MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the Senate by Mr. Leonard, one of his secretaries.

ECONOMIC OPPORTUNITY AMENDMENTS OF 1971—YETO MESSAGE

(S. DOC. NO. 92-48)

The President pro tempore laid before the Senate the following message from the President of the United States:

To the Senate of the United States:


This legislation undertakes three major Federal commitments in the field of social welfare: extension of the Economic Opportunity Act of 1964, creation of a National Legal Services Corporation, and establishment of a comprehensive child development program.

As currently drafted, all three proposals contain provisions that would serve the stated objectives of this legislation, provisions altogether unacceptable to this administration.

Upon taking office, this administration sought to re-create, in the context of the budget process, a new relationship with the Congress—indeed, to rehabilitate—the Office of Economic Opportunity, which had lost much public acceptance in the five years since its inception. Our objective has been to provide a new format based on the principles of this legislation, and a new role. Our goal has been to make the Office of Economic Opportunity the primary research and development arm of the Nation’s and the Government’s on-going effort to diminish and eventually eliminate poverty in the United States. Despite occasional setbacks, considerable progress has been made.

That progress is now jeopardized. Two ill-advised and restrictive amendments contained in this bill would terminate our efforts and turn back the clock.

In the 1964 act the President was granted authority to delegate—by executive action—programs of OEO to other departments of the Government. That flexibility has enabled this administration to shift tried and proven programs out of OEO to other agencies—so that OEO can concentrate on generating and testing new ideas, new programs and new policies to assist the remaining poor in the United States. This flexibility, however, would be jeopardized if the Congress—by vote of the Senate—would be prohibited from spinning off successful and continuing programs to the service agencies.

If this congressional action were allowed to stand, OEO would become an operational agency, diluting its special role as incubator and tester of ideas and programs.

Secondly, the Congress has written into the OEO legislation an itemized list of mandatory funding levels for 15 categorical programs. This specific earmark- ing of funds for specific programs at OEO is genuinely reactionary legislation; it locks OEO executives into sup-

The Senate met at 9 a.m. and was called to order by the President pro tempore (Mr. Ellender).

PRAYER

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

O Lord our God, in the mood of high expectation enable us to hear once again the promise of heaven to which we have aspired but never attained. And to Thee shall be all Christmas glory and praise. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, December 9, 1971, be dispensed with.

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

SENATE—Friday, December 10, 1971

By Mr. WALTERS, for himself and Mr. TAYLOR, a bill to increase the contributions of the United States to the costs of operation of the World Health Organization, as authorized by section 423 of the Foreign Assistance Act of 1961.

By Mr. REDFORD, a bill to authorize the Secretary of Health, Education, and Welfare to make technical assistance grants to the governments of foreign countries for the purpose of improving their health services.

By Mr. MILLER of Ohio, a resolution for the temporary suspension of the rules to allow the consideration of S. 3000, the Smith-Kline-French Corporation and the United States Sugar Corporation Anti-Trust Antitrust Lawsuits Litigation Settlement and Final Judgment Approval.}

SDC 46057

H. Res. 739. Resolution providing for two additional student congressional interns for Members of the House of Representatives, the Resident Commissioner from Puerto Rico, and the Delegate from the District of Columbia; to the Committee on House Administration.

By Mr. HARRINGTON (for himself, Mr. STEELE, Mr. STOKES, Mr. TEAGUE of California, Dr. WILSON, Mr. UDDALL, Mr. ULLMAN, Mr. VANDER JAGT, Mr. WILLIAMS, and Mr. WOLFF)....

H. Res. 740. Resolution providing for two additional student congressional interns for Members of the House of Representatives, the Resident Commissioner from Puerto Rico, and the Delegate from the District of Columbia; to the Committee on House Administration.

By Mr. THOMPSON of New Jersey: H. Res. 741. Resolution providing pay comparability adjustments for certain House employees whose pay rates are specifically fixed by House resolutions; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

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

By Mr. DANIELSON: H.R. 12204. A bill for the relief of Jay Alexis Caligdong Slaotong; to the Committee on the Judiciary.

By Mr. ICHORD: H.R. 12205. A bill for the relief of Earl P. Dick, to the Committee on the Judiciary.

By Mr. VANDER JAGT: H.R. 12206. A bill for the relief of William Karsten; to the Committee on the Judiciary.

The PRESIDENT pro tempore. I return herewith without my approval H.R. 12202. A bill to increase the contributions of the United States to the costs of operation of the World Health Organization, as authorized by section 423 of the Foreign Assistance Act of 1961.

By Mr. HARRINGTON, for Mr. HORTON, Mr. HUNGATE, Mr. KEATING, Mr. KENNEDY, Mr. KENT, Mr. KILROY, Mr. Klose, Mr. MCCOLLISTER, Mr. McCOY, Mr. MCCAULIFFE, Mr. MCKINLEY, Mr. Mackronald of Massachusetts, Mr. Matsunaga, Mr. Mazoli, Mr. METCALFE, Mr. MIEYA, Mrs. MINN, Mrs. MITCHELL, Mr. MOSE, Mr. Booster, Mr. ZOLI, Mr. MOSHER, Mrs. BUSCH of Massachusetts, Mr. CHAPPELL, Mrs. CHISHOLM, Mr. COLLINS of Illinois, Mr. COOK, Mr. COREY, Mr. Coughlin, Mr. Dellenback, Mr. DENHOLM, and Mr. DIDS)...

H. Res. 738. Resolution providing for two additional student congressional interns for Members of the House of Representatives, the Resident Commissioner from Puerto Rico, and the Delegate from the District of Columbia; to the Committee on House Administration.

By Mr. HARRINGTON (for himself, Mr. PEPPER, Mr. PEYSTER, Mr. POOLE, Mr. POWELL, Mr. PRESCOTT, Mr. REED, Mr. REID of New York, Mr. RIEGLE, Mr. ROMINO, Mr. ROX, Mr. RONCALIO, Mr. ROUVROY, Mr. ROWDY, Mr. RUNCHEL, Mr. RYAN, Mr. ST. GERMAIN, Mr. SANDMAN, Mr. SCHEUER, Mr. SCHWEND, and Mr. SHOUP)....

By Mr. WOLFF (for himself and Mr. DENT): H.R. 12200. A bill for the relief of Mrs. Hicks of Massachusetts; to the Committee on House Administration.

The PRESIDENT pro tempore laid before the Senate the following resolution from the President of the United States, for the temporary suspension of the rules to allow the consideration of H.R. 12203, the Economic Opportunity Amendments of 1971—Yeto Message.

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

By Mr. DANIELSON: H.R. 12205. A bill for the relief of Earl P. Dick, to the Committee on the Judiciary.

By Mr. VANDER JAGT: H.R. 12206. A bill for the relief of William Karsten; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

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

By Mr. DANIELSON: H.R. 12204. A bill for the relief of Jay Alexis Caligdong Slaotong; to the Committee on the Judiciary.

By Mr. ICHORD: H.R. 12205. A bill for the relief of Earl P. Dick, to the Committee on the Judiciary.

By Mr. VANDER JAGT: H.R. 12206. A bill for the relief of William Karsten; to the Committee on the Judiciary.

The PRESIDENT pro tempore. I return herewith without my approval H.R. 12202. A bill to increase the contributions of the United States to the costs of operation of the World Health Organization, as authorized by section 423 of the Foreign Assistance Act of 1961.

By Mr. HARRINGTON, for Mr. HORTON, Mr. HUNGATE, Mr. KEATING, Mr. KENNEDY, Mr. KENT, Mr. KILROY, Mr. Klose, Mr. MCCOLLISTER, Mr. McCOY, Mr. MCCAULIFFE, Mr. MCKINLEY, Mr. Mackronald of Massachusetts, Mr. Matsunaga, Mr. Mazoli, Mr. METCALFE, Mr. MIEYA, Mrs. MINN, Mrs. MITCHELL, Mr. MOSE, Mr. Booster, Mr. ZOLI, Mr. MOSHER, Mrs. BUSCH of Massachusetts, Mr. CHAPPELL, Mrs. CHISHOLM, Mr. COLLINS of Illinois, Mr. COOK, Mr. COREY, Mr. Coughlin, Mr. Dellenback, Mr. DENHOLM, and Mr. DIDS)...

H. Res. 738. Resolution providing for two additional student congressional interns for Members of the House of Representatives, the Resident Commissioner from Puerto Rico, and the Delegate from the District of Columbia; to the Committee on House Administration.

By Mr. HARRINGTON (for himself, Mr. PEPPER, Mr. PEYSTER, Mr. POOLE, Mr. POWELL, Mr. PRESCOTT, Mr. REED, Mr. REID of New York, Mr. RIEGLE, Mr. ROMINO, Mr. ROX, Mr. RONCALIO, Mr. ROUVROY, Mr. ROWDY, Mr. RUNCHEL, Mr. RYAN, Mr. ST. GERMAIN, Mr. SANDMAN, Mr. SCHEUER, Mr. SCHWEND, and Mr. SHOUP)....

By Mr. WOLFF (for himself and Mr. DENT): H.R. 12200. A bill for the relief of Mrs. Hicks of Massachusetts; to the Committee on House Administration.
reporting and continuing programs that may prove less productive: it inhibits the very experimentation and innovation which I believe should be the prime mission of OEO; it denies administrative discretion to the management of OEO and, most important, it restricts and limits the amount of funds available for hopeful new initiatives.

Should these amendments become law, OEO would be a political, not a professional, pioneer of the Nation's effort to combat poverty which would be numbered; OEO would rapidly degenerate into just another ossified bureaucracy. Even if OEO legislation were to come separately to my desk, containing these provisions, I would be compelled to veto it as inconsistent with the best interest of America's poor. I urge the Congress to remove these restrictions.

The provision creating the National Legal Services Corporation differs crucially from the proposal originally put forth by this administration. Our intention was to create a legal services corporation, to aid the poor, that was independent and free of politics, yet contained built-in safeguards to assure its objectivity. As my staff and I worked with the Congress, however, the legislation has been substantially altered, so that the quintessential principle of accountability has been lost.

In re-writing our original proposal, the Senate has taken direct open to those abuses which have cost one anti-poverty program after another its public enthusiasm and public support—a legal services corporation which places the needs of low-income clients first, before the political concerns of either legal service attorneys or elected officials. But, the most deeply flawed provision of this legislation is Title V, "Child Development Programs."

Adopted as an amendment to the OEO legislation, this program points far beyond the administration's envisoned when it was made a "national commitment to providing all American children an opportunity for a healthful and stimulating development during the first five years of life."

Though Title V's stated purpose, "to provide every child with a full and fair opportunity to reach his full potential" is certainly laudable, the intent of Title V is overshadowed by the fiscal irresponsibility, administrative unworkability, and family-weakening implications of the system it envisions. We owe our children something more than good intentions.

We cannot and will not ignore the challenge to do more for America's children in their all-important early years. But our response to this challenge must not only be a measured, evolutionary, painstakingly considered one, consciously designed to cement the family in its rightful position as the keystone of our civilization.

Further, in returning this legislation to the Congress, I do not for a moment overlook the fact that there are some needs to be served, and served now.

One of these is day care, to enable mothers, particularly those at the lowest income levels, to take full-time jobs. Federal support for State and local day care services under Headstart and the Social Security Act already total more than half a billion dollars a year—but this is not enough. That is why our H.R. 1 welfare reform proposals, which have already passed Congress in the past 26 months, included a request for $750 million annually in day care funds for welfare recipients and the working poor, including $60 million for construction of sites. It is why I urge the Congress to support the increased tax deductions written into the Revenue Act of 1971, which will provide a significant Federal subsidy for day care in families where both parents are employed, potentially benefiting 97 percent of all such families in the country and offering parents free choice of the child care arrangements they deem best for their own families. This approach reflects my conviction that the Federal Government's role wherever possible should be one of assisting parents to purchase needed day care services in the private market, with Federal involvement in direct provision of such services kept to an absolute minimum.

