the hope that the question of Mr. Rehnquist’s appointment to the United States Supreme Court does not degenerate into a political popularity contest. His integrity is beyond question. His sound legal scholarship, combined with his varied professional experience, would, in my opinion, enable him to contribute immensely to the court of matters brought before the Supreme Court.

Sincerely yours,
LAURENS L. HENDERSON.

STATE TAX COMMISSIONER OF ARIZONA,

Hon. JAMES O. EASTLAND,
Chairman, Senate Judiciary Committee, New Senate Office Building, Washington, D.C.

GENTLEMEN: Please use this letter as my understanding of Mr. Rehnquist’s appointment to the United States Supreme Court based upon his recent nomination by President Richard M. Nixon.

Bill Rehnquist represented the State of Arizona in impeachment proceedings of certain state officials during which trials he presented a masterful case against a very astute defense.

I feel his handling of this case and his respect for the individual rights of our citi-
because he did not fully appreciate in 1964 that the minorities needed symbolic recognition of their right to equal treatment, if nothing more. This change of heart did not come after Mr. Rehnquist's nomination, as some have suggested. In 1966, for example, Mr. Rehnquist supported the public accommodations provision of the Model State Anti-Discrimination Act, which he was opposed to as a member of the Arizona delegation to the National Conference of Commissioners on Uniform State Laws.

The second incident relied upon was Mr. Rehnquist's 1967 letter to a Phoenix newspaper criticizing a statement of the elder Justice Harlan who said that "the Constitution is colorblind." He also agreed with Mr. Justice Holmes that the Constitution does not embody any particular social, economic or political theory. His obligation as a Supreme Court Justice will not be to advocate a social view, no matter how laudable and widely held. His obligation will be to apply the language of the Constitution to the facts of the case before him. To go beyond that and inject his own political or social views is to ignore the proper role of a Supreme Court Justice.

Interestingly, the four members of the Judiciary Committee who oppose Mr. Rehnquist ignore the nominee's testimony that his children receive an integrated education and benefit from it.

We have some reason to question whether every Member of this body is in that happy circumstance.

Mr. Rehnquist demonstrates the clarity of thought and careful analysis that every judge should possess. He recognizes the distinction between what may be socially desirable or morally good, and what the Constitution requires. He does not confuse his own philosophy with the provisions of the Constitution.

When Mr. Rehnquist wrote that letter to the editor in 1967 on the subject of neighborhood schools, he was hardly displaying a "dangerous hostility to equal justice." He was insisting that there are limits to the reliance upon force and legislative edict to accomplish the goal of integration. Ultimately, the solution to race problems, he suggested, would be found in the free choices made by the citizens of this country.

The fault of those opposing Mr. Rehnquist can be seen in the memorandum accompanying the minority views in the committee report. On page 39 in a discussion of the 1967 letter to the editor, one finds the following comments:

The truly alarming aspect of this 1967 letter, however, is Mr. Rehnquist's statement, 12 years after Brown v. Board of Education, that we are no more dedicated to an 'integrated' society than we are to a 'segregated' society;... We are more dedicated to a free society, in which each man is accorded a maximum amount of freedom of choice in his individual activities.

Mr. Rehnquist's opponents contend that he has never dissociated himself from this statement. Indeed, he has not.

Instead he agrees with the famous statement of the elder Justice Harlan who said that "the Constitution is colorblind." He also agreed with Mr. Justice Holmes that the Constitution does not embody any particular social, economic or political theory. His obligation as a Supreme Court Justice will not be to advocate a social view, no matter how laudable and widely held. His obligation will be to apply the language of the Constitution to the facts of the case before him. To go beyond that and inject his own political or social views is to ignore the proper role of a Supreme Court Justice.

Mr. Rehnquist is not opposed because he is personally against integration, because he is not. Indeed, he chose to live in an integrated neighborhood in Phoenix and to send his children to integrated schools. Mr. Rehnquist is challenged because he has not been a civil rights activist, because he has expressed concern about the wisdom of particular civil rights approaches--although not the goal of such measures--and because he has urged caution in passing civil rights laws.

Far from being a disqualifying factor, Mr. Rehnquist's consistent refusal to permit his personal views to affect his view of the proper role of law in our society is a characteristic which suggests that he will ignore his own philosophy in interpreting the Constitution.

The Senate has already confirmed Lewis Powell.

Mr. Rehnquist's opponents on the committee chose to support Lewis Powell. I voted for him and in doing so I supported members of the Arizona delegation in voting for the entire act. The chairman of the conference, Albert Jenner, a Chicago lawyer widely recognized as a civil rights activist, proposed the conference version of the bill on November 5 that he endorsed Bill Rehnquist's nomination. He pointed out that while the nominee was a commissioner, he actively supported the proposals of the conference once they were finally adopted.

The third occasion relied upon is Mr. Rehnquist's 1967 letter to a Phoenix newspaper criticizing a statement by the superintendent of the Phoenix Union High School District that compulsory busing of students might be used to achieve a better racial balance in the schools. As Justice Rehnquist noted, one of the concepts of neighborhood schools which offends the nominee's opponents on the committee as much as his statement in that letter that:

The true alarming aspect of this 1967 letter, however, is Mr. Rehnquist's statement, 12 years after Brown v. Board of Education, that we are no more dedicated to an 'integrated' society than we are to a 'segregated' society;... We are more dedicated to a free society, in which each man is accorded a maximum amount of freedom of choice in his individual activities.

Mr. Rehnquist went on to say that:

In fairness, the rest of that sentence said should also have been quoted. Mr. Rehnquist's nomination, as some have suggested. In 1966, for example, Mr. Rehnquist supported the public accommodations provision of the Model State Anti-Discrimination Act, which he was opposed to as a member of the Arizona delegation to the National Conference of Commissioners on Uniform State Laws.
Mr. BAYH. Mr. President, I have listened with great interest to my friend, the Senator from Nebraska. Inasmuch as he has referred to a brilliant and thoughtful member of his community, warm and compassionate person, Bill Rehnquist will make an outstanding member of his community, and I am confident that he will be confirmed by the overwhelming vote of this body. Mr. BAYH. Mr. President, will the Senator yield? Mr. BAYH. I yield. Mr. BAYH. Mr. President, I have listened with great interest to the views of the Senator from Nebraska. The Senator from Nebraska suggested that the best way to judge the nominee would be to study his attitudes and the testimony of those who have been personally associated with him. Does the Senator from Nebraska feel that this is better than to rely on what the nominee himself has said or on what the nominee has written?

Mr. HRUSKA. Is the Senator's question whether the President has taken those factors into consideration?

Mr. BAYH. Mr. President, I am just referring to what the Senator has said, that the best way to judge a nominee would be to study the testimony of those who personally associated with him. But if we can get the specific words of the nominee, we do not have to go to any intermediary, because we can see what he thinks and hear what he says.

Mr. HRUSKA. Mr. President, by all means. And the nominee was extraordinarily compliant and obedient to the wishes of one committee. All the speeches he has made are on file, as well as a number of other products of his pen and tongue. The committee considered those. That is right.

Mr. BAYH. The committee did consider them. But I must say that at least a minute of the committee, including the Senator from Indiana, have come to a different conclusion than did the minority.

The Senator from Nebraska referred to that magnificent and open-hearted gesture that the nominee made when he supported that uniform antidiscrimination statute. Has the Senator from Nebraska read the transcript of the discussion and debate during the time that particular uniform antidiscrimination code was being formulated?

Mr. HRUSKA. I reviewed the transcript, and I read it carefully and with great interest. Mr. BAYH. I am glad that to hear that, inasmuch as I can point to at least two significant passages in which the nominee opposed parts of that statute. I hope the Senator from Nebraska can point to at least one time where he supported the act.

Mr. BAYH. If so, I would like to know. I have studied the transcript and I cannot find one instance where he used his great intellect to get his colleagues on that Commission to support such legislation.

Mr. HRUSKA. Mr. BAYH. You have ample testimony to his opposition to the antiblockbusting provision. Blockbusting is an insidious tactic which the Senator from Nebraska knows well, to which he opposes, in which realtors go into a neighborhood and play on the racial frustrations of people and make a fast buck. He was one who mentioned this.