A second imperative is the protection of children from actual suffering and deprivation. The administration is already moving on this front, under a policy of concentrating assistance where it is most needed. But it is impossible to refrain from the concern that if Title V's scatteration of attention and resources were to become law, action we are presently taking includes—

-Expansion of nutritional assistance to poor children by nearly tripling participation in the food stamp program (from 3.8 million people to 10.6 million people) and doubling support for child nutrition programs (from less than $600 million to more than $1.2 billion).

-More effective targeting of maternal and child health services on low income mothers who need them most. Furthermore, Headstart continues to perform valuable day care and early education services, and an important experimentation and demonstration function which identifies and paves the way for wider application of successful techniques. And the Office of Child Development which I established within the Department of Health, Education, and Welfare continues to provide national leadership for these and many other activities focused on the first five years of life.

But, unlike these tried and tested programs, our child development envisioned in this legislation would be a truly long leap into the dark for the United States Government and the American people. I must share the view of those of its supporters who proclaim this to be the most radical piece of legislation to emerge from the Ninety-second Congress.

I also hold the conviction that such fundamental national legislation should not, must not, be enacted in the absence of a great national debate upon its merit, and broad public acceptance of its principles.

Few contend that such a national debate has taken place. No one, I believe, would contend that the American people, as a whole, have determined that this is the course that the American government and nation to go.

Specifically, these are my present objections to the proposed child development program:

The fact that the immediate need nor the desirability of a national child development program of this character has been demonstrated.

Second, day care centers to provide for the children of the poor so that their parents can leave the welfare rolls to go on the payrolls of the Nation, are already provided for in H.R. 1, my workfare legislation. To create additional child development centers are a duplication of these efforts. Further, these child development programs would be redundant in that they duplicate many existing and growing Federal, State and local efforts to provide social, medical, nutritional and education services to the very young.

Third, given the limited resources of the Federal budget, and the growing Federal, State and local efforts to provide social, medical, nutritional and education services to the very young.

Fourth, for more than two years this administration has been working for the
Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar, under "New Reports."

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

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

U.S. MARINE CORPS

The second assistant legislative clerk read the nomination of Maj. Gen. Robert E. Cushman, Jr., U.S. Marine Corps, to be Commandant of the Marine Corps, with the rank of general.

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

Mr. MANSFIELD. Mr. President, if the Chair will allow me, I should like to extend congratulations, as a former private, first class, in the Marine Corps, to new Commandant General of the Marine Corps.

Mr. SCOTT. If the distinguished majority leader will yield, I too, should like to join in congratulations to General Cushman. He is a celebrated marine with an illustrious record. I wish that I, too, had been a private in the Marine Corps.

Mr. MANSFIELD. Well, may I say, there is an old saying, "Once a marine, always a marine," so it is not often that a former private, first class, gets a chance to call up the nomination of a Commandant for the Marine Corps.

Mr. SCOTT. Mr. President, my only claim to fame in that connection is that, as a young man in the Marine Corps, stationed at Quantico, Va., I am proud even of the tenuous association with the marines.

The second assistant legislative clerk read the nomination of Maj. Gen. Louis Metzger, U.S. Marine Corps, to be lieutenant general.

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

ACTION

The second assistant legislative clerk read the nomination of Nicholas W. Craw, of the District of Columbia, to be Associate Director of Action.

The PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.
NOMINATIONS PLACED ON THE SECRETARY’S DESK— IN THE AIR FORCE, IN THE ARMY, AND IN THE MARINE CORPS

The second assistant legislative clerk presents the following nominations in the Air Force, in the Army, and in the Marine Corps, which had been placed on the Secretary’s desk.

THE PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc; and, without objection, the President will be immediately notified of the confirmation of these nominations.

THE CALENDAR

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.

APPOINTMENT BY PRESIDENT OF CERTAIN ADDITIONAL PERSONS TO SERVICE ACADEMIES

The bill (S. 2945) to amend title 10 of the United States Code to permit the appointment of additional persons to the service academies was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 2945

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 10 of the United States Code is amended as follows:

(1) Section 4342(a)(1) is amended by striking out “40” and inserting in place thereof “service,” at the end of the first sentence and by inserting in place thereof “service, and sons of members who are in a ‘missing status’ as defined in section 551(2) of title 37.”

(2) Section 6894(a)(1) is amended by striking out “40” and inserting in place thereof “service,” at the end of the first sentence and by striking by striking out “service,” at the end of the first sentence and by inserting in place thereof “service, and sons of members who are in a ‘missing status’ as defined in section 551(2) of title 37.”

(3) Section 8342(a)(1) is amended by striking out “40” and inserting in place thereof “service,” at the end of the first sentence and by striking out “service,” at the end of the first sentence and by inserting in place thereof “service, and sons of members who are in a ‘missing status’ as defined in section 551(2) of title 37.”

Mr. MANSFIELD. Mr. President, may I take this occasion to commend the distinguished Senator from New York (Mr. Buckley) for his initiative in introducing this proposal and for his interest in the relatives of the prisoners of war placed on the MIA?

He has done a good job and he deserves the highest commendation.

Mr. SCOTT. Mr. President, I want to thank the distinguished majority leader for having arranged with the Senator from New York (Mr. Buckley) to have this matter called up and disposed of promptly today.

Mr. MANSFIELD. May I say that it could not have been called up without the approval of the distinguished minority leader.

Mr. BUCKLEY. Mr. President, I thank the distinguished minority leader (Mr. Scott) for arranging for this legislation to come to the floor on such very short notice. I add to that in what I want to thank the distinguished chairman of the Armed Services Committee (Mr. Stennis) for the speed with which his committee considered and reported out the bill in these hectic closing days of the current session.

Finally, Mr. President, I wish to thank the 58 Senators who joined in sponsoring S. 2945.

I think it is particularly appropriate that this legislation should have been enacted by the Senate at this time. This is a time of year when families all over America will be coming together to celebrate this Christmas holiday. In 1,600 homes, however, there will be a son or a brother or a husband who will not be celebrating the season with his family; a son or a brother or a husband who is either known to be held as a prisoner of war under conditions which flaunt the minimum requirements of the Geneva Convention or who occupies that awful limbo which comes from a listing among the missing.

By enacting this bill today, a bill which will give the sons of our prisoners of war and missing in action a special priority in competing for appointments to the military academies, I believe will be telling these brave men and their equally brave families that they are not forgotten, that they have the continuing gratitude of a grateful Nation.

I know that all of us look forward to that happy day when all of these men will be returned to these shores. Let us pray that that day will soon be upon us.

Mr. President, I would like to comment on the appointment of Judge A. Leon Higginbotham. He was named a Federal judge by the joint action of former Senator Clark of Pennsylvania and myself.

Judge Higginbotham is one of the ablest members of the Board of Regents of the Smithsonian Institution, I have joined in his selection and in the selection of the other two citizen members. This will be a very good thing for the country and for the Smithsonian Institution.

JOHN PAUL AUSTIN, CITIZEN REGENT, BOARD OF REGENTS, SMITHSONIAN INSTITUTION

The joint resolution (S.J. Res. 174) to provide for the appointment of John Paul Austin as citizen regent of the Board of Regents of the Smithsonian Institution was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S.J. Res. 174

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That John Paul Austin, of Georgia, be appointed a member of the Board of Regents of the Smithsonian Institution, of the class other than Members of Congress, for the statutory term of six years.

ROBERT FRANCIS GOHEEN, CITIZEN REGENT, BOARD OF REGENTS, SMITHSONIAN INSTITUTION

The joint resolution (S.J. Res. 175) to provide for the appointment of Robert Francis Goheen as citizen regent of the Board of Regents of the Smithsonian Institution was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S.J. Res. 175

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Robert Francis Goheen, of Atlanta, Georgia, be appointed a member of the Board of Regents of the Smithsonian Institution, of the class other than Members of Congress, for the statutory term of six years.

ORDER OF BUSINESS

Mr. SCOTT. Mr. President, I yield back my time.

ORDER OF BUSINESS

The PRESIDENT pro tempore. Under the previous order, the distinguished Senator from New Jersey (Mr. Williams) is now recognized for a period not to exceed 15 minutes.

The remarks of Mr. Williams when he submitted Senate Concurrent Resolution No. 53 are recorded in the Record under "Submission of a Concurrent Resolution."

ORDER OF BUSINESS

The PRESIDENT pro tempore. Under the previous order, the senior Senator from Washington is recognized for not to exceed 15 minutes.
December 10, 1971

SENATE RESOLUTION 212—SUBMISSION OF A RESOLUTION RELATING TO THE FEEDING OF HUNGRY PEOPLE IN SEATTLE AND OTHER AREAS OF ECONOMIC DISASTER

UNANIMOUS-CONSENT REQUEST FOR IMMEDIATE CONSIDERATION

Mr. MAGNUSON. Mr. President, I have served in the U.S. Senate for over 28 years, and in all of that time I have never felt so humiliated by my Government as I do today. In all of this humanitarian humiliation. The hungry people of Seattle, Wash., and the surrounding area, are being kept from hunger, in part by mercy shipments of food from Japan, while the U.S. Department of Agriculture steadfastly and callously denies the use of federally owned surplus food. When I ask you, you can accept that position. When 8,000 persons receive donated food from Neighbors in Need every week—and 12,000 more are turned away? Why is it that Japan can see the need to provide mercy shipments of food to Seattle, but officials in this administration cannot even see a hunger problem? The only explanation for the Department's position is one of cruelty and ignorance and that its only food concern is to provide huge surpluses to benefit other pocketbooks.

While my Government pleads for billions to send overseas to help emerging nations—and to buy loyalty with arms—thousands of people in the State of Washington, and hundreds of thousands more in other States, are going hungry. Economic conditions in the agricultural sector, and especially in the greater Seattle area, have never been worse. The four counties surrounding Seattle have a population of 1.9 million. The population of that area exploded after the aerospace and electronics industries were built there decades ago. Since then, 27 percent of the current population are on welfare. Nearly 60 percent of this increase, or 1 million, of these people were attracted to the area by about 50,000 new jobs in the growing aerospace industry of 1966-68. Employment rose from Neighbors in Need every week—confining those who are hungry, claiming there is no hunger problem.

Mr. President, if you have followed the national press, you know I am not talking about some local issue, confined to my constituency. The humanitarian crisis is widespread. But it is so serious in Seattle that the people of Japan are making volunteer shipments of food to the people of Seattle—a humanitarian gesture of great institutions of the U.S. Government look callous and cruel. In one simple, honest gesture of humanitarianism, in sending rice and canned goods to the Well-being of our citizens. The United States has turned its back on the less fortunate—should be ashamed of itself.

Mr. President, it is even more disheartening to realize that the severe hunger crisis in most areas is the direct result of the economic policies of the day. We have the highest unemployment rate in the Nation, as of last week, and you do not have to sit on this side of the aisle to make that observation. In my own State, every public official I know of—from both major political persuasions—has not only recognized the problem, but used every known method, including outright pleading, to get the Department of Agriculture to feed the hungry people.

Just this week, a Federal District Court judge in Seattle ruled that the Department of Agriculture had acted illegally in denying a supplemental appropriation bill. The judge in Seattle finally recognized the dire need for food, even if the Department of Agriculture, ignoring its responsibility under the law, has turned its back.

The authority for surplus commodity distribution programs, in parallel with food stamp programs, has been provided by Congress. The Department has the authority in two different sections, and the Office of Economic Opportunity has similar authority under its emergency food distribution program. As we passed yesterday, allotting them sufficient money to do this job in the supplemental appropriation bill.

On top of that, Congress has appropriated the money. But what has happened? Nothing. The Department of Agriculture, in a complete disregard of human suffering, insists that there is no hunger problem in Seattle and the surrounding area. How is it that Japan can see the need for emergency shipments of food from Japan, while the U.S. Department of Agriculture steadfastly and callously denies the use of federally owned surplus food? When I ask you, can you accept that position? When 8,000 persons receive donated food from Neighbors in Need every week—and 12,000 more are turned away? Why is it that Japan can see the need for emergency shipments of food to Seattle, but officials in this administration cannot even see a hunger problem? The only explanation for the Department's position is one of cruelty and ignorance and that its only food concern is to provide huge surpluses to benefit other pocketbooks.

The House asked OEO, with strong support from my colleagues here in the Senate, to undertake the feeding of the hungry under its emergency food and medical services authority. The Congress has even appointed a 10-member panel to study that section—including a total of $32 million in the supplemental appropriation bill. While the Director of OEO shows his enthusiasm and gives me his support, nothing has happened because the White House to date has backed up the callous rulings of USDA.

There is a great financial bottleneck in this country, when it comes to providing help for the less fortunate. I will not mention specifics, except that the authorizations and appropriations flow down the Hill from here and seem to get caught in that bottleneck in administration. The authorization is there, but the administration refuses to open its food warehouses to these starving women, children, and unemployed men.

Mr. President, when the slide began, the rate of unemployment was 5.5 percent. And, by the beginning of 1971, the rate was 11.8 percent and still climbing. During June—putting it another way, now there are as many people unemployed as were employed by the Boeing Company at its peak.

The unemployment rate for the State during these years mirrors the job losses. From 1966-68, the unemployment rate averaged 4.5 percent or less each year. In 1969, the slide began, the rate rose to 4.8 percent. By January of 1970, the rate rose to 6.5 percent. By the end of the year, the unemployment rate was 11 percent. And, by the beginning of 1971, the rate was 11.8 percent and still climbing. During June—putting it another way, now there are as many people unemployed as were employed by the Boeing Company at its peak.

And yet I read in the paper yesterday that they had not made up their mind whether or not they would appeal the decision of the District Court—and an appeal taking place while people would be going hungry—which could take weeks or months. I offer at this point, for printing in the Record, excerpts from a report by the Senate Select Committee on Nutrition and Human Needs requested by Senator McGovern and Senator Percy. The report was made after a thorough study of the Seattle area by a subcommittee including an inspection trip, and is appropriately entitled "Seattle, the New Poor," and the opinion of District Court Judge Densmore ruling against the Department of Agriculture.

The Pacific Northwest region today contains 6.5 million Americans, almost 3 million more than lived there 30 years ago. Over half of this total live in Washington State, and half of those people live within 60 miles of Seattle. The four counties surrounding Seattle have a population of 1.9 million. The population of that area exploded after the aerospace and electronics industries were built there decades ago. Since then, 27 percent of the current population are on welfare. Nearly 60 percent of this increase, or 1 million, of these people were attracted to the area by about 50,000 new jobs in the growing aerospace industry of 1966-68. Employment rose from 657,000 to 762,000 jobs.

In mid-1968, the aerospace industry in the greater Seattle area employed a peak of 106,000, which meant that jobs were still being created in other sectors of the economy. In 1970, aerospace employment dropped another 43 percent during the decade, from 657,000 to 762,000 jobs.

The Bush administration has turned its back on the unemployed during 1971. During the first 5 months of the year, 18,000 jobs were lost; 8,000 at the Boeing Company alone, and 10,000 elsewhere. Estimated for the entire State was a 40,000—equally divided between aerospace and other activities.

The magnitude of the Seattle area's rise and fall are, perhaps, best summed up in the following way:

From 1965 through 1968, employment increased by 170,000, a record unequalled since the early days of World War II—that was the rise.

From January 1970 through August of this year, unemployment went from 43,900 to 106,400—that was the fall.

And another way, now there are as many people unemployed as were employed by the Boeing Company at its peak.
Tourism is the most part, retail sales are holding up. The best restaurants still do a business last year. But most of this gain is a consequence the number of unemployed not receiving benefits has increased from 4,000 to 9,000 and, that by next March, an additional 27,000 workers will lose their benefits. The Seattle unemployment rate reached 18.5 percent in June, the highest since the Food Stamp Program to fill Seattle's hunger gap by itself is perhaps best described in the report "Hunger in Washington" compiled by the office of the Secretary of State:
To be eligible for food stamps the income of a family of four cannot exceed $835, which is only 60 percent of the average income. In order for food stamps to be issued to a family, they must save $80 which leaves only $275 to pay for $438.10 of expenses (above total less food). These expenses can be seen by the total below, even if the family paid no transportation costs, no "other family consumption costs," and all other "other expenses," the $275 would not cover housing, medical care, clothing, and taxes: 

<table>
<thead>
<tr>
<th>Category</th>
<th>Amount</th>
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<tbody>
<tr>
<td>Housing</td>
<td>$187.50</td>
</tr>
<tr>
<td>Medical care</td>
<td>$47.00</td>
</tr>
<tr>
<td>Other family costs</td>
<td>$27.00</td>
</tr>
<tr>
<td>Food</td>
<td>$18.00</td>
</tr>
<tr>
<td>Utilities</td>
<td>$56.90</td>
</tr>
<tr>
<td>Medical supplies</td>
<td>$56.90</td>
</tr>
<tr>
<td>Total</td>
<td>$595.35</td>
</tr>
</tbody>
</table>

Clearly something must give. The family will fall behind in payments. Their medical expenditures will drop dangerously low. Perhaps clothing and personal care expenses will be sacrificed. This lack of income leads to garnishment, mortgage foreclosures, utility shut-offs, evictions, poor health, and loss of jobs through lack of transportation or improper clothing. The $80 Food Stamp requirement means the family has no ability to meet their budgets by paying their other bills, foregoing food stamps, and getting (additional income) from the food bank—or else face homelessness.

In a survey of people waiting in food lines, 38 percent said they couldn't afford food stamps if they had to pay $80 for them. They had already been on food stamps but could no longer afford them. The budget also indicates that many of those who are purchasing food stamps (the number has increased by 189 percent in 2 years) are doing so at the expense of other needs such as medical and dental care, housing, utilities, and clothing.

The adverse situations of a number of actual families is further detailed in a law suit filed recently against the Department of Agriculture by the Center on Social Welfare Policy and Law in New York City, and the Seattle-King County Legal Aid Bureau, Inc. The two groups are required to request USDA to approve concurrent programs. The plaintiffs in the suit were described as having the following resources to draw upon for food stamps:

- Plaintiff Selma Waldman, together with her four children, has a monthly income of $200 on which she pays rent ($80), gas ($5), electricity ($5), telephone ($8.33), and laundry ($5) total $146.33. These expenses do not even include such necessities as clothing, food, medical costs, transportation, household supplies, and hygienic items. As a result of this study, the plaintiff is paying the full price for food stamps. She barely survives in irregular donations from the Churches’ Food Bank; her total monthly food expenditures for September were only $6.

- Plaintiff Selma Waldman, together with her four children, has a monthly income of $200 on which she pays rent ($80), gas ($5), electricity ($5), telephone ($8.33), and transportation ($6), a total of $173. The $27 that remains for food, clothing, school supplies, medical costs, laundry, household supplies and hygiene items. As a result of this study, the plaintiff is paying the full price for food stamps.

The best way to fully appreciate the dramatic effects of the drop in real personal income . . . has on a family is to construct an actual family budget. This provides the why the present Food Stamp Program and lack of commodities are causing such hardship for so many families in Washington State.

For a family of four, the Washington Department of Labor and Industries cites the following costs in the Seattle metropolitan area. These costs are from the department’s “lower budget” which utilizes minimum income figures below which elements of a family’s health, security, and nutrition would be jeopardized:

<table>
<thead>
<tr>
<th>Category</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transportation</td>
<td>$40.50</td>
</tr>
<tr>
<td>Personal care and clothing</td>
<td>$99.70</td>
</tr>
<tr>
<td>Medical care</td>
<td>$47.00</td>
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<tr>
<td>Other family costs</td>
<td>$27.00</td>
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<tr>
<td>Food</td>
<td>$18.00</td>
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As a result of this study, King County
Executive John Spelina requested the Department of Agriculture to authorize concurrent Food Stamp and Direct Distribution Programs in 1971, and discussed the operation of food stamps through retail stores, revised standards of food stamp eligibility to recognize "apparent" assets, and a reduced cash contribution by an individual to his stamp purchases. The bill would permit stamps to ship provisions, special deductions from distributing food stamps in the whole, that the program was among the agree that better administration of hardcipients. Not be uniformly administered. State officials to a number of the area's poor. But State officials, while pleased with this further: flexibility on hardship allowances, fear that its complicating and the applicant. Adverse effects of the new Federal Food incremented families, and as many as 35,000 persons, may teer Food Banks the last resort for many of to help them, a survey of the hungry in of neighbors helping neighbors. Side help to put food on cars and as many as 35,000 persons, may join to various needs. It is often more difficult for food stamps to be served in the neighborhood market. It is less satisfactory in all of these ways, but it has one overwhelming advantage for those that do not have enough money to buy stamps. It is completely free. There is no purchase price requirement for surplus food as there is for stamps. A food stamps worth of surplus food for a person—when he needs $14 to buy the stamps and doesn't have that $14—is useless. That person, however, would be entitled to $18 worth of surplus food for nothing. There are clearly a significant number of people in the Seattle area who are in exactly the same situation of square miles for which an advantage of the Food Banks says they have actually had to less choice than food stamp. It is common for the same person, however, would close the Bank down because we were running there was no assurance of advantage. The latest effort to raise money for Neighbors one—something that will drive proud people to seek charity when they wouldn't otherwise be here but lack to stand up to my kids hungry.” The Committee staff visited several Food Banks, one located in an old house in a neighborhood. As Court, it was being handed out when the staff arrived. The process for giving out the food was courteous and quick. The people would move into a front room of the house for an interview with one of the volunteers. The interview included determining the person's participation in other programs such as Unemployment Insurance, Food Stamps or Public Assistance. Invariably the replies indicated that most people were either not in these programs, or that the programs still did not supply enough for adequate nutrition. After this interview, the person would move into a nearby apartment to wait for a phone where he was handed a carton of groceries. One of the volunteer staff said that the recipients actually had to arrive at the house early in the morning—sometimes as early as 6 a.m.—to receive their numbers. If, on a particular day, the crowd was especially heavy, there would be an attempt to refer an overflow to other Food Banks that were less crowded. Food began to be distributed around 9 a.m. and distribution was usually completed by 11 a.m., allowing volunteers, whose food was in short supply and the needy were out in force, the atmosphere of the Food Bank to be transformed. "The strain on the staff is terrible when that happens," said one of the volunteers. "They have to work so hard for much food that is left and how many people they still have to go. A couple of times, we had to close the Bank down because we were running out. Once we had a near riot." The increasing likelihood of this difficulty was evident during a visit to the Neighbors in Need warehouses at the Sand Point Naval Station. The warehouses, stocked full months ago, were practically bare—except for carrots. The warehouse was completely empty, where food was good and the food bank herself did not take advantage of the surplus food that was available. The community has simply run out of the ability to help everyone—there are people who have no idea where it is going to end. Twenty to 25 percent of the givers in the past have been unemployed. Mr. McManus and others knowledegable regarding the Food Banks said they are now requesting money to close the operation down soon. "If that happens," said one volunteer, "I don't know what people will do this winter. They just might get themselves together and march down to the Federal food warehouse at Sand Point and take the food they need."
Secretary Hardin in support of the congressional delegation's letter.

On July 15, Assistant Secretary Lyng met with the Washington State Congressional delegation in Senator Magnuson's office. At that meeting, Lyng said that he could not possibly foresee circumstances under which a dual program would be operated in Washington State or anywhere in the country. Later that day the Governor received a call from Lyng denying any such dual operation. Unfortunately, in their travel to Washington, the Governors Conference at Jackson Hole, Wyoming, on the same day, he told reporters that he had been "disappointed and angry" with USDA's decision.

On July 21, the dual operation request was formally submitted through USDA channels. Mary Lou Everson, Assistant Secretary for Economic Services in the State Department of Social Health Services, wrote to the then Acting Regional Administrator, making the request. Miss Everson's letter was based on the authority of House Resolution 91-1402, 91st Cong., and Senate Bill 61-671, 91st Gen. As her letter made clear, it was the State of Washington that was fully committed to paying for the modest administrative expenses involved in a Direct Distribution Program.

The following day Governor Evans responded to Miss Everson's official letter of request. He said that while Public Law 91-671 does permit the dual operation, the Department had decided it would not approve any dual operation..."it cannot be justified."