Mr. BAYH. Mr. President, is that after the report of that Commission was completed he voted in favor of it as his entire delegation did. I do not know what else the Senator from Indiana would ask him to do.

Mr. BAYH. We have ample testimony to his opposition to the antiblockbusting provision. Blockbusting is an insidious tactic which the Senator from Nebraska knows well, to which he opposes, in which realtors go into a neighborhood and play on the racial frustrations of people and make a fast buck. He was one who mentioned this. We have put the chapter and verse, and I would be glad to put it in the record. The Senator heard it in the committee. There was not a single word from Rehnquist supporting any single provision of the proposed antiblockbusting statute. The Senator mentioned that in the end he voted for it. That is not enough proof of anything to me. Only two votes were against it. And in his speech during the final tabulation, Alabama and Mississippi.

I wish the Senator would—or could—find one statement by Mr. Rehnquist in the transcript which can fairly be interpreted to say, "I am in favor of civil rights." Mr. HRUSKA. The testimony in the transcript is clear on that. He has done some things that are important. It is certainly true the Senator from Nebraska will respond by page and line. I might suggest Mr. Rehnquist's opposition to that antiblockbusting provision during the early draft of the uniform law was based on constitutionality, in the first place; and second, relevance to the legislation being considered by the Congress. It was not, as I understand it, based on the Attorney General's frank argument was made. He was outvoted and he abided by the result.

Now, perhaps the opponents of Mr. Rehnquist want someone who will respond to the arguments. I believe that Senator from Mississippi pointed out a little while ago that, therefore, un--

Mr. BAYH. How can the Senator from Nebraska make the assessment in light of the fact that only 1 hour ago, on the Powell nomination, only one Senator voted against it. Mr. BAYH. I voted in favor of it. He is not exactly in the mold of the Senator from Indiana, and neither is the distinguished Chief Justice, Mr. Burger, but I voted for him and Justice Blackmun. As a matter of fact the Senator has to have someone who marches along in lockstep?

Mr. HRUSKA. Because the Senator from Indiana persists in making a big point out of the two instances in which Mr. Rehnquist opposed what eventually turned out to be the final word of the Commissioners on the uniform law. Because of his initial opposition to those two provisions, he has therefore disqualified to be a President's nominee. That is the argument as I understand it.

To finish my thought, I recall when Justice Whittaker, in his book, The Making of Justice, in the spring of 1962 and two very distinguished and well-known brothers sat down to discuss the proposition of who should be nominated as Justice of the Supreme Court. The President of the United States, General Eisenhower, sat down and studied the matter. This is the way James E. Clayton, in his book "The Making of Justice—The Supreme Court In Action," describes it on page 51:

As the two brothers studied the situation, they realized that they wanted the new Justice to be one who looked at the problems he would face from the same perspective as they did. Thinking back on the process months later, the Attorney General tilted back in his chair and said:

"You wanted someone who generally agreed with you on what role government should play in American life, what role the individual social agencies should have. You didn't think about how we would vote in a reapportionment case or a criminal case. You wanted somebody who could see the world the same way, and you believed that would be doing what you thought was best. You wanted someone who was generally with your views of the country.

Mr. President, my purpose in reading that excerpt is simply this. It describes an effort to try to measure up a nominee by a President, with some of the thoughts...
that were expressed by the man I just quoted. That is the privilege of the one who appoints the nominee. That is the proof of the proposition in the excerpt which I just read from Mr. Clayton's book.

So I say here there is opposition to a Supreme Court Justice based on statements made in a debate during the confirmation process. There are certain replies which were not finally agreed to. In the last analysis, however, he supported the final result of the Commissioners and made that report to the States of Arizona. But I think we are a little off base in asking for complete unanimity and conformance to that artificial mold in regard to qualifying a man to be a nominee for the Supreme Court.

Mr. BAYH. My colleague apparently misinterprets what I said, or maybe I cannot articulate my thoughts precisely enough for him. I have never said that the President should not consider philosophy. It is an accepted fact that he does. All Presidents do. I think we have laid it to rest the proposition that the Senate should not consider philosophy; indeed, the President is entitled to the advice and consent of the Senate. I do not think that our guarantees of free speech entitle one to go down and ruin a neighborhood and put white people against black people. Yet that was Mr. Rehnquist's position.

And if there is an instance in the record in this commissioner's meeting that would lead me to feel otherwise, I wish the Senator from Nebraska would get it out for me. I have read every word of the transcript, and there is not one word in favor of civil rights. In fact—I have not mentioned it; I do not want to beat this horse—but obviously, as I said, I do not think that in addition to opposing these two provisions of the uniform act, Mr. Rehnquist led a successful effort which prohibited those two provisions from being put into a uniform act, but made it a model act. A model act does not have the same force and effect and does not represent the same unambiguous, dynamic commitment to the subject of the act. Rehnquist, in those hearings to controvert that, and if the Senator from Nebraska has any, I hope he can give it to me because it would certainly make the Senator from Indiana look at Rehnquist's position.

Mr. HRUSKA. The Senator from Nebraska will just make this observation: One of the statements in his principal remarks was that the opponents of Mr. Rehnquist find fault with him because he has not been a rabid activist in the field of civil rights. They have come to expect that a nominee to the Supreme Court should be such an activist, Mr. President, since 1961—that has been one of the qualifications in the appointments that have been made. That is one of the propositions with which I dealt in my principal remarks.

Inasmuch as there are others who wish to speak yet tonight before the hour gets late, I shall yield the floor to give them an opportunity.

Mr. BAYH. I hope that the Senator from Nebraska will permit me to examine some of the other statements he made with reference to the Senator from Indiana.

Mr. HRUSKA. Not at this time, because obviously it is a rehash of many of the things which we have debated before. Out of consideration and out of courtesy to some of my colleagues I propose to give them a chance to make opening statements. At a later time if the Senator from Indiana still desires further colloquy with this Senator, the Senator from Nebraska would have all week, and all next week if need be.

Mr. BAYH. And maybe the week after that. Does not the Senator from Nebraska feel that perhaps it would be more helpful to those who are trying to study this, since he has made certain charges, for the President from Indiana to have a chance to have a colloquy right now?

Mr. HRUSKA. I am convinced that the Senator from Indiana will embrace the situation where the debate and discussion will be free and open that he will not be foreclosed at a later time from going into enlightening briefs. For the time being I think it would be only fair to our colleagues to yield to their right to make statements, to which the opening hours of a debate normally are dedicated.

I yield the floor. Mr. President.

Mr. GOLDBUER and Mr. BAYH addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arizona.

Mr. GOLDBUER. Mr. President, I think the Chair. I do not intend to indulge in the colloquy that just went on. I am not a lawyer, but I do have some feelings about this matter, because Mr. Rehnquist is not only a resident of my State, he is a friend of mine of long standing.

To get to my point quickly, Mr. President, I wish to read paragraph D from a statement that was just given us by the distinguished Senator from Indiana. Paragraph D on page 2 reads:

Alleged Harassment of Voters. There are competing affidavits before the Senate as to the situation which occurred in Arizona during several election years which saw very substantial harassment and intimidation of minority groups voters.

Mr. President, I will just comment briefly that I happen to live in Arizona. I have spent my whole life there. I know something about the political processes there. I have been deeply involved in them, as have my family for over 130 years, and anybody who makes the statement "which saw very substantial harassment and intimidation of minority groups voters" does not know what he is talking about, because this is not the case. It is as far from the truth as the truth can be.

To set the stage, Mr. President, I want to read the State law and the State constitution, even though I have to admit that rightly it has been affected by the Voting Rights Act of 1964 and subsequent decisions.

Article I, section 10-101, is "Registration Requirements.

QUALIFICATIONS OF ELECTOR. A. Every resident of the state is qualified to become an elector and may register to vote at all elections authorized by law if he:

1. Is a citizen of the United States.
2. Will be twenty-one years or more of age prior to the regular general election next following his registration.
3. Will have been a resident of the state

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one year and of the county and precinct in which he claims the right to vote thirty days next preceding the election.

4. Is able to read the Constitution of the United States in the English language in a manner showing that he is neither prompted nor reciting from memory, unless prevented from doing so by physical disability.

5. Is able to write his name, unless prevented from so doing by physical disability.

I will admit, and we all admit, that in a Federal election the State had to conform to the Civil Rights Act of 1964 which he claims the right from so doing by physical disability.

Mr. President, I wrote a letter to the Washington Post the other day. I hope I would still be able to see the record kept clear, both in the public print and in the CONGRESSIONAL RECORD. It involved a letter that had been written by Mr. Mitchell on this supposed violation of voting rights. The letter I wrote says:

\textbf{Dear Sir:}

The time is long past due that the lie be put to rest. The repeated observations of people who should know better relative to the supposed action of Mr. Rehnquist in preventing a person from voting.

Contrary to what Mr. Mitchell, Senator Bayh, Mr. Rauh and others might contend, this supposed event did not take place as they describe. Mr. Rehnquist has so stated many times and furthermore, Mr. Editor. I was there so I can speak with considerable authority than any of the supposed experts can.

And, Mr. President, I was there. I remember a few incidents we had where a team of lawyers gathered in a central office, and Mr. Rehnquist happened to be one of the people who was with some other very prominent members of the Arizona Bar from both parties. The lawyers were gathered in this office so that a watcher who had a suspicion that something might be wrong could, if he was challenged and the challenge met with opposition, phone into the central office and get a legal opinion.

There were occasions not including the incident mentioned, where lawyers would drive to the polling place to settle the thing as amicably as possible.

To continue the letter:

Let us develop the history of this whole situation. Under Arizona's Constitution prior to the Civil Rights Voting Act, a man had to be literate to vote and the test generally was to read the first two paragraphs of the Constitution and write one's name. Although this was a part of the Constitution, I cannot recall more than a few instances for these people to be looked into play at the polling place. The matter that both parties in Arizona became concerned with this grew from our antiquated registration laws which have long since been changed.

Under these laws a person would not have his voting precinct automatically changed when he moved from one place to another. Because of this it was possible to find some voters registered in as many as six different precincts. It was the practice in some isolated instances for these people to be looked up and taken to the places where they could vote, if they were not challenged, they could have their vote recorded as long as they were not challenged.

Mr. President, that is a matter of our law, and each election year it is customary for a county chairman to submit a list of members of his party who are watchers. Before each polling day, a watcher must go to the polling place, some 800 in the case of the county in which I live, and those poll watchers are to be found, usually in every single polling place, and they act as interested Democrats and interested Republicans. And, Mr. President, notwithstanding the size of the state, and the fact that we have Indians, Mexican-Americans, Negroes, and other minority groups, we have had no serious disputes arising from that. I will have to admit that in New Mexico, in one election, there was a problem that arose relative to the Indian voters, but it had no bearing on Arizona.

Mr. President, I think that constitutes enough of our law to indicate that having political watchers is not something unusual. In my State, it has been practiced pursuant to law for many years.

Mr. President, the main purpose of our watchers in Arizona has been, in the past, whether or not the person voting—whether he was a Republican or a Democrat, black, white, or brown, did not make any difference. What the voter was expected to do was to show his voter registration. He could have his vote recorded as long as he was not challenged.

Mr. President, to make this part of the record abundantly clear—and I shall not address myself to anything else tonight—I want to move into this matter of how Mr. Rehnquist supposedly got involved in all of this. There was an affidavit offered by a Mr. John Chambers in 1965, 1966, and it was published in the Arizona Republic, the newspaper in South Phoenix, and it applied to the following incident. It was present as a deputized challenger for the Democratic Party in Bethany Manor, a predominantly black precinct in South Phoenix, and witnessed the following incident.
It is signed "Jordan Harris," and it is witnessed by a notary public. I think the notary's signature is "Jeanne Warner," but I cannot read it very well.

Mr. President, this affidavit is followed by another affidavit from Mr. Robert Tate, describing about the same actions, and I will not bother to read that at this time. But he goes on to say, in the last paragraph of his affidavit:

I now remember him from pictures I have seen in the papers as the same one involved in the above incident at Bethune Precinct. He did not, at that time, however, wear glasses.

That is the end of the affidavit from a Mr. Robert Tate, and it is witnessed by a notary public.

Mr. President, it is interesting, because, as I said, Mr. Rehnquist was not at that polling place at all.

The AP had a story out of Arizona. The AP reported that Judge Hardy, who was a very prominent and fine judge of our State, said in an interview he had advised Democratic Party challengers and poll watchers in the same year that Rehnquist advised Republicans. Judge Hardy said there was an incident at Bethune precinct in which a Republican challenger got into a scuffle and was escorted from the polling place by two sheriff's deputies. The judge said it was 1962, and not 1994, and the challenger was not Rehnquist.

Mr. President, I know it was 1962. I was there. I was called because we felt that any help from a judge— even though our statutes applied at that time—involved a very probably effort to refuse the right of a person to vote would reflect badly upon the party, and we were not pleased with it, and we made public announcement of it at the time. But this is 1962; it is not 1964. In 1964, a different set of rules applied, and our Attorney General ruled the State practices must conform to the Civil Rights Act of 1964, something which all our attorneys and watchers knew.

I have nothing to hide," Harris told the Arizona Republic, although he declined to tell his age or to answer any number of other routine questions about himself. I find nothing wrong with that. This is from the newspaper story, which continues:

Some of the details of his life came to light upon examination of files of past news stories published in the Republic and the Phoenix Gazette.

One article that in March, 1964, Harris, then 52, admitted in Maricopa County Superior Court that he had sold beer to a 19-year-old youth. At the time Harris was the owner of the Friendly Seven Food Market, at 1880 South Seventh Avenue.

In 1971, Harris was convicted of violating the Sunday closing law by selling spirituous liquor to a minor. Judge Henry S. Stevens sentenced Harris and allowed him to pay off his fine at the rate of $80 per month.

At the time of his plea, Harris acknowledged a prior conviction for a similar offense in 1960.

Newspaper records then showed that Harris had been a railroad cook. Last night Harris was convicted of a charge of selling whisky near Topeka and Santa Fe Railroad, but he declined to tell a reporter what kind of a job he had at the railroad.

Again, that is his right.

Mr. President, this is the Republic shed more light on Harris' past.

The article reads: "It was a September 16, 1961 news account of his being severely wounded in the abdomen by a bullet fired by an irate, 21-year-old woman whose $107 welfare check Harris cashed, withholding $81 he said the woman owed on her grocery bill.

Mr. President, I offer all this material merely as background, because if we are going to hear a repetitious plea of the charge that Mr. Rehnquist denied or attempted to deny anyone of his right to vote, I am going to have to repeatedly stand up on this floor and challenge the veracity of it, because I was there, and it is just not true.

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

Mr. GOLDWATER. I am happy to yield.

Mr. BAYH. I had not intended to interject this incident into the debate. However, one Member of this body did include it in the Record. It was one point, and we said the evidence was quite inconclusive. However, since the Senator from Arizona has gone very close to suggesting that some of us were not being kind with the unconfirmed consent to put the clippings of that era into the Record, for all Senators to read, and then they will judge for themselves whether there was any voter intimidation or alleged harassment.

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

[From the Arizona Republic, Nov. 4, 1962]

CHALLENGERS TO TEST VOTERS' LITERACY

By Bill Herman

Balloting was slowed down for a while this morning in at least three South Phoenix polling precincts by challengers who demanded that voters read from portions of the Constitution to prove they were literate.

Two assistant U.S. district attorneys, an official of the Democratic Party, and attorneys for both political parties investigated the incidents.

The charges were based on an Arizona law which requires a person to be able to read and write in the English language as a condition of voting.

There were no arrest, and the challengers withdrew after conferring with the lawyers.

The county elections bureau said the incidents were reported at Bethune Precinct, 1510 S. 15th Ave.; Okemah, 3146 E. Weir, and Sky Harbor, 3801 E. Washington. There was also an unconfirmed report that similar activity took place at Broadway Precinct, 1701 W. Rozer.