Subsequently, during the course of hearings by the U.S. Senate Committee on Nutrition and Human Needs on the Commodity Distribution Program, Senator Percy questioned USDA administrator, making the request. Miss Everson's letter was based on the authority of House Resolution 91-1402, 91st Cong., and Senate Bill 61-671, 91st Gen. As her letter made clear, it was the State of Washington that was fully committed to paying for the modest administrative expenses involved in a Direct Distribution Program.

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Senator Magnuson's purpose in sponsoring this amendment to the Appropriations Act was to operate a Food Stamp Program in Seattle or any other jurisdiction which is clearly needy but not within the minimum eligibility requirements governing other programs. It would appear that funds made available in the 1972 HEW-Labor Appropriations Act for the Emergency Food and Medical Services Program of the Office of Economic Opportunity for emergency food assistance are ideally suited for the crisis now facing the volunteer food assistance effort in Seattle. These Food Banks represent an ideal opportunity for the Federal Government to experiment with a Food Assistance Program to serve those who are clearly needy but do not fall within the minimum eligibility requirements governing other programs.

Mr. MAGNUSON. Mr. President, I shall not rest until the last vestiges of hunger in Seattle are wiped out—and wiped out with the use of federally owned surplus food commodities as a matter of policy. I urge the Department of Agriculture to fully implement existing laws for the feeding of hungry people; and urges that appropriate officials of the Executive Branch take all necessary steps to immediately provide the Seattle area with the law to feed hungry people; Now, therefore, be it

Resolved, That the Senate recommends and urges that the Attorney General of the United States forthwith advise the District Court for the Western District of the State of Washington that the decision of that Court holding that the Secretary of Agriculture acted unlawfully in refusing to approve the commodity distribution program for King, Pierce, Snohomish and other counties in the State of Washington was error. Whereas the Department of Agriculture has indicated that they may appeal the decision, and whereas people may be required to comply with the law to feed hungry people; and it is further

Resolved, That the Senate recommends and urges that appropriate officials of the Executive Branch take all necessary steps to fully implement existing laws for the feeding of hungry people in Seattle and adjacent areas and wherever economic conditions require similar action.

The PRESIDENT pro tempore. Is there objection to its immediate consideration?

Mr. MANSFIELD, Mr. President, reserving the right to object—Mr. GRIFFIN, Mr. President, reserving the right to object, what is the request? Mr. MAGNUSON. That we consider the resolution.

Mr. GRIFFIN. I am sorry, but I do not know what the resolution is. Mr. MAGNUSON. I just submitted it to the desk. Mr. GRIFFIN. For reference? Mr. MAGNUSON. No; for immediate consideration.

Mr. President, I suggest the absence of a quorum until the distinguished acting minority leader can read it.

Mr. BYRD of West Virginia. Mr. President, will the Senator withhold his request?

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

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

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.
The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, for the time being I object.

The PRESIDENT pro tempore. Objection having been heard, the resolution will be voted on as ordered.

Under the previous order, the Senator from Washington (Mr. JACKSON) is recognized for 15 minutes.

Mr. JACKSON. Mr. President, on Tuesday, a Federal judge in Seattle found that former Agriculture Secretary Clifford Hardin acted unlawfully in refusing to release surplus food to feed the hungry in the Seattle metropolitan area.

The decision could be the climax to months of work by many of us in public office to persuade the Department of Agriculture to use the authority granted by Congress to operate a dual food program in Seattle—to make food available to the hungry by operating a direct distribution program concurrently with the food stamp program already in operation.

I join today with Senator Magnuson in a resolution urging the Attorney General to notify the district court that the Department of Agriculture will not appeal the district court's ruling.

The hunger problem in the Seattle area has become increasingly serious. As U.S. District Judge William Beeks stated in his opinion:

"If dual operation cannot gain approval here, where the unemployment rate is the highest in the nation . . . and where thousands of people are receiving unemployment compensation, then the Act has been rendered a nullity."

While the food stamp program has helped, there are inherent limitations in the program, such as delays in getting certified and the requirement of presenting documentation of all income, assets and expenses. The major roadblock is that people cannot afford food stamps because of their cash shortages. In a depression many people cannot sell their house or car or other vital family assets. In fact, as few as 53 percent of those potentially eligible are actually participating in the program.

Faced with people who had no food, the community responded by setting up a volunteer effort to supplement the food stamp program. The volunteer program, called "Neighbors in Need" currently operates 34 food banks in the Seattle area. "Neighbors in Need" collects food, and money to buy food, and then distributes it to food banks. In a depression many people cannot sell their house or car or other vital family assets. In fact, as few as 53 percent of those potentially eligible are actually participating in the program.

Recognizing the large number of people who could not utilize food stamps, and realizing that the volunteer effort could not handle the demand, Senator Magnuson and I contacted the Department of Agriculture and asked for help to alleviate the problem. But we were told that there was no hunger problem in Seattle, and that food stamps could take care of the situation.

We have called repeatedly for a dual food program in Seattle. Our colleagues in the House of Representatives have joined in our efforts. The Governor, the King County executive, and the mayor of Seattle have also urged the Department to take such action. But the Department has not responded to this bipartisan appeal.

The Secretary of Agriculture has stated over and over again that there is no hard evidence that the food stamp program is failing to meet the needs of the hungry. Assistant Secretary Richard Lyng visited Seattle in October and reported that the program was receiving 1,000 pounds of canned food. He saw no need for the dual program.

I do not know where the Secretary looked—but I do know, and Senator Magnuson knows, that there are hungry people in the Seattle area. "Neighbors in Need" collects food, and the community responded by setting up a volunteer effort to supplement the food stamp program already in operation. The area has become increasingly serious.

As few as 53 percent of those potentially eligible are actually participating in the program, such as delays in getting certified and the requirement of presenting documentation of all income, assets and expenses. The major roadblock is that people cannot afford food stamps because of their cash shortages. In a depression many people cannot sell their house or car or other vital family assets. In fact, as few as 53 percent of those potentially eligible are actually participating in the program.

Mr. President, winter is approaching; unemployment compensation is running out; and the food banks continue to be the last resort for many of Seattle's hungry. Tens of thousands of dollars have been raised by "Neighbors In Need," but the community's ability to give is drying up. If the food banks shut down, and the Agriculture Department does not act, we could witness a severe tragedy.

Mr. President, it is ironic that at the same time that the district court was acting, the residents of Kobe, Japan were shipping 1,000 pounds of canned food to the hungry in Seattle. It is hard to imagine that in this great country people who are hungry must turn to our foreign neighbors for help, when their own Government turns its back.

It will be tragic if the Attorney General appeals this case, ending the hope that the hungry might have the food that they need before Christmas. A country as great and as rich as America cannot turn away from the poor and the hungry and say: "We are too busy; we don't want to help."

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

Mr. JACKSON. I am very happy to yield to the Senator from Rhode Island.

Mr. PASTORE. I am shocked by the Federal refusal of surplus food in the Seattle situation. I agree with everything the Junior Senator from Washington has said. Where America slams the door, Japan opens its heart. I think this is one of the most humiliating experiences that has ever happened to us as a great Nation. I think it demonstrates the Japanese; I think they are generous, and they are doing this out of the goodness of their hearts. But the mere fact that a nation that has been helped from a point of extremity—the one on her knees in 1945, a conquered nation—is today offering food for our hungry. That Seattle is dependent on Japanese charity—is a moment of that. I condemn or criticize the Japanese.

It is a moment of shame for America that we do have the food and we do not have the will to feed our own people. It is disgraceful.

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

Mr. PASTORE. I yield.

Mr. JACKSON. I would point out, Mr. President, that I have already shipped the food. I think this is a great tragedy and a great humiliation to our Government, to have it appear in a news dispatch that a foreign country is sending food to help the hungry.

Mr. PASTORE. In America.

Mr. JACKSON. And a need in America. At this time the Federal judge has ruled that the Secretary acted in an arbitrary and capricious manner in not exercising the discretion vested in him by the Congress of the United States to distribute the food, under the circumstances that are so clear in this case.

Mr. PASTORE. Will the Senator yield further?

Mr. JACKSON. I yield.

Mr. PASTORE. In the newspaper only the other day I saw a picture where our bins were all overflowing. There was not adequate storage space any more. Food stuffs were piled up in the streets and at the same time Americans go hungry. I am telling you, this is a sad day for America, to put it mildly. What a paradox—plenty and poverty—overfeeding hungry and hungry.

Mr. MAGNUSON. Mr. President, may I suggest, if the Senator will yield, that in the Pacific Northwest there are warehouses full of surplus food. Are they being used right now?

Mr. JACKSON. I yield.

Mr. PASTORE. That is right. But somehow it is not getting to the hungry.

Mr. MAGNUSON. That is right.

Mr. JACKSON. I might also point out that at the time the Department of Agriculture people refused to make food available to the needy in Seattle, we were shipping food out over the docks from Seattle to Japan and other foreign countries in helping them with their food problem. We all agree that we want to help the hungry abroad; but it is rather ironic that in Seattle food is going out over the docks to nations abroad that need food to take care of their people; but we are not taking care of our own citizens.

Mr. President, I yield back the remainder of my time.

Mr. MAGNUSON. Mr. President, I also ask unanimous consent to have printed in the Record—I have sent to the desk the following article—article published in the Seattle Times, entitled "New Food Stamp Rules May Bump Many Off Rolls," written by William W. Prochnau, a distinguished journalist of the Times, in which he points out, in a rather long article, that the new food stamp rules will bump many more off the rolls.

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

"New Food Stamp Rules May Bump Many Off Rolls"

(William W. Prochnau)

WASHINGTON.—Seattle's new food program, as Senator McGovern has pointed them, can be forgiven if they get the impression that government gives to them with one hand and takes away with the other.

This week a federal judge has ordered a reluctant Agriculture Department to make surplus food available to the hungry in Seattle. But the Senate has adopted a desperate 11-hour effort to extend unemployment benefits in Washington and other hard-hit states.

But, at the same time, the government is preparing to implement regulations which could cut as many as 35,000 persons from the food-stamp program in Washington state.
The regulations, which will replace eligibility rules with national standards, were announced last summer but are just now beginning to go into effect. Eight states already have received them. But other sources, in­
will deny stamps

Mr. MAGNUSON. Our unemployment

States which

Mr. MAGNUSON. Of course, this ap­

Mr. GRIFiNN. I would not be fulfilling my leadership responsibility if I were to let this resolution, which I have just seen for the first time, go sailing through by unam­

Mr. MAGNUSON. I do not want to be­

Mr. BYRD of West Virginia. Mr. Pres­

Mr. BYRD of West Virginia, Mr. Pres­

Mr. GRIFiNN. It is my understanding

Mr. MAGNUSON. The time of the Senator from Washington has expired.

Mr. MAGNUSON. I ask unanimous con­

The PRESIDENT pro tempore. Under the previous order, the Senator from Illinois (Mr. Percy) is to be recognized.

Mr. GRIFiNN. I am not asking for un­

Mr. GRIFiNN. I understand the feel­

Mr. MAGNUSON. My colleague and I

Mr. MAGNUSON. I want to make it clear that my temporary ob­

Mr. MAGNUSON. I yield.

Mr. GRIFiNN. Mr. President, I want to

Mr. MAGNUSON. It is my understanding

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

Mr. MAGNUSON. The Senator from West Virginia is recognized for 15 minutes.

Mr. GRIFiNN. The Senator from West Virginia. This will not alter the overall time schedule. I yield my time now to the distinguished Senator from Illinois (Mr. Percy) and be recognized for 15 minutes.

Mr. MAGNUSON. I do not want to be­

Mr. GRIFiNN. I do not want to be­

Mr. MAGNUSON. The PRESIDENT pro tempore. The time of the Senator from Washington has expired.
Georgia, the Senator from South Dakota, will agree with everything we are saying here, that something should be done immediately. The resolution is triggered by two things-first, an announcement that Japan is sending us food and the decision of a U.S. district court that USDA had acted "arbitrarily, capriciously, and unlawfully" in refusing to distribute commodities in western Washington.