George Erhardt, county elections chief, called the challengers "overzealous." At Bethune School precinct, Carl Sims, 1321 W. Madison, a former state legislator, said the Republican challenger was "trying to disenfranchise our citizens by subjecting voters to a literacy test."

When the U.S. attorney's representatives arrived, they told the Challengers that, in their opinion, that man out of there I'll get some people up here to get him out. He's stopping us from voting.

Mrs. Beesie Bess, 1218 S. 12th Ave., the election marshal, said 13 voters out of 565 had been challenged by 11:30 a.m.
Another voter was challenged on the literacy basis by Jordan Harris, 1825 W. Apache, a Democratic challenger. Ten voters were challenged, most of them on their ability to read the U.S. Constitution, by Wayne Bentson, a Republican precinct, said none of the challenged voters were physically unable to do so. Typed passes are provided for election officials, who are the sole judges of the voter's qualifications.

[From the Arizona Republic, Nov. 8, 1962] TEMPERED COOL, PROSECUTIONS PAID IN WAKE OF INCIDENTS AT POLLS

Nobodys asked for any action 'yesterday in the wake of interparty incidents at the polls during Tuesday's election, Ellen Jane Greer, deputy county attorney, said.

"I'm not going to cool when the polls closed," she said.

Mrs. Greer said the law prohibits anyone from illegally interfering with the election process.

She declined to say whether anything responded to her during the hectic events of Tuesday would be deemed unlawful.

While the FBI had nothing to report on its investigation into claims of intimidation of voters by one or more Republican challengers at one polling place.

Carl A. Muecke, U.S. attorney, said he had observed the U.S. Constitution at the polls from the FBI. He ordered the probe at the request of Sen. Carl Hayden, D-Ariz.

"I thought they were the Pima County Democratic Central Committee chargers, and he got the right of challenge by the board," he said.

But the Republican county chairman defending it, and the county attorney reported finding no law violations.

Curtis, D-Ariz., charged Republicans challenged as a "slow-down tactic" to discourage voters wanting to them from being called.

In Spanish-American areas it moved many voters from the polls, he claimed.

They are proud people," Huerta said, "and this embarrassed many of them." The GOP chairman in Tucson, John Leon, denied the law was abused while saying that 30 to 40 challengers were successful in one area.

County Attorney Jack Podret of Tucson said his office investigated dozens of complaints from both parties, "just the same complaints we get every election day.

Most challenges were made on the voters ability to read sections of the Constitution, as required by state law, or the claim the voter no longer lives in the precinct he wants to vote in.

[From the Phoenix Gazette, Oct. 22, 1964] GOP PLANS CHALLENGE SCHOOLING

Voters will be challenged in some precincts where irregularities have been claimed, the law, said Wayne E. Legg, chairman of the Maricopa County Republican Committee.

"We intend to challenge voters in some of the precincts in which claim irregularities have occurred in the past," said Wayne E. Legg, committee chairman.

Reinhaut, cochairman of the 1960 ballot security program, said polling sessions have been scheduled for Oct. 29 and 30 to train workers who will be assigned to the polls.

[From the Phoenix Gazette, Oct. 22, 1964]
In 1969 Rehnquist was co-chairman of the ballot security program and in 1962 headed a committee of lawyers formed to protect legal ballot procedures. Don Froehl heads the lawyer department and the department of registered voters, which also a Phoenix lawyer as well as a former aide to Senator Goldwater, is serving as coordinator of the program.

[From the Arizona Republic, Nov. 4, 1964]

Most Maricopa Voters Play the Waiting Game, Balking Machines Cause Complaints.

It was a waiting day and night of aching feet and frustration at many polling places in Maricopa County.

Voters stood in line for as long as four hours as election officials grappled with the problem of malfunctioning voting machines and charges of harassment of voters.

The line at two hours at Youngstoners discouraged voters went home, convicted that in disgust when their radios projected Lyndon next voter in the booth came out without she presumed her vote went to the first—the Republican lever was pulled. The common. Republican clad women complained of the evening chill. Voters were forced to their votes were not needed the problem of malfunctioning voting machines complaint.

The third voter made a complaint the first to Precinct 4 was still pushing to cast their ballots at the Civic Center, three times during the H. Allen said reports reached trouble caused by the complaints to Senator Goldwater, is serving also a lawyer group this year and Fritz Randolph, legoal ballot. Senator in the 1962 headed the 1965 Voting Act, that a man could not read or write, we had the only case I can recall was a case of a man—certainly not Mr. Rehnquist—being moved out of the polling place by the police. There is no record of this man ever having been booked; there is no record of any charge being made against him. It was merely to settle an argument (in which he argued that the Arizona courts had no jurisdiction to hear a complaint) before either took the trouble to call into headquarters and say, “What should we do?”

Mr. BAYH. Looking through some of the affidavits supporting Mr. Rehnquist, I find the name of Judge Charles Hardy. Is the Senator from Arizona familiar with Judge Hardy?

Mr. GOLDWATER. I know him very well.

Mr. BAYH. What is his capacity? Could the Senator tell the Senate what it is now?

Mr. GOLDWATER. He was judge of the superior court at that time, I believe. I think he has been elevated now, but I would not swear to it.

I have great confidence in him. He is a Democrat. We think very highly of him. He is the one that stated, and I read it, that the alleged incident in question took place in 1962 and not 1964.

Mr. BAYH. I would like to read the statement in the brief that was referred to by the Senator from Arizona. In fact I was sufficiently unimpressed with this particular incident compared to everything else that I have not included it in my speech which I shall make tomorrow. I rise only because the Senator from Arizona takes issue here, and this is the first time. I have read the affidavits, indicated that anyone who thinks otherwise is not telling the truth. If there was no intimidation during the period in which Rehnquist was involved as a ballot security officer, then why did Judge Hardy write this?

In 1962, for the first time, the Republicans had challengers in all of the precincts in this county which had over 100 registered Republicans and those districts. At that time among the statutory grounds for challenging a person offering to vote were that he had not resided in the precinct for thirty days before the election and that he was unable to read the Constitution of the United States. The Republican challengers in the precinct the Republican challenger had the names of persons who were listed as registered voters in that precinct but who apparently had not resided there for at least thirty days before the election. In precincts where there were large numbers of black or Mexican people, Republican challengers also challenged on the basis of the inability to read the Constitution of the United States in the primary. The black and some every black or Mexican person was being challenged on this latter ground and it was quite clearly indicated that this was not an effort to slow down the voting so as to cause people awaiting their turn to vote to grow tired of waiting and leave without voting. In addition, there was a well organized campaign of outright harassment and intimidation to discourage persons from standing in line to vote. In the black and brown areas, handbills were distributed warning persons that if they were not properly qualified to vote they would be alarmed. There were squads of people taking photographs of voters standing in line waiting to vote and asking for their names. There is no doubt in my mind that these tactics of harassment, intimidation and indiscriminate challenging
were highly improper and violative of the Spirit of Free elections.

That is not BIRCH BAYH, that is Judge Hardy.

Mr. GOLDWATER. The Senator made a most important observation when he quotes Judge Hardy's letter in 1962; but that was in 1962, remember. And Judge Hardy made clear that Mr. Rehnquist never made challenge voter at any polling place. The Republican watchers—not Mr. Rehnquist—had never attempted in Bethune where one man, I do not remember whether he was a Democrat or a Republican, was questioned and the police got him out. The Senator will notice, if he reads Judge Hardy's letter, that in 1962 the Arizona statutes of Arizona at that time had not been changed by the Civil Rights Act of 1960. It would have been improper. The Republican Party, being the minority party in those days by, I would judge, 3 to 1, wanted to see that no votes were cast against us that should not legally be cast. And I vote count, naturally, just as the Democrats put watchers in Republican districts.

Mr. BAYH. The Senator is relying on the rather strong letter from Judge Hardy. He does not question the Judge's qualifications when he suggests that Mr. Rehnquist should be on the Supreme Court.

Mr. GOLDWATER. That is right.

Mr. BAYH. That same man testifies here about the blatant and unauthorized intimidation. Yet the Senator from Arizona says is a lie to make the accusation that there was intimidation going on in the precinct.

Mr. GOLDWATER. It is definitely a lie that Mr. Rehnquist was ever involved. I can only take Judge Hardy at his word, and can only rely on my own personal observations. He thinks highly of Mr. Rehnquist and has approved of him for the Supreme Court. I have respect for Judge Hardy. I do not know him intimately. I am not a lawyer, but I have great respect for him. If my memory serves me correctly, I believe I voted for him, even though he was a member of the other party occasionally we did.

I would say this to what the Senator says, which I believe to be correct, that this will not be made an issue so that we have then eliminated one little bit of this debate and we can close the door on that, if the Senator will tell his comrades in arms who want to debate this. If he will do that, I will be happy to go along and say that this evening has been well spent.

Mr. BAYH. I believe that both sides have presented this clearly. The only reason I rose to engage in this colloquy was that I thought I heard the Senator say that he would say it was a lie if anyone on this floor said there had been any voting harassment in those precincts.

Mr. GOLDWATER. I intend to do that every time Mr. Rehnquist's name is brought into it. Mr. President, I ask unanimous consent to have the Judge's letter from Judge Hardy printed in the Record.

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

PHOENIX, ARIZ.,
November 11, 1971.

H. JAMES EASTLAND,
Senate Office Building,
Washington, D.C.

Dear Senator Eastland: I am informed that at a hearing conducted by the Senate Judiciary Committee on Tuesday, November 9, 1971, Mr. Clarence Mitchell appeared in behalf of the National Association for the Advancement of Colored People and testified, in opposition to the confirmation of the appointment of Mr. Rehnquist as an Associate Justice of the Supreme Court, that Mr. Rehnquist had in the past been guilty of improper challenging of black voters during a general election a number of years ago. Mr. Mitchell passionately and persuasively made the statement that Mr. Rehnquist may have made regarding this matter.

In fairness to all concerned, I feel that I should inform you of my recollection of the events of election day in 1962 in Granada, Arizona. I recall that a number of friends who were Republican party workers in an effort to obtain further information. To my knowledge, no one representing the National Association for the Advancement of Colored People has ever discussed Mr. Rehnquist with me.

I am informed that Mr. Mitchell testified that the events in question occurred during the general election of 1964. It is my recollection and the recollection of a number of others, both Democrats and Republicans, that actually 1962 was a correction year. In 1962, for the first time, the Republicans had challengers in all of the precincts in this county which had overwhelming Democratic majorities. I believe that the challenger, in their attempt to determine the statutory grounds for challenging a person offering to vote to a party, was the first time there had been one. I had not asked to be on the ballot at all. I was designated to be there as a Democratic party worker. I was unable to read the Constitution of the United States in the English language. In each precinct the Republican challenger had the names of persons who were listed as registered voters in that precinct but who apparently had voted there for at least thirty days before the election. In precincts where there were large numbers of black or Mexican voters, there was challenge to the basis of the inability to read the Constitution of the United States in the English language. In some precincts every black or Mexican person was being challenged on this latter ground and it was quite clear that this type of challenging was designed to slow down the voting so as to cause people awaiting their turn to vote to grow tired of waiting and leave without casting their ballot. I did not understand the practice of organized campaign of outright harassment and intimidation to discourage persons from the polls. In certain areas, handbills were distributed warning persons that if they were not properly qualified to vote they would be challenged. There were squads of people taking photographs of voters standing in line waiting to vote and asking for their names. There is no doubt in my mind that these tactics of harassment, intimidation and indiscriminate challenging are only improper and violative of the spirit of free elections.

Arizona Statutes provide grounds for challenging voters at any polling place. It is alleged that Mr. Rehnquist had approved of him for the Supreme Court. I am informed that the Arizona statutes are in many voting areas, handbills were distributed warning that if they were not properly qualified to vote they would be challenged. There were squads of people taking photographs of voters standing in line waiting to vote and asking for their names. There is no doubt that at some point in time that Mr. Rehnquist had approved of him for the Supreme Court. I am informed that the Arizona statutes are in the State of the Arizona statutes are in the State of Arizona.

Mr. COOPER. Mr. President, I am very much interested in this colloquy. I am sure that this sort of thing goes on in many states. It is an example of what is being done in the State of the Senator from Indiana. I have served as an election official and a challenger at polling places in Kentucky. We do that to protect the interests of our
I have been through elections where we used to come to the precincts and bring the ballot boxes back to the courthouse. I have been in elections when we had voting machines.

I have never seen an election when there was not some feeling and some question about who was getting in and out, I think, in our own county. There have beenoustings in the candidates and in the parties. However, we come sometimes to situations where passions are aroused and fights take place at the polls. I am sure the early American settlers had that happen. There are great feelings on the part of both parties to protect their rights.

There have been times when efforts would be made to transport voters, who would first vote in their own precincts, and try to have them vote in a second and third precinct. Unfortunately, those practices have occurred.

I suppose that in many cases one side or the other does itself being harassed. If the poll watchers are doing their duty, it cannot be properly called harassment. I should note that Kentucky voting laws did not require a test or registration. The use of poll watchers and the practice of challenging at the polls can be called an effort to protect the rights of both parties and to insure their equal treatment.

Thus, Mr. President, these practices may have existed, but it had never been under Mr. Rehnquist. He has never been associated with it. And he has expressed strong disapproval of the tactics which I have mentioned above. I felt then and I feel now his expressions of disapproval were genuine.

Mr. BAYH. Mr. President, I appreciate the statement, but there was a time when Judge Hardy's letter which has not been read aloud states:

A day or two after the election, Mr. Rehnquist and I had lunch together and discussed the election. I wish I could say that my side was on the right. I wish I could say that he would have challenged that. The man made the statement.

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

Mr. COOPER. I yield.

Mr. BAYH. Mr. President, the Senator from Kentucky is such a legend across the river from my home State of Indiana that I wonder if I might ask him a question. I understand he is a judge, an ambassador, and a Senator. I am very well aware of the fact that we all have to take certain precautions to keep the other side from feeling that they have been unfairly dealt with. I wish I could say that our side is pure on this matter. However, it is not.

When I first ran for the Senate, I became very distressed that in the small towns they would say that the big cities are stealing all the votes and in the cities they would say that the small towns are stealing the votes. It seems to me that we have to have protection in both places. In the case to which the Senator from Kentucky alluded, there has ever been anything that in his judgment could be categorized as a well-organized campaign of outright harassment and intimidation to discourage persons from attempting to vote.

Mr. COOPER. I am sure that the Senator from Indiana has been in many places where his name has been in a number of them. I think I have been in 20 campaigns, beginning with my race for the State legislature.

I have through elections where we used to come to the precincts and bring the ballot boxes back to the courthouse. I have been in elections when we had voting machines. I have never seen an election when there was not some feeling and some question about who was getting in and out, I think, in our own county. There have been oustings in the candidates and in the parties.

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Mr. COOPER. I am sure that the Senator from Indiana has been in many places where his name has been in a number of them. I think I have been in 20 campaigns, beginning with my race for the State legislature.
cluded a term as president of the Maricopa County Bar Association which includes the Phoenix area and at that time had a membership of approximately 1,200. He was also active in the State bar association and its many activities including the Arizona Law Institute and served on the Committee on Uniform Laws. When he left Phoenix his rating in Martindale-Hubbell was the highest, and as the ABA report states:

He was clearly a person of recognized professional quality who, for his age, was highly regarded.

This conclusion is supported by the statements of fellow practitioners who came to know and admire Mr. Rehnquist's legal abilities during his 16 years as a practicing attorney in Phoenix. C. A. Carson III, a former law partner and a member of the ABA board of governors and House of Delegates, characterized the nominee as "a wonderful man, a guiding Committee, and a scholar with a fine mind." Another former law partner, James Powers, described Mr. Rehnquist as "first rate legal scholar," adding:

He is the ultimate reasonable man. • • • I'm sure he'll make an excellent Justice.

I think that the views of the Arizona legal community are aptly summarized by the statement to the Judiciary Committee of Howard Karman, president of the Arizona State Bar Association:

I have known Bill Rehnquist professionally for a number of years. After his nomination by President Nixon, I talked to a great many people, including Democrats, liberals and conservatives. To a man they had nothing but praise for Bill Rehnquist. I was surprised that no lawyer I spoke with had an unfavorable comment to make, even those who find themselves at the opposite end of the political spectrum.