I served in the Pacific during the war, and I am surprised about how we are acting now. Senator, the city of Kobe and the other Japanese officials acted with some compassion. They believe that we needed help, and they took a look at our problem. They would not be sending us food if they did not think we needed it. This is humiliating for the United States. This resolution was also triggered by the fact that there was a suit in the district court and the judge ruled against USDA.

The Salvation Army and church groups in Seattle got together—they call themselves neighbors in need—and they are fed, started this, and each has been rebuffed by USDA. This is an argument that we have gone through many times and every time we get promised something. They are turning away some 10 to 12 thousand people each week.

The Committee on Nutrition and Human Need sent their staff members to Seattle, along with my staff and Senator Jackson's staff, in order to investigate the crisis in Seattle. This was done at the request of Senator McGovern. Senator Percy, Senator Percy made a speech on the floor of the Senate about a week ago, stating that western Washington, which in turn was going to send it to what is known as Kobe and the other Japanese officials, acting with some compassion. They believe that we needed help, and they took a look at our problem. They would not be sending us food if they did not think we needed it. This is humiliating for the United States. This resolution was also triggered by the fact that there was a suit in the district court and the judge ruled against USDA.

It seems rather harsh language, but that is what the United States. This resolution was also triggered by the fact that there was a suit in the district court and the judge ruled against USDA.

This is an argument that we have gone through many times and every time we get promised something. They are turning away some 10 to 12 thousand people each week.

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I do not understand the position of USDA. The Senator from South Carolina is deeply disturbed about it. He went out there with us, and the fact is, there is plenty of surplus food to utilize. The humiliation of having Japan send us food, we will have come to a sorry end if this great country cannot do something about its own problems. I am surprised about how we are acting now. Senator, the city of Kobe and the other Japanese officials acted with some compassion. They believe that we needed help, and they took a look at our problem. They would not be sending us food if they did not think we needed it. This is humiliating for the United States. This resolution was also triggered by the fact that there was a suit in the district court and the judge ruled against USDA.

In the meantime, we have not authorized OEO. Now the OEO is authorized, and in that bill is another $32.5 million which the Appropriations Committees of both the House and the Senate agreed to unanimously, and that is to be used to assist the poor all over the United States. This is for Detroit, perhaps counties in Kentucky, and in Connecticut. For some reason, they just will not agree to spend any of this money. But the Budget operating with direct orders from the White House has impounded the funds for the emergency food and medical services program. This is what the Senator from Kentucky has pointed out, we use the resolution the language that Judge Becks used in his decision. That is all we have done.

So, I am very glad to have this resolution go over until tomorrow, but I hope that we will be able to have it become the resolution states only cold, hard facts. The Senator said it contains some pretty rough language, but that is what the U.S. district court said. They had a pretty lengthy proceeding out there.

I do not know whether the President is aware of this matter as much as I should be, but as of now his domestic advisers have been backing up the Department of Agriculture's original ruling. Maybe the new Secretary of Agriculture will do something about it. I do not know. But if he does, between now and tomorrow, the Senator from South Dakota and the Senator from Michigan and the Senator from Kentucky will vote for this resolution tomorrow.

I yield the floor.

The President pro tempore. Objection has been heard to the resolution—Mr. MAGNUSON, Mr. President, a parliamentary inquiry—The President pro tempore. Since there has been objection to the immediate consideration of this resolution, it will go over under the rule.

Mr. BYRD of West Virginia. How much time does the Senate have remaining? The President pro tempore. Four minutes.

Mr. BYRD of West Virginia. Will the Senator yield to me?

Mr. MAGNUSON. Yes, I yield.

Mr. BYRD of West Virginia. Mr. President, under the previous order, the hour for debate on the cloture motion tomorrow will begin running at 10 a.m. Under the rule, the Senator's resolution, considered as part of the morning business prior to the 10 a.m. deadline. Therefore, I think that,
to be sure the Senator will get a vote on his resolution tomorrow if he wants a vote, I ask unanimous consent that the distinguished Senator from Washington (Mr. Magnuson) be recognized at 9:30 a.m. for not to exceed 15 minutes, and that a vote occur on the resolution at 9:45 a.m.; and, in the meantime, he may without objection, be charged with the time he has already indicated, but this would assure the vote at 9:45 a.m. The vote would be completed and at 10 a.m. the 1 hour under the rule XXII would begin, as previously indicated.

Mr. COOK. Mr. President, reserving the right to object--
The President pro tempore. Is the Senator still, in fact, requesting a vote?

Mr. BYRD of West Virginia. I made that request and now the Senator from Kentucky (Mr. Cook) is reserving the right to object.

Mr. COOK. Mr. President, I will not object, but I wonder whether the Senator from West Virginia would extend the time from 15 to 30 minutes.

Mr. BYRD of West Virginia. No. Mr. President, the distinguished Senator from Kentucky that he get 15 minutes prior to--

Mr. MAGNUSON. That will be all right. Mr. President, I ask unanimous consent that the resolution be withdrawn, as he has already indicated, but this would assure the vote at 9:45 a.m. The vote would be completed and at 10 a.m. the 1 hour under the rule XXII would begin, as previously indicated.

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The President pro tempore. Objection is heard.

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December 10, 1971

CONGRESSIONAL RECORD—SENATE

46071

the Association, the Honorable Bernard Beitna.

On behalf of the Association, we again strongly urge that this bill not be enacted.

As you will note, the report recommends the rejection of the bill or, as a possible alternative, the substitution of the Committee on the Judiciary for hearings on the constitutional issues involved, so as to give its proponents an opportunity to respect to our views as to the bill's unconstitutionality.

I also want to tell you that we all deeply appreciate the strength of your position on the "front lines" of this issue during this past week, so that the Association would have an opportunity to make its views on the constitutional issues known to the Senate.

Warmest regards,

Sincerely yours,

ROBERT M. KAUFMANN.

ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK, COMMITTEE ON CIVIL RIGHTS

S. 1866—COPYRIGHT PROTECTION FOR WORKS OF MARY BAKER EDDY

Recommendation: Rejection (Or, in the alternative, substitute for the Committee on the Judiciary with instructions to hold hearings on the issue of constitutionality.)

There is now pending in the Senate a private bill (S. 1866) entitled "An Act to relieve Clayton Bion Craig, Arthur P. Wuth, Mrs. Lenore D. Hanks, David E. Sleeper, and Deanne Streeter. of the personal and property rights to the trustees under the will of Mary Baker Eddy in various editions of the basic text, "Science and Health," and in all subsequent Association's Committee on Copyright Law, basing its stand on the constitutional provisions for copyright and the policy of copyright law with respect to the length of time a work is to be protected. The purpose of granting special protection to Science and Health is set forth in the committee report cited above. Adherents of the Church, who believe that book and manuscript form "as the fundamental statement of the religious teachings of Christian Science." Together with the Bible, it is considered the "basic textbook for all instruction in the Christian Science religion, and for the teaching and practice of the spiritual healing which is the central part of this religion."

Likewise, the Bible and Science and Health are regarded "as the only Pastor of this Church, to which the creature's reliance is given." Therefore, "the public domain is closed to other than unconstitutional. Its purpose and effect are to single out one religion or religious theory against all religions, by use of legal sanctions and restraints. As a result of the arguments advanced for passage of S. 1866, it appears to us that the desired doctrinal purity and uniformity is obtainable, as it is for other religions, only by use of public force and with the aid of the constitutional, but mindless, of the usual difficulties of applying the establishment and free exercise clauses of the First Amendment religious rights, by use of the mass market and advertise it and sell it as 'Science and Health Revised and Modernized,' The Times also mentioned that "although we appreciate the arguments advanced for passage of S. 1866, it appears to us that the desired doctrinal purity and uniformity is obtainable, as it is for other religions, only by use of public force and with the aid of the constitutional, but mindless, of the usual difficulties of applying the establishment and free exercise clauses of the First Amendment religious rights, by use of the mass market and advertise it and sell it as 'Science and Health Revised and Modernized,'

The bill, which was amended and passed by the House following earlier passage in slightly different form by the Senate, provides that all editions of works variously entitled "Science and Health with Key to the Scriptures", "Science and Health", and "Science and Health, a new edition" (hereinafter simply "Science and Health") written by Mary Baker Eddy, the founder of Christian Science, hereafter published by either of the two trustees of the half of the trustees, would be subject to copyright for 75 years from the effective date of the law, and that the first public publication makes a "law respecting an establishment of religion, or prohibiting the free exercise thereof."

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To the extent that S. 1866 purports to have the protection of S. 1866 is, however, we may still be guided by the words of the Supreme Court in First Amendment religious rights, by use of the mass market and advertise it and sell it as 'Science and Health Revised and Modernized,'

Evron v. Board of Education, 330 U.S. 1, 15-16 (1946), upholding New Jersey's school law as constitutional as it relates to the "establishment of religion" clause of the First Amendment means at least this:... Neither a state nor the Federal Government can, openly or secretly, participate in the affairs of any religious organization or group."

Burson v. Wilson, 343 U.S. 495 (1950), invalidating New York's ban on "sacred" exams: "It is not the business of government in our nation to suppress or control ideas or to Single out a particular religious doctrine...

Foosler v. Rhode Island, 341 U.S. 67, 70 (1951), invalidating Rhode Island's anti-mobility ordinance forbidding addresses to religious meetings in public places: "Fosters for religious meetings in public places: ...Inasmuch as are as much a part of a religious service as prayer."

Epworth v. Arkansas, 393 U.S. 97, 105-6 (1968), invalidating Arkansas' anti-evangelization statute: "Government in our democracy, is not... the business of government in our nation to suppress or control ideas."

"Science and Health Revised and Modernized", an abridged edition of Eddy's great work, was approved as the "establishment of religion" clause of the First Amendment means at least this:... Neither a state nor the Federal Government can, openly or secretly, participate in the affairs of any religious organization or group."

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Senator Burdick concluded his remarks, as follows. President, in view of the fact that the book Science and Health with Key to the Scriptures play such a unique role in the life of the Christian Scientists, and because the bill brings personal benefits to no one, I urge its passage. At the same time I wish to point out that constitutionally the committee considers this bill to be an attempt to penalize the policy of opposition to private patent and copyright bills, especially those providing for broad copyrights (Cong. Rec. S. 1189-90, July 22, 1971).

According to an article in the New York Times, December 13, 1971, in which Mr. Burroughs Stokes, manager of the committee on publication for the church. abstracts, the following statement was made: "After earlier editions of Science and Health, commercial interests might "revise it and change it to heighten what they might consider to be its appeal to the mass market and advertise it and sell it as 'Science and Health Revised and Modernized,' The Times also mentioned that "although we appreciate the arguments advanced for passage of S. 1866, it appears to us that the desired doctrinal purity and uniformity is obtainable, as it is for other religions, only by use of public force and with the aid of the constitutional, but mindless, of the usual difficulties of applying the establishment and free exercise clauses of the First Amendment religious rights, by use of the mass market and advertise it and sell it as 'Science and Health Revised and Modernized,'"
Weal v. Tax Commission, 397 U.S. 694, 673 (1970), upholding New York's real property tax on churches. Through such court intervention, it has not singed out one particular church or religious group or even churches as such; rather it has given government the power of inspection of worship within a broad class of property owned by nonprofit, quasi-public corporations.

December 7, 1971, U.S. — 29 L. Ed 745, 755 (1971), invalidating certain state aid to religious-related schools: "Three such tests, if accepted, may be given from our cases. First, the statute must have a secular legislative purpose; second, its principal or primary effect must be one that neither advances nor inhibits religion; third, the statute must not foster a particular religious sect as distinct from others; and finally, the statute must not foster an excessive government entanglement with religion.