He concluded his statement as follows: I believe that Mr. Rehnquist is admirably qualified by virtue of intellect, temperament, education, training and experience to be confirmed • • •.

The collective views of Arizona attorneys on this nomination are also reflected in the endorsements given Mr. Rehnquist by the board of governors of the State Bar of Arizona. They praised him for having "continually demonstrated the very highest degree of professional competence, integrity, and devotion to the ends of justice."

At the national level, the conclusion of the American Bar Association's standing Committee on Federal Judiciary speaks for itself: The present conclusion of the Committee, limited to the area described above, is that Mr. Rehnquist meets highest standards of professional competence, judicial temperament, and integrity. To the Committee, this means that from the viewpoint of professional qualifications, Mr. Rehnquist is one of the best persons available for appointment to the Supreme Court.

The qualities that earned these plaudits from practitioners were also known to the academic community in Arizona. Dean Willard H. Pedrick of the Arizona State University College of Law felt that these qualities would make him an excellent professor of law and approached him on the subject about a year ago. Because of his high rating as a discrete officer of the Court, Mr. Rehnquist declined to consider such a post. Dean Pedrick wrote to notify the Judiciary Committee of the intelligence and integrity of the nominee and state his support for his nomination to the Court. He stated:

The qualities that would, in my judgment, have made him an excellent law professor might also make him an outstanding Justice of the United States Supreme Court. On that Court, charged with responsibility to serve the interests of all of the people in interpreting the Constitution of the United States and the laws of Congress, I am confident he will serve his country with great distinction.

In addition to the support of colleagues who have worked closely with him in the daily practice of law, public officials throughout the State of Arizona have added their warm support for Mr. Rehnquist. Arizona Gov. Jack Williams described Mr. Rehnquist as a "real scholar, a remarkable kind of Ice Chief Justice Jack D. H. Hays, of the Arizona Supreme Court, noted that Mr. Rehnquist is "a very outstanding young man, a true scholar, a legal scholar." Former Arizona Supreme Court Judge Charles Bernstein stated: I couldn't think of a better choice. • • • He has an extremely well-balanced philosophy. • • • A sense of feeling for human beings, especially for the little man.

Gary Nelson, attorney general of Arizona, noted:

I was ecstatic at the announcement of his nomination. • • • I think he's outstanding.

State Senator Sandra D. O'Connor, a law school classmate, stated: He has the potential to become one of the greatest jurists of our highest court.

She noted that as a law student: He quickly rose to the top of the class, and, frankly, was head and shoulders above all the rest of us in terms of sheer legal talent and ability.

Arizona State Republican Chairman Harry Rosenweig remarked: The President • • • has made a very fine selection. He is not only a lawyer but a student of the law.

Herbert L. Eld, the State Democratic chairman, also supports the confirmation of William Rehnquist as do the Arizona Republic, the Phoenix Gazette, and the Tucson Daily Citizen newspapers.

As the hearings and the letters to the Judiciary Committee on this nomination make clear, the tributes to Mr. Rehnquist from his fellow Arizonans go on and on. It is also clear that the tributes have flowed equally from those who have worked with him in his capacity as Assistant Attorney General in the Office of Legal Counsel. The principal area of expertise of this Office is in matters of constitutional law and the President's Office—often called the President's law firm—assists the Attorney General in serving as legal adviser to the President and his staff. It also drafts the formal opinions of the Attorney General and gives informal opinions and advice to agencies within the executive branch of the Government. In short, Mr. Rehnquist is, as President Nixon described him, the President's lawyer's lawyer.

The endorsement by the people who have worked with the nominee in this position is as strong as that given by those who knew him in Phoenix. Mr. Rehnquist's first assistant in his office of the Arizona Attorney General, Mr. Richman, a former clerk to Chief Justice Earl Warren, and who was in the Office during Ramsey Clark's tenure as Attorney General, but who stayed on during the final four months of Rehnquist's tenure, came to the Office, had this to say:

I need not dwell on Mr. Rehnquist's legal abilities. He has an inclusive grasp for the key issues, a comprehensive understanding of the ability to learn a new subject quickly and an exceptional gift for expressing legal matters clearly and forcefully in writing. Though long out of the academic atmosphere, he has a fine scholarly bent, with an inquiring mind on subjects ranging beyond legal matters.

In terms of character, he is strong, honorable, straightforward in his actions and positions. I thought he showed exceptional sensitivity to the legal, administrative and personnel matters within the office. While these traits do not necessarily depend on legal ability, they speak deeply of the character of this young man.

Mr. Rehnquist approaches legal problems thoughtfully, with careful personal study. He never wants to pass on the law without weighing the issues and contributes to it by the articulate presentation of his own views. He brings his considerable legal ability to bear when the issues are broad questions of constitutional law, as well as on more technical matters.

Mr. Richman's successor as first assistant, Thomas E. Kauper, who is now a professor of law at the University of Michigan Law School, commented on the ability of Mr. Rehnquist to be "exceptionally well qualified" for the Court, adding:

William H. Rehnquist is as fine a lawyer as I have encountered. He has a scholarly, intellectual approach to legal problems which is not found in many practicing lawyers. While he did not attend law school, he quickly demonstrated a high degree of professional competence. He is responsive to persuasive argument, and when the issues are broad questions of constitutional law, as well as on more technical matters.

These conclusions are echoed by members of the career legal staff in the Office of Legal Counsel.

Mr. President, I think it is worth emphasizing that those who have known the nominee personally and have worked closely with him throughout his legal career have been unanimous in their praise. Whether they are former classmates, former professors, fellow practitioners in Phoenix, or colleagues in the Justice Department, these people, regardless of political or philosophical persuasion, have found Mr. Rehnquist admirably qualified and recommend his speedy confirmation.

Mr. President, the qualifications, character, and philosophy of William H. Rehnquist for the Supreme Court have been before this Committee for more than a month. Members of the Senate Judiciary Committee have ample opportunity to probe his background and his performance as...
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an attorney and as an administration official.

The most ardent of investigators and investigative reporters have left no stone unturned in examining Mr. Rehnquist's past.

There has been a concerted effort by opponents of the nomination to turn up some tangible evidence why Mr. Rehnquist should be rejected.

These efforts have failed.

Nothing has been put forward that casts any doubt on the qualifications of William H. Rehnquist to be an Associate Justice of the Supreme Court. His qualifications are superb.

It has been proven that William Rehnquist has not involved in any voter harassment as has been alleged by his opponents. Mr. Rehnquist has denied the charge. Others who were connected with the elections in question also have said that Rehnquist could not have been involved.

Allegations that William H. Rehnquist was a member of an extremist group in the early 1960's are without foundation.

He has denied belonging to the group and there is no evidence to support the vicious rumor spread by opponents.

There has been an investigation of the legal philosophy of William H. Rehnquist.

Opponents say he lacks an appreciation of civil rights and that he is prone to support more police powers for the government.

Mr. President, neither of these is true.

Mr. President, some interesting observations concerning the debate over the Rehnquist nomination were made by Tom Wicker in the Sunday editions of the New York Times. He places in perspective the question that we are considering.

I ask unanimous consent to insert Mr. Wicker's column in the Record at this point:

There being no objection, the column was ordered to be printed in the Record, as follows:

In Re Rehnquist

(Washington, D.C., December 6, 1971)

Mr. FANNIN. Mr. President, William H. Rehnquist is a very human person. A man who has a deep respect for human rights and for human dignity is in the mainstream of American thought when it comes to the rights of man, it is William H. Rehnquist.

He has stated clearly that he believes in the Bill of Rights. He has said that the Government must be restrained in exercising police powers which could threaten our rights as free men.

Mr. President, I could go on at great length and delve into the realms of material that have been produced in the past month concerning the nomination. I do not think that this is necessary. It is obvious that the overwhelming mass of the material produced makes it clear that the nomination should be confirmed.