Some guidance may also be obtained from lower federal courts. In Anti-Defamation League of B'Nai B'rith v. FCC, 403 F. 2d 189, 191-2 (D.C. Cir., 1968), cert. den., 394 U.S. 930 (1969), Circuit Judge (now Mr. Chief Justice) Burger, in upholding the renewal by approval of the remarks of Commissioner Loewinger: "For the FCC to promulgate rules regarding the use of the radio and television spectrum is one thing; to promote speech relating to religion would be... an unconstitutional infraction of the free exercise clause, a right established by the First Amendment. ... Religious subjects will and must be discussed, but the bill should not be the basis for an official ban on the utterance of falsehood." Susan v. First Church of Christ, Scientist in Boston, 225 F. 2d 745 (9th Cir., 1955), is particularly instructive. The plaintiff, who had written and copyrighted a book, "God on Many Pages" by the leading scientist of Mary Baker Eddy, sued the Christian Science Church, alleging a conspiracy to suppress and discriminate against the work. The court of summary judgment to the defendants, the court stated: "According to the complaint, what the defendants were doing was to disapprove the manner or language in which the appellant endeavored to advocate adherence to the Christian Science religion. The absolute right of the publisher to decide what shall be printed is to the absolute right of any religious order to select its own ministers, advocates, authors and sacred writings." (p. 751).

Applying the judicial opinions quoted above to S. 1866, we note that it enactment would remove, in the affairs of a religious organization (Everson) could bring government into the business of suppressing the free exercise of religion (compulsory school attendance proceedings) attacks upon a particular religious doctrine (Burysten), would cause Congress to control religious sermon, (Fesler), would promote one religious theory against another (Epperson), and would, unlike general copyright legislation, single out one particular religious group (Wals). Moreover, S. 1866 would fail at least the first two and possibly the third of these tests. "A number of leading members of the Christian Science religion come from that doctrine. By compelling the church to pay $200,000 per year from the sale of Mrs. Eddy's estate from publishing a revised version of "Science and Health With Key to the Scriptures," yet there is also much to be said for the arguments advanced by representatives of the church for this bill. Unquestionably "Science and Health With Key to the Scriptures" plays a truly unique role within the Christian Science Church. It is, in fact, the pastor of the church—there is no ordained clergy—and Christian Scientists all over the country write the Church at the same time. The purity of the text, and its proper pagination and indexing, is therefore vital to enable practitioners of Christian Science to practice their religion.

The publication of "revised" editions of the book could thus conceivably have a disruptive effect on the religion itself, and could also mislead members of the public who are not familiar with the Christian Science religion.

A number of leading members of the church have personally expressed their concern that the bill be defeat or such disruption, and I am completely convinced of their heartfelt sincerity in supporting this bill. In addition, during the past 10 days I have received several thousand telegrams from Christian Scientists supporting S. 1866.

Mr. President, again I would like to sum up the arguments of the association of the bar—contained in the following statement relating to the copyright. They say: Its purpose and its ultimate effect are to single out a particular doctrine within a general law, by granting a special copyright to a religious work, thereby ensuring that no one who so desires may reproduce it without the permission of the copyright holder. It is regarded as an obstruction to free inquiry into the construction and interpretation of the Bible. For these reasons, the association opposes the bill.

This bill has been the subject of much comment and debate, and I have tried to consider the arguments on both sides. I feel that the bill is not only constitutional but necessary to protect the rights of copyright owners. The bill is a reasonable and necessary means of protecting the rights of authors, and I am convinced that it is fully consistent with the First Amendment. Therefore, I shall vote no, against the bill, and I want the Record to so reflect.

Another pertinent statement is: Finally and ironically, S. 1866 would deprive Christian Science dissidents of the right accorded the church against such a dissident in Woman... Which is one of the major cases on the subject, I continue to quote: To select their own sacred writings, if those writings happen to be those of Mary Baker Eddy.

Mr. President, I am persuaded by this opinion. I believe that there is at the very least a very strong case of constitutionalality, and constitutionality is always a matter submitted to the Senate. So I felt we should hear the arguments and then vote by vote. I shall vote no, against the bill, and I want the Record to so reflect.

I have no interest whatever in impeding the great practice of this religion to any person or organization, religious or nonreligious, in this century. As a result of the legislative procedure, the bill may fail. The important point is that the present system of disdissent groups within the Christian Science Church could or limit the public's right to enjoy great books in the public domain, because it will deprive anyone but the trustees of Mrs. Eddy's estate from publishing a revised version of "Science and Health with Key to the Scriptures."
CONGRESSIONAL RECORD — SENATE 46073

DECEMBER 10, 1971

Mr. BURDICK. Mr. President, I wish to say to my friend from New York that this matter was gone into by the various committees. I believe it was gone into in great detail by the Supreme Court of the United States. Now, it comes back with this very minor amendment.

Mr. President, I ask unanimous consent to have printed in the Record the following amendment of the bill, together with the authorities therefor.

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

Payne Bill, S. 1866: Constitutional Basis Article I, Section 8 of the Constitution provides:

The Congress shall have Power To promote the Progress of Science and Useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;

A. Private Copyright Acts. Congress has heretofore enacted a number of private Copyright Acts as provided for by Article I, Section 8 of the Constitution. These Acts do not appear to have been tested in the courts and are not being challenged. The issues arising under the same provison of the Constitution have been tested in the courts. A private Act that is attacked remains unchanged and the courts have uniformly sustained these enactments on the ground that they constitute a proper exercise of the power of Congress granted under Article I Section 8 of the Constitution.

The most recent of these cases is Radio Printing Corp. v. Bendix Corp. which was decided by a three judge court in 1962 and was affirmed per curiam by the Supreme Court of the United States in 1963.

B. Establishment of Federal Copyright Protection for Religious Works does not constitute the establishment of religion. If one argues that the private Copyright laws of the United States would not allow private Acts to be passed, the extension and grant of copyright under S. 1866 creates no right of a kind which has not heretofore existed under the copyright laws of the United States. Section 5(c) of the present law makes special provision for the protection of sermons. Section 104 of the present law and Sections 110(3) and (4) of the proposed general revision (S. 644) also make special reference to works of "a religious nature" and exempt performance of works "in the course of services at a place of worship or other religious assembly or where the proceeds are used for "religious" purposes."

C. Free Exercise of Religions. Copyright protection for Scientific, Technical, and Literary Works to the Scriptures is an important element in the free exercise of religion for adherents of Christianity and for those who wish to learn and study this religion. Such protection is vital for preventing the issuance of books containing changes, variations, deletions or additions to the Scriptures. It avoids confusion to the public which in buying or borrowing the work from bookstores libraries would not know whether the copies offered are the correct and complete text authorized by Mary Baker Eddy. If the printed texts were unquestionably authentic or as the result of carelessness, the correlation between Science and Health and the Science of Being would be destroyed. This correlation between the Lesson-Sermons and the au-
The text of the document is:  

**TRANSACTION OF ROUTINE MORNING BUSINESS**

Mr. HART. Mr. President, "Science and Health With Key to the Scriptures" is a text regularly used in the teaching and practices of the Christian Science religion. It contains the fundamental statements of the teachings of the Christian Science Church. The Christian Science religion requires that the original text of the book by Mary Baker Eddy be reproduced on that form of paper without any deviation whatever—including pagination and the placement of the words on each page.

Of course, all of us respect the requirements and the teachings of the Christian Science religion, but the Constitution of the United States does not aid directly a specific religious institution. In my view, enactment of S. 1866 violates the first amendment to the Constitution’s guarantee of freedom of religion in this country.

This is precisely the view articulated by the Bar Association of the City of New York and by a number of distinguished jurists in that State.

Finally, enactment of S. 1866 violates the copyright clause of the Constitution. Article 1, section 8 of the Constitution precludes extension of copyright protection to the trustees of an estate. The limitation to authors is specific, and Mary Baker Eddy was afforded ample protection and monopoly over her work since 1875, notwithstanding the normal copyright protection being 28 years with the right of renewal for an additional 28 years.

The constitutional collision course being steered by S. 1866 can and should be avoided and with no adverse effect upon the Christian Science Church. An official and authorized version of the text could be established and recognized and distributed as such by the church to assure the page for page, line for line, word for word adherence to the original text, which the church deems essential to its members. This is a well-recognized practice in other religious texts with regard to their basic religious texts. I opposed the bill in committee and renew my opposition now.

Mr. BURDICK. Mr. President, at this time I am prepared to yield back my time if the Senator from New York is prepared to do so.

The PRESIDING OFFICER. All time has expired.

Mr. BURDICK. Mr. President, I move that the Senate concur in the amendment of the House.

The motion was agreed to.

Mr. JAVITS. Mr. President, I wish to be recorded as voting no.

The PRESIDING OFFICER. The Senator from New York is recorded as voting no.

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**REPORTS OF COMMITTEES**

The following reports of committees were submitted:

By Mr. JORDAN of North Carolina, from the Committee on Rules and Administration, without amendment:

S. Res. 213. An original resolution to pay a gratuity to Frances J. Bangert;

S. Res. 201. A resolution supplementing the limitation with respect to experts and consultant expenses that may be incurred by the Committee on the Judiciary for a study relating to constitutional rights (Rept. No. 92-570);

S. Res. 200. A resolution to print as a Senate document, with illustrations, a report entitled "Financial Management in the Federal Government—Volume II" (Rept. No. 92-572); and

S. Con. Res. 41. A concurrent resolution authorizing the printing of the report of the proceedings of the forty-fifth biennial meeting of the Commission of American Instructors of the Deaf as a Senate document (Rept. No. 92-573).

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

H.R. 8856. A resolution authorizing the printing of the report of the 1971 White House Conference on Aging as a Senate document (Rept. No. 92-574);

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.
EXECUTIVE REPORTS OF COMMITTEES

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

By Mr. GURNEY, from the Committee on the Judiciary: William Terrell Hodges, of Florida, to be a U.S. district judge for the Middle District of Florida.

By Mr. BURDICK, from the Committee on the Judiciary: Jon O. Newman, of Connecticut, to be a U.S. district judge for the district of Connecticut.

Amos Fish, of New York, to be a U.S. district judge for the southern district of New York.

Lee P. Gagliardi, of New York, to be a U.S. district judge for the district of New York.

Bruce M. Van Sickie, of North Dakota, to be a U.S. district judge for the District of North Dakota.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that today, December 10, 1971, he presented to the President of the United States the following enrolled bills:

S. 28. An act to establish the Capitol Reef National Park in the State of Utah; and S. 1237. An act to provide Federal financial assistance for the reconstruction or repair of any nonprofit medical care facilities which are damaged or destroyed by a major disaster.

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. BEALL: S. 2988. A bill to provide for the establishment of a national cemetery in the State of Maryland. Referred to the Committee on Veterans' Affairs.

By Mr. EAGLETON: S. 2984. A bill to amend title II of the Social Security Act so as to remove the present dollar limit on the amount of the lump-sum death payment. Referred to the Committee on Finance.

By Mr. HUMPHREY (for himself, Mr. HARKIN, Mr. Couriers, Mr. Tierney, Mr. Anderson, Mr. Jaynes, Mr. Mondale, Mr. Montoya, Mr. Moss, Mr. Randolph, and Mr. Cranston):

S. 2985. A bill to establish a program for the distribution of surplus American military equipment in Southeast Asia. Referred to the Committee on Armed Services.

By Mr. STAFFORD:

S. 2986. A bill to provide for disclosures designed to prevent conflicts with respect to legislative measures, and for other purposes. Referred to the Committee on Governmental Operations.

By Mr. JAVITIS (for himself, Mr. Pastore, Mr. Goldwater, and Mr. FANNAIN): S. 2987. A bill to authorize the Secretary of the Treasury to make grants to Eisenhower College, Seneca Falls, New York, out of the proceeds of the sale of minted proof coins bearing the likenesses of the late President of the United States, Dwight D. Eisenhower. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. STEVENS:

S. 2988. A bill to authorize the appropriation of $250,000 to assist in financing the Arctic Winter Games to be held in the State of Alaska in 1974. Referred to the Committee on Commerce.

By Mr. HARTKE:

S. 2989. A bill to amend title 22, United States Code, to make the United States liable for acts of violence committed by its employees against members of the armed forces of the United States. Referred to the Committee on the Judiciary.

By Mr. GRAVEL:

S. 2990. A bill for the relief of John Panamarioff and Herbert Panamarioff. Referred to the Committee on the Judiciary.

By Mr. BURDICK:

S. 2991. A bill to provide for the establishment of the War in the Pacific National Historical Park on the Island of Guam, and for other purposes; and S. 2992. A bill to provide for the establishment of the Guam National Seashore, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. MOSS:

S. 2993. A bill to amend the Communications Act of 1934 with respect to renewal of broadcasting licenses. Referred to the Committee on Commerce.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BEALL:

S. 2983. A bill to provide for the establishment of a national cemetery in the State of Maryland. Referred to the Committee on Veterans' Affairs.

Mr. BEALL. Mr. President, I introduce today a bill to establish a National Cemetery in the State of Maryland. The bill directs the Secretary of the Army either to purchase or to acquire by donation, a suitable site for such a cemetery in Maryland and also authorizes funds for its care and maintenance.

Last week I had the privilege of meeting with a number of Maryland veterans and discussed with them many areas of concern to them. One of their major concerns is that there is no longer any burial space in a national cemetery in Maryland.

Mr. President, from the Revolutionary War to the present conflict in Vietnam, Marylanders have distinguished themselves in the service of the Nation. They have not failed to answer their country's call. There are approximately 516,000 veterans in Maryland, while I cannot speak for all of these men and women, views expressed last week during my meeting with some of them, indicates they feel the country has let the veterans down by denying veterans the honor, if they so desire, to be buried in a national cemetery. This is an appalling fact, and I introduced this measure today in response to the critical situation in Maryland.

Maryland's situation only reflects the larger national picture, and we probably need a new national policy on this matter. Whether it be in comprehensive national legislation, or in the bill I have just introduced, I intend to work to improve the present sorry situation.

By Mr. EAGLETON:

S. 2984. A bill to amend title II of the Social Security Act so as to remove the present dollar limit on the amount of the lump-sum death payment. Referred to the Committee on Finance.

Mr. EAGLETON. Mr. President, I am today introducing a bill to remove the present statutory dollar limit of $255 on the Social Security lump-sum death payment.

Under present law, the lump-sum death payment is three times the worker's primary insurance amount or $255, whichever is the smaller.

As a result of this dollar limitation, the amount of the lump-sum death payment no longer bears a reasonable relationship to the earnings record of the worker. It is estimated that approximately 1.25 million claims for lump-sum death payments. About 75 percent of these claims were limited by the $255 maximum.

Another result of this dollar limitation is that the lump-sum death payment no longer bears a reasonable relationship to the expenses connected with death. For example, the cost of the average adult funeral in the United States rose from $470 in 1932 to $420 in 1969. Funeral expenses not covered by the lump-sum death payment must often be met by the survivors out of their monthly Social Security benefits.

As long ago as 1965, the Advisory Council on Social Security urged that:

The lump-sum should not be subject to a dollar limit that is allowed to remain stationary even as other provisions of the law are changed, but rather . . . the dollar limit should be adjusted with other provisions of the law as earnings levels rise.

Earlier this year, the 1971 Advisory Council on Social Security recommended that:

The fixed-dollar limit of $255 be removed and that the lump-sum death payment be three times the worker's primary insurance amount or a maximum payment equal to the highest family monthly benefit paid under the law.

My bill would carry out this recommendation of the Social Security Advisory Council and the report of the President's Commission on Social Security-related character of the lump-sum death payment.

The Social Security Administration estimates that this change in the law would result in the payment of $18 million in additional benefits in fiscal 1973.

By Mr. HUMPHREY (for himself, Mr. Hollings, Mr. Hughes, Mr. Tunney, Mr. Anderson, Mr. Javits, Mr. Mondale, Mr. Montoya, Mr. Moss, Mr. Randolph, and Mr. Cranston):

S. 2985. A bill to establish a program for the distribution of surplus American military equipment in Southeast Asia. Referred to the Committee on Armed Services.

WAR-TO-PEACE SURPLUS EQUIPMENT ACT

Mr. HUMPHREY. Mr. President, on November 23, I introduced an amendment to the Defense appropriation bill calling for a special program for the disposition of surplus military equipment in Viet Nam. I reintroduced this legislation today in the form of a bill with some minor revisions and ask unanimous consent, Mr. President, that the War-to-Peace Surplus Equipment Act be printed in the Record following my remarks.

The purpose of this measure is to...
maximize the efficient use of a vast storehouse of military equipment for our urgent needs at home. These needs do not have to be enumerated. They vividly confront us in urban and rural America.

Less than 10 blocks from the Senate we can see what those needs are. Our educational facilities are inadequate. Our housing is below standard and insufficient. Our medical facilities and hospital facilities are not meeting the needs of all Americans for quality health care.

I would not be surprised to find that the Medivac program for Army personnel in Vietnam is more efficient than any of our programs here at home. Urban planners and rural development experts have suggested that helicopters be used as ambulances to speed emergency cases to a downtown hospital or a county health center.

Medivac is a pace-setting program and should be maintained. Our Armed Forces should have enough helicopters to continue the necessary facilities to expand the necessary facilities to continue this facility.

The armed services in Vietnam possess the tools—the construction equipment and road building machinery used to build roads in Appalachia or the Ozarks. And I am sure that State and National park systems could benefit from the distribution of such heavy equipment to meet the growing need for more and better recreational facilities.

I am not suggesting that our Armed Forces in Vietnam should be deprived of any military and other logistical equipment as they withdraw—and the President has at least assured us that withdrawals will continue—the requirements of our Armed Forces change proportionately.

In its annual report the Department of Defense indicated that 9,129,000 measurement tons of Army cargo were shipped by sea into the area of Southeast Asia. In the last year it has distributed at Federal, State, and local levels equipment and supplies valued at roughly $300,000,000. This figure represents less than 5 percent of the surplus material. A substantially higher portion, 90 percent, is retained by the Army for its own needs.

I am offering is one step in this direction. A GAO review of the phasdown of U.S. military activities in Vietnam indicated in August of this year that our Armed Forces could do much to reduce the flow of materiel to Vietnam. It suggested that new lower stockage levels must be calculated which would result in order deferrals or prevent replenishment actions. Second, the GAO report suggested the practice of open requisitions by units being redeployed or deactivated be canceled. Together, these steps would reduce sharply unnecessary shipments to Vietnam. There is surplus materiel in the United States, originally requisitioned for Vietnam, which could be made available for domestic purposes. Of the surplus materiel now in Vietnam, a greater percentage could be shipped home and put to immediate practical use. Some of that surplus will stay in Vietnam, but a greater share could be retrograded to the United States.

To be sure the Defense Department has a retrograde program, handled by the Installations and Logistics division. In fact, the Army should be congratulated for its SCRAM—Special Criteria for Retrograde of Army Materiel—program which has withdrawn equipment valued at over $4 billion. At the same time, most of this equipment is shipped back with the Army unit leaving Vietnam. The ramifications of this surplussing in Vietnam is put back to work immediately.

What I am proposing today is a means of putting that materiel to use immediately. The General Services Administration has had a "Home Run" and "Home Run Extended" program which has withdrawn equipment shipped out of Vietnam is put back to work immediately. Together, these programs at home and we should provide the dispositional portion of our surplus equipment for domestic purposes.

The Vietnam Surplus bill would cover all equipment "no longer necessary for use of armed forces of the United States." The Vietnam Surplus bill as DOD, as a result, would be hard put to argue that only 5 percent of equipment and supplies for Vietnam qualifies as surplus material.

Up to this point, I have only addressed myself to the question of surplus equipment which has had a great potential for nonmilitary purposes in America. But there is an equally important facet relating to surplus military material: the legerdemain involved in the disposal of Defense indicated that 9,129,000 measurement tons of Army cargo were shipped by sea into the area of Southeast Asia. This was support for Retrograde of Army Materiel—program which has withdrawn equipment.

The bill I am introducing would provide a check on the use of our excess defense material at home, the office would be required to set up a special trust account for sales proceeds. The funds in the special account would be subject to the same restrictions set out in the Foreign Military Sales Act. I can imagine cases when certain nonmilitary equipment might have minimal value here at home, but in high demand elsewhere. Foreign countries are willing to pay hard currency for these goods, and the ultimate benefit to our domestic programs would be greater because funds would be made available for the purchase of surplus items at home. That purchasing country would be subject to the same restrictions set out in the Foreign Military Sales Act. I am offering is one step in this direction.

The bill I am introducing would provide a check on the use of our excess defense material at home, the office would be required to set up a special trust account for sales proceeds. The funds in the special account would be subject to the same restrictions set out in the Foreign Military Sales Act.
Section 2. (a) The Congress hereby finds that (1) there is a demonstrated need on the part of the several States, the several local governments, and the several low-income persons in the United States, for the purchase and use of surplus military equipment and materials owned by the Department of Defense in Southeast Asia, (2) such need has also been shown to exist in regard to surplus charitable organizations which are engaged in urban and rural development programs in the United States which are designed to inform the American public with respect to the spending of public funds, and (3) that surplus equipment and materials can be returned to the United States from Southeast Asia at a cost that is commensurate with the original price paid for such equipment and, in most cases, at only a fraction of the fair market value thereof.

(b) It is hereby declared to be the policy of Congress to assure the prompt and equitable distribution of surplus equipment under the provisions of this Act.

Section 3. (a) There is established in the Department of Defense in Southeast Asia which shall be headed by a civilian appointed by the Secretary of Defense a Surplus Equipment Account. Such account shall be credited with the value thereof of any sale made under subsection (a) of this section that shall be consistent with the Foreign Military Sales Act. The proceeds of any sale made under subsection (a) of this section shall be credited to a separate account in the Treasury to be known as the Southeast Asia Surplus Equipment Account and shall be available only for carrying out programs for urban or rural development programs in the United States, or for the payment of the United States the fair market value thereof (as determined by the Secretary) in the event that such State, local government or organization fails to use such equipment or materials for the purpose for which they were made available under this Act.

Section 4. The Secretary of Defense shall submit a written report to the Congress within ninety days after the enactment of this Act indicating what action has been taken to carry out the provisions of this Act. He shall include in such report such recommendations for legislation as he deems appropriate for the improvement of the program provided for herein.

By Mr. STAFFORD:

S. 2986. A bill to provide for disclosures designed to inform the Congress with respect to legislative measures, and for other purposes. Referred to the Committee on Government Operations.

Mr. STAFFORD. Mr. President, today I introduce a bill designed to protect the American public from information concerning the activities of the private forces that influence the shape of our government.

The Open Government Act would require virtually every aspect of congressional lobbying to be pulled out of the shadows of Capitol Hill and into the spotlight of public scrutiny.

I want to stress, however, that the purpose of this bill is not to halt or even to entitle legitimate lobbying activities, but rather, to require full disclosure of such activities.

This measure very carefully preserves the constitutional rights of the public to petition Congress—rights of everyone to petition their government. At the same time, it is a disclosure bill designed to inform the public—and the Congress—about the spending of public funds, about the support or oppose national legislation.

This bill is similar to a measure recently approved by the Committee on Standards of Official Conduct of the House of Representatives.

By Mr. JAVITS (for himself, Mr. PASTORE, Mr. GOLDFWATER, and Mr. PASTORE):

S. 2987. A bill to authorize the Secretary of the Treasury to make grants to Eisenhower College, Seneca Falls, N.Y., out of the proceeds of the sale of minted proof dollar coins bearing the likeness of the late President of the United States, Dwight D. Eisenhower, referred to the Committee on Banking, Housing and Urban Affairs.

Mr. JAVITS. Mr. President, I send to the desk on behalf of myself and the distinguished Senator from Rhode Island, Mr. Pastore, a bill which will be introduced today. It contains some weak provisions of the one introduced by Mr. PASTORE, Mr. GOLDWATER, and Mr. PASTORE.

My proposal is more demanding of disclosure. I think legislation in this field should be as tough as possible, because I believe there appears to be a growing skepticism among Americans about the credibility of their government.

My proposal is designed, quite simply, to bring congressional lobbying out into the open.

The Open Government Act would be administered by the Comptroller General and it contains both civil and criminal penalties.

It would require, among other things, public disclosure of:

(1) The names of lobbyists and of their clients.

(2) Lobbying income and expenditures for purposes covered by the act.

Every communication between a lobbyist and a Member of Congress, and congressional staff members, and identification of the specific legislation discussed.