William H. Rehnquist is equipped as legal scholar, and as man of human concern, to become an outstanding Associate Justice of the Supreme Court.

It is with great pleasure that I recommend his confirmation.

Mr. WILLIAM REHNQUIST AND BROWN AGAINST BOARD OF EDUCATION

Mr. BAGDURI. Mr. President, new and disturbing information concerning Mr. William Rehnquist's commitment to equal justice in this country was revealed today. According to Newsweek magazine, Mr. Rehnquist, while a law clerk to Mr. Justice Jackson, wrote a memorandum which argued that the rule of "separate but equal" of Plessy vs. Ferguson should be "reeffirmed." Fortunately for the Nation, Mr. Justice Jackson disregarded his law clerk's advice and voted with the rest of the Court to overrule Plessy and hold in Brown vs. Board of Education that segregation in the public schools is illegal.

That case, Mr. President, was perhaps the most significant decision the Court made this century. It was the decision which at long last made the great promise of the 14th Amendment—"No State shall deny to any person the equal protection of the laws"—into a realizable goal. And, importantly, it was a unanimous decision.

Mr. Rehnquist was a 28-year-old law clerk when he wrote to Mr. Justice Jackson a memorandum entitled "A Random Thought on the Segregation Cases." In it, he argued that Plessy "was right and should be reaffirmed," and in it, he restated the appeal of the argument—made by the present Mr. Justice Thurgood Marshall—this way:

To those who would argue that "personal" rights are more important than "legal" rights, the short answer is that the Constitution makes no such distinction. To the argument of Mr. Justice Thurgood Marshall that a majority may not deprive a minority of its constitutional right, the answer must have been what the majority argued. In theory, in the long run it is the majority that will determine what the constitutional rights of the minority are. One hundred and fifty years from now, the government will be the deciding factor.
rights have been sloughed off, and crept silently to rest. If the Court is unable to profit by this example, it must be prepared to see its ultimate support the sentiments of a transient majority of nine men.

I realize that it is an unpopular and unhumanitarian position, for which I have been excoriated by "liberal" colleagues, but I think Plessy v. Ferguson was right and should be reaffirmed. If the Court's position did not exact Spencer's Social Statics, it just as surely did not exact Myrdahl's American Dilemma.

It is disturbing indeed that Mr. Rehnquist's view of the Court's historic role of "guardian of the Constitution" were doomed to failure. His prediction about the Brown case itself—that the Court "must be prepared to see its work fade in time, too, as embodying only the sentiments of a transient minority of nine men"—was, fortunately, quite inaccurate. But the plain implication of the statement is that Mr. Rehnquist does believe the Court inconsistent with its high role in the protection of constitutional rights of every American citizen.

Mr. President, I ask unanimous consent to print the memorandum by Mr. Rehnquist to Mr. Justice Jackson which has been made public by Newsweek be printed in the Record.

There being no objection, the memorandum was ordered to be printed in the Record, as follows:

A RANDOM THOUGHT ON THE SEGREGATION CASES
(Memorandum by Mr. Rehnquist to Mr. Justice Jackson)

One hundred years ago this Court held that it was the ultimate judge of the restrictions which the Constitution imposed on the conduct of state and federal government. Mapp v. Ohio, 367 U.S. 643. This was presumably on the basis that there are standards of justice by which the conduct of governmental officials can be measured, and as embodying only the sentiments of a transient minority of nine men.

I realize that it is an unpopular and unhumanitarian position, for which I have been excoriated by "liberal" colleagues, but I think Plessy v. Ferguson was right and should be reaffirmed. If the Court's position did not exact Spencer's Social Statics, it just as surely did not exact Myrdahl's American Dilemma.

THE NATIONAL CONFERENCE OF BLACK LAWYERS OPPOSES THE NOMINATION OF WILLIAM REHNQUIST

Mr. BAYH. Mr. President, I received today an eloquent and persuasive statement by the National Conference of Black Lawyers in opposition to the confirmation of William Rehnquist to be an Associate Justice of the Supreme Court.

The group concluded:

There exists today a great crisis of confidence in the American judicial system. If those of us who oppose the use of the legal system are to continue to hope, that system must give them reason to hope. In these critical times, such hope is not served by placing on the Nation's highest court a man of Mr. Rehnquist's background and views.

I commend to every Senator this entire statement in a form that it be printed in today's Record.

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

STATEMENT OF THE NATIONAL CONFERENCE OF BLACK LAWYERS IN OPPOSITION TO THE SUPREME COURT NOMINATION OF WILLIAM REHNQUIST

The National Conference of Black Lawyers (NCBL) wishes to go on record as firmly opposing the nomination of William E. Rehnquist as an Associate Justice of the United States Supreme Court. NCBL is an organization of Black lawyers working to challenge racism in our legal system and to provide the legal expertise necessary in the Black community. As a member of this organization, I respectfully urge our colleagues in the ranks of attorneys representing the entire spectrum of both the private and public bar, as well as elected government officials from the local, state and national levels, it is the view of our organization that Mr. Rehnquist is fit neither professionally nor personally to sit on the nation's highest court.

Perhaps to a greater extent than any other stage of our country's development in the United States, the Black community knows the need for persons of quality on the bench. We have known judges without humanity or wisdom who have done more damage than good. And less than human because their skins were Black. We have suffered the prejudice, the discrimination, and the misapplication of the law. And these are as well known as the power of justice in this country. We have felt the exhilaration of seeing the courts vindicate truth crushed to the earth.

In our struggle we have on numerous occasions been heartened by the performance of the Supreme Court, which through the wisdom and courage of some of its judges has dared to protect the rights of the poor, the Black, politically unpopular in the face of howling national opinion.

Mr. Rehnquist, in our view, does not possess the qualities we have a right to expect from a member of the United States Supreme Court. In whose hands may rest the freedom of future generations. He is a man of technical intelligence without sound judgment. He is a man of deeply held prejudices, apparently, without the capacity to recognize them. In short, this proposed appointee to the Supreme Court does not have the support of this judgment we ask that the Senate take note of the following examples of Mr. Rehnquist's views:

In 1964, the City Council of Phoenix, Arizona was considering passing an ordinance guaranteeing to all minority groups equal rights in employment. In his separate dissenting opinion, Mr. Justice Rehnquist's position is as follows:
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nance was that it would be an indignity to the proprietors of such public facilities to require them to open their doors to Black Americans. Failure to do so would not be sufficient to justify the sacrifice of even a portion of our historic individual freedom for a purported public good.

Despite this position, Mr. Rehnquist purports to be dedicated to a free society in which every person is equal before the law. These professions are filled in equality, however, not stand up very well in the light of the relative weights Mr. Rehnquist accords to the various rights and interests in matters of governmental racial, as against the right of Blacks to equal access to public accommodations. When confronted with this in any of his writings. Instead his views in this area betray more blind spots, more lack of vision.

It is the view of NCBL that it is impera
tive that a Justice of the Supreme Court possess that critical faculty, otherwise he misconstrues its function in reviewing values fairly, with an eye to doing justice. Through his prejudice, his author
sate approach to similar social problems Mr. Rehnquist has demonstrated that he lacks this capacity. This judgment. We do not maintain that it would be improper to place on the nation's highest court an ipso facto opinions reflecting vision, but we do insist that a person who sits as a Su
preme Court Justice possess that critical faculty necessary to judge issues openly and freely. A person as wedded to ideology as Mr. Rehnquist does not possess that faculty. Under the guise of "rewriting" the Constitution, he misconstrues its function in an evolving society. It is a simple matter to
semble such as his dictated simplistic analyses of events and laws.

There exists today a great crisis of con

fidence in the American judicial system. If those who are striving for justice through the use of the legal system are to con
inue to hope, that system must give them reason to hope. In these critical times, such hope is not served by placing on the na
tion's highest court a man of Mr. Rehnquist's background and views. Those who have his
critically suffered the pains of legally sanc
tioned and legally restricted class, caste, and political bias, view with alarm the pos
sible ascendance to the bench of a man so lacking in understanding of the rights of the poor, the Black and the politically unpop
ular. Those who, throughout the world, have struggled for a constitutional democracy look on in wonder as the na
tion appears to be moving in a direction that will dim the stature of the Su
preme Court and diminish the role of the Supreme Court as an Institution on the side of liberty.

For all the foregoing reasons, the Na
tional Conference of Black Lawyers vigorous
dy urges the Senate of the United States to approve the nomination of Mr. Rehn
quist as an Associate Justice of the United States Supreme Court.

MESSAGE FROM THE HOUSE-ENROLLED BILLS SIGNED

A message from the House of Represent
atives by Mr. Berry, one of its reading clerks, announced that the House had affixed his signature to the following enrolled bills:

H.R.11384. An act to amend title 38 of the United States Code to provide that civilians may be used to purchase additional paid-up national service insurance;

H.R.11651. An act to amend title 38 of the United States Code to liberalize the provisions relating to payment of disability and death pension, and for other purposes;

H.R.11659. An act to amend title 38 of the United States Code to liberalize the provisions relating to payment of dependency and indemnity compensation.

LEGISLATIVE SESSION

Mr. BYRD of West Virginia. Mr. Presi
dent, I ask unanimous consent that the Senate return to legislative session. The PRESIDING OFFICIAL. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT TO 9 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. Presi
dent, I ask unanimous consent that, when the Senate completes its business today, it stand in adjournment until 9 o'clock tomorrow morning.

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

ORDER FOR RECOGNITION OF SENATOR KENNEDY TOMORROW

Mr. BYRD of West Virginia. Mr. Presi
dent, I ask unanimous consent that, following the remarks of the Senator from Kansas (Mr. Pearson) tomorrow, the distinguished Senator from Delaware (Mr. Roth) be recognized for not to exceed 15 minutes.

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

ORDER FOR RECOGNITION OF SENATOR KENNEDY TOMORROW

Mr. BYRD of West Virginia. Mr. Presi
dent, I ask unanimous consent that, at the conclusion of the remarks by the Senator from Delaware (Mr. Roth) today, the distinguished Senator from Delaware (Mr. Roth) be recognized for not to exceed 15 minutes.

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

ORDER FOR RECOGNITION OF SENATOR BYRD OF WEST VIRGINIA TOMORROW

Mr. BYRD of West Virginia. Mr. Presi
dent, I ask unanimous consent that at the conclusion of the remarks by the distinguished Senator from Massachusetts (Mr. Kennedy) tomorrow, the junior Senator from West Virginia, now speaking (Mr. Byrd), be recognized for not to exceed 15 minutes.

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

ORDER FOR TRANSACTION OF ROUTE MORNING BUSINESS TOMORROW

Mr. BYRD of West Virginia. Mr. Presi
dent, I ask unanimous consent that at the conclusion of the remarks by the junior Senator from West Virginia (Mr. Byrd) tomorrow, there be a period for the transaction of routine morning busi
ness for not to exceed 15 minutes, statements limited therein to 3 minutes.

The PRESIDING OFFICIAL. Without objection, it is so ordered.
ORDER FOR EXECUTIVE SESSION TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that at the conclusion of morning business tomorrow the Senate go into executive session to resume its consideration of the nomination of Mr. William Rehnquist for the office of Associate Justice of the Supreme Court of the United States.

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

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

Mr. BYRD of West Virginia. I yield.

Mr. BAYH. For the information of the Senate, as well as the Senator from Indiana, will our distinguished deputy majority leader be so kind as to give us a rundown on the parliamentary situation? I have had several Senators inquire whether it would be possible for them to make speeches which would not be germane to the subject of the executive matter before the Senate.

Mr. BYRD of West Virginia. In response to the inquiry of the distinguished Senator from Indiana, once the three hours under the Pastore rule have elapsed—if my understanding of the rules and procedures of the Senate is correct—the Senate could not proceed, while in executive session, to the consideration of legislative business without unanimous consent or by motion. However, one can speak on a nongermane subject in executive session without a point of order being raised, after the Pastore rule of germaneness has expired.

Mr. BAYH. If the Senator is just trying to be in a position to advise Senators so that three hours after the speaking orders, anyone who wants to make a speech in India, for example, it would be the perfect time for speaking. Is that correct?

Mr. BYRD of West Virginia. It is not necessarily three hours after the conclusion of orders for the recognition of Senators to make 15-minute speeches. It is 3 hours following the triggering of the Pastore germaneness rule, whatever the trigger may be—the transaction, for example, of some business by unanimous consent on the legislative calendar the first thing tomorrow morning; if the leader calls up and disposes of a bill on the legislative calendar by unanimous consent, that would trigger the Pastore rule, and the three hours would start to run; or if no business is transacted until the conclusion of the routine morning business and the Senate then goes into executive session to resume debate on the Rehnquist nomination, at that point the three hours under the Pastore rule would be triggered.

During the course of that 3 hours one could not speak on a nongermane subject, except by unanimous consent; but once the Pastore rule expires, as I stated, Mr. BYRD of West Virginia and one may speak on a nongermane subject at that time without unanimous consent.

Mr. BAYH. I ask the Chair if I am correct?

The PRESIDING OFFICER. The rule of germaneness would apply in the first three hours, whether it be an executive session or a legislative session.

Mr. BYRD of West Virginia. That is what I have stated.

The PRESIDING OFFICER. That is what the Senator from West Virginia stated. The Senator is correct.

Mr. BYRD of West Virginia. And once the Pastore rule has expired, is there any rule of germaneness in executive session?

The PRESIDING OFFICER. There is no rule of germaneness at that point.

Mr. BYRD of West Virginia. Although legislative business cannot be taken up in executive session except by unanimous consent, or by motion, a Senator may speak on a nongermane subject once the Pastore rule of germaneness expires.

The PRESIDING OFFICER. The Senator is correct.

Mr. BAYH. I thank the Senator.

QUORUM CALL

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

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum. I assume this will be the last 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. 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 9 o'clock a.m. After the two leaders have been called of the day, the following Senators will be recognized, each for not to exceed 15 minutes, and in the order stated: Mr. Pearson, Mr. Roth, Mr. Kennedy, Mr. Byrd of West Virginia; at the conclusion of which orders there will be a period for the trans­action of routine morning business for not to exceed 15 minutes, with statements limited therein to 3 minutes.

When morning business has been concluded, the Senate will go into executive session to resume consideration of the nomination of Mr. William Rehnquist for the office of Associate Justice of the Supreme Court of the United States.

ADJOURNMENT UNTIL 9 A.M.

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 9 o'clock tomorrow morning.

The motion was agreed to; and (at 6 o'clock and 33 minutes p.m.) the Senate adjourned, Tuesday, December 7, 1971, at 9 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate December 6. (legislative day of December 4), 1971:

SUPREME COURT OF THE UNITED STATES

Mr. Powell, J., of Virginia, to be an Associate Justice of the Supreme Court of the United States.

DEPARTMENT OF THE TREASURY

Romana Acosta Buela, of California, to be Treasurer of the United States.

R. P. Young, to be Assistant Secretary of the Treasury.

U.S. DISTRICT COURTS

Richard A. Diehl, of Nebraska, to be a U.S. district judge for the district of Nebraska.

U.S. POSTAL SERVICE

The following-named persons to be Governors of the U.S. Postal Service for the terms indicated, to which offices they were appointed during the last recess of the Senate:

Eimer T. Klassen, of Massachusetts, for a term of 1 year.

Frederick Russell Kappel, of New York, for a term of 2 years.

Theodore W. Braun, of California, for a term of 3 years.

Andrew D. Holt, of Tennessee, for a term of 4 years.

George E. Johnson, of Illinois, for a term of 5 years.

Crocker Nevin, of New York, for a term of 6 years.

Charles H. Coddington, of Oklahoma, for a term of 7 years.

Patrick E. Haggerty, of Texas, for a term of 8 years.

M. A. Wright, of Texas, for a term of 9 years.

Our Father, we thank Thee for responsible freedom, for a nation demanding its right to worship, assemble, and speak, according to the dictates of conscience. We ask Thee today to hallow our freedom of yesterday in the enactments of tomorrow. May we dedicate our wealth and leadership to our nation and to Thee, O God. We pray for our Representatives in the Congress as daily they must make far-