By Mr. JAVITS (for himself, Mr. PASTORE, Mr. GOLDFWATER, and Mr. PASTORE):

S. 2987. A bill to authorize the Secretary of the Treasury to make grants to Eisenhower College, Seneca Falls, N.Y., out of the proceeds of the sale of minted proof dollar coins bearing the likeness of the late President of the United States, Dwight D. Eisenhower, referred to the Committee on Banking, Housing and Urban Affairs.

Mr. JAVITS. Mr. President, I send to the desk on behalf of myself and the distinguished Senator from Rhode Island, Mr. Pastore, a bill which will be simultaneously introduced in the other body by Representative John H. TERRY of New York, in whose district Eisenhower College is located, Representative Stax, Stax, who is a member of the board of the college, and Representative Owen R. Zem as cosponsors.

Mr. President, the bill will provide legislation authorizing the Secretary of the Treasury to make grants to the Eisenhower College in Seneca Falls, N.Y., of $1 from the proceeds received from the sale of each "proof" Eisenhower silver dollar being sold for $10 to the public.

In 1963 the late President Eisenhower agreed to the establishment of Eisenhower College as a living, permanent memorial to his service to the Nation. In his years of service to the Nation, his development, and his funds necessary for its success. They have been joined by some 12,000 donors who have contributed more than $7 million to the college.

In 1968, Congress enacted Public Law
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provisions of law, the Secretary of the Treasury is authorized to make grants to Eisenhower College, Seneca Falls, New York, in an amount equal to 10 per centum of the amounts received by the Secretary for the issuance of proof dollar coins authorized under the late President of the United States, Dwight D. Eisenhower, and minted under the authority of section 181A of the Bank Holding Company Act of 1946, and section 203 of the Bank Holding Company Act Amendments of 1970; the amount received by the Secretary for each minted proof dollar coin being $10 per coin.

By Mr. STEVENS.

S. 2988. A bill to authorize the appropriation of $250,000 to assist in financing the Arctic Winter Games to be held in the State of Alaska in 1974. Referred to the Committee on Commerce.

Mr. STEVENS. Mr. President, today I am introducing a bill...
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Arctic Winter Games to be held in Alaska in 1974. The Secretary shall provide for the disbursement of such funds (including the making of grants to appropriate persons or organizations) on such terms and under such conditions as he deems appropriate, including the submission to him of such reports from the Territories as may be necessary to assure that such funds have been used for the purpose for which they were disbursed.

By Mr. HARTKE:

S. 2989. A bill to amend title 28, United States Code, by adding a new section to provide for federal tort claims for acts of medical malpractice committed by its employees against members of the Armed Forces of the United States. Referred to the Committee on the Judiciary.

AMENDMENT TO FEDERAL TORT CLAIMS ACT

Mr. HARTKE. Mr. President, when a civilian employee of the United States is injured by the negligence of a fellow employee, he is given a remedy under the Federal Tort Claims Act, 5 U.S.C. 751, and the following. If a private citizen fails victim to the negligence of an employee of the United States, that citizen is entitled to recover the reasonable value of his injury, including pain, suffering, and psychological harm from the United States under the Federal Tort Claims Act—28 U.S.C.A. If a soldier is injured by the negligence of another soldier and that negligence results in a disability that affects the soldier's ability to perform as a soldier, the victim is entitled to a pension—30 U.S.C.A. 901 and the following. However, if that injury—no matter how painful and disfiguring—fails to result in a "disability," the victim is left to shoulder his loss alone.

In 1946, the U.S. Supreme Court was asked whether a serviceman could recover damages for personal injury resulting from an automobile accident. It replied in the affirmative, disagreeing with the argument that the serviceman was entitled to a pension—30 U.S.C.A. 901 and the following. However, if that injury—no matter how painful and disfiguring—fails to result in a "disability," the victim is left to shoulder his loss alone.

In 1950, the "different case" was put to the court when two servicemen who had been injured in an Army hospital because of negligence along with a serviceman who was injured when his barracks caught fire sued the Federal Government for damages. In the Feres case, the court held that the Government was not liable for injuries to servicemen when the injuries arise out of or in the course of activity incident to service. Feres v. U.S., 337 U.S. 49 (1948).

For the past 20 years, the Feres decision has been used to deny recovery to servicemen for injuries arising out of activity incident to their service. This rule has even been extended to servicemen injured in military hospitals due to the negligence of medical staffs. These servicemen have been denied recovery simply because they were servicemen. See Morris v. U.S., 197 F. Supp. 11 (1955), Weisberg v. U.S., 199 F. Supp. 329 (1961), Gamage v. U.S., 217 F. Supp. 381 (1962), Bauer v. U.S., 241 F. Supp. 3 (1957), DiLworth v. U.S., 387 F. 2d 590 (1960), Van Sickel v. U.S., 285 F. 2d 87 (1960).

Usually these cases mention the Feres case, relying on recovery to servicemen injured in service-connected activity as mitigating the harshness of denying recovery in a legal action. A good summary of the Feres case is found in the dissent of Justice Douglas in

S. 2989

A bill to amend title 28, United States Code, to make the United States liable for acts of medical malpractice committed by its employees against members of the armed forces of the United States. Introduced by Mr. BURDICK and Senate and House of Representatives of the United States of America in Congress assembled, that the first paragraph of section 2674 of title 28, United States Code, is amended by adding at the end thereof the following new sentence: "Such liability includes liability for personal injury, death, or other loss caused by any negligent or wrongful act or omission of an employee of the Government acting within the scope of his office or employment in furnishing medical care or treatment to a member of the military or naval forces of the United States."

Sect. 2. The amendment made by the first section of this Act shall apply to any claim arising on or after its enactment.

By Mr. BURDICK:

S. 2991. A bill to provide for the establishment of the War in the Pacific National Historical Park on the Island of Guam, and for other purposes; and a bill to provide for the establishment of the Guam National Seashore, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. BURDICK. Mr. President, I send to the desk for appropriate reference two bills relating to the Territory of Guam. The first bill provides for the establishment of the War in the Pacific National Historical Park on the Island of Guam. The second measure would provide for the establishment of the Guam National Seashore.

Mr. President, in May 1971, I had the privilege of attending the Conference of Pacific Legislators in Guam and to spend several days in the Territory meeting with Government officials and leading businessmen. I was very impressed by the economic growth and development of the territory which stems very largely from the Guam Rehabilitation Act passed by the Congress in 1946. It is well known that Guam was occupied by the Japanese in World War II and suffered extensive damage when the island was retaken by U.S. forces in July 1944.

By letter of June 9, 1971, I asked that the Secretary of the Interior have draft legislation prepared authorizing the establishment of the War in the Pacific National Historical Park on the Island of Guam. I think it proper that the Congress preserve and protect historic sites having value in commemorating the Pacific phase of World War II. The second measure would provide for the establishment of the Guam National Seashore. The proposed Guam National Seashore, contiguous to the war in the Pacific National Historical Park, would preserve an area along the southwest coast of Guam. I have placed emphasis on the beauty of Guam. The proposed Guam National Seashore, contiguous to the war in the Pacific National Historical Park, would preserve an area along the southwest coast of Guam. I have placed emphasis on the beauty of Guam. The proposed Guam National Seashore, contiguous to the war in the Pacific National Historical Park, would preserve an area along the southwest coast of Guam. I have placed emphasis on the beauty of Guam. The proposed Guam National Seashore, contiguous to the war in the Pacific National Historical Park, would preserve an area along the southwest coast of Guam. I have placed emphasis on the beauty of Guam.
As I indicated, these bills were prepared in consultation with the Department of Interior and represent their thinking in terms of land areas and acquisition procedures best suited to the establishment of the historical park and the national seashore. Whichever method of land acquisition is used, if the boundaries as held on these measures, the appropriate representatives of Guam will be afforded an opportunity to make recommendations and suggestions that they believe appropriate to protect the property owners within the boundaries of the two projects.

Mr. President, I ask unanimous consent that the response to my request for information contained in the letter dated October 27 from the Legislative Council of the Department of the Interior be inserted at this point in the Record, together with the text of the two bills I am introducing. That being no objection, the letter and bills were ordered to be printed in the Record, as follows:


Hon. Quentin N. Burdick, Chairman, Committee on Territories and Insular Affairs, Committee on Interior and Insular Affairs, Washington, D.C.

Dear Senator Burdick: Pursuant to your request of June 9, 1971, we are enclosing herewith a draft of legislation entitled "To provide for the establishment of the War in the Pacific National Historical Park on the island of Guam, and for other purposes," and the other is entitled "To provide for the establishment of the Guam National Seashore and for other purposes.

In regard to the National Historical Park, section 1 of the draft bill authorizes the Secretary to purchase or exchange or transfer the land for the purposes set forth in the section. Section 2 authorizes the Secretary to acquire not more than 2800 acres of lands and interests in lands by donation, purchase with donated or appropriated funds, or exchange, or by transfer from any other Federal agency.

Section 3 provides specific authority to the Secretary in regard to land dealings, erection of new buildings, and other appropriate buildings.


Section 5 authorizes the Secretary to cooperate with the appropriate officials in order to ensure coordination of historical activities and the last section authorizes such appropriations as may be necessary to carry out the purposes of the Act.

Except for some variations in language, the draft bill is substantially the same bill as H.R. 1728, introduced by Representative White.

In regard to the Guam National Seashore bill, section 1 authorizes the Secretary to establish the seashore to comprise the area as generally depicted on the boundary map referred to in section 2. That would be by publication of a notice to that effect in the Federal Register at such time as he may determine has been satisfied, and for the establishment of an administrable unit. The area is to be administered in accordance with the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2-4) as amended and supplemented, and the Act of August 21, 1935 (40 Stat. 606; 16 U.S.C. 461 et seq.).

Within the boundaries, the Secretary may acquire lands and interests in lands by donation, purchase with donated or appropriated funds, exchange, or transfer from another Federal agency. The Secretary is authorized to acquire nonresidential property, as defined in section 2(c), to relate to the acquisition of improved residential property. Pursuant to this the Secretary may acquire or exchange for nonresidential property, as defined in section 2(c), may, at the time of acquisition, reserve a right of use and occupancy for nonresidential purposes for a term ending either not more than 25 years from the date of acquisition, or at the death of the owner or his spouse.

Section 2(e) contains special provisions relating to the villages of Umantac and Merizo. In establishing the seashore, the Secretary may designate such areas as "private use zones" and, as long as property is being used for public safety, administration, or fish and wildlife management.


In order to assure coordinated historical development and preservation, the Secretary is authorized to cooperate with and coordinate with the Smithsonian Institution, the State Historical Society, and the National Park Service and other Government agencies.

Sincerely yours,

F. A. BRACKEN,
Legislative Counsel.

Dec. 29, 1971

A bill to provide for the establishment of the Guam National Seashore, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to establish and administer the Guam National Seashore, to be known as the "Guam National Seashore." The Secretary may acquire the lands and waters as generally depicted on the boundary map referred to in section 2(b)(2), and any other area necessary to carry out the purposes of the Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to preserve for public use and enjoyment certain areas possessing outstanding natural, historical, and recreational values, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to establish and administer the Guam National Seashore, to be known as the "Guam National Seashore." The Secretary may acquire the lands and waters as generally depicted on the boundary map referred to in section 2(b)(2), and any other area necessary to carry out the purposes of the Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to preserve for public use and enjoyment certain areas possessing outstanding natural, historical, and recreational values, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to establish and administer the Guam National Seashore, to be known as the "Guam National Seashore." The Secretary may acquire the lands and waters as generally depicted on the boundary map referred to in section 2(b)(2), and any other area necessary to carry out the purposes of the Act.
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(b) With respect to improved residential property acquired for the purposes of this Act, which is beneficially owned by a natural person, and for which the Secretary may be con­

formed or is in any manner opposed to or

is consistent with any approved land use

property or with respect to which there occurs any use, commencing after the date of the publication by the Sec­

provisions of the Act, of the area comprising the seashore, or (2) fails to have the effect of

right so retained may on the date of its acquisition by the Secretary re tain a right of use and occupancy

is necessary for expansion, and such other areas as the Secretary finds, in his discretion, that the use and development, in accordance with the provisions of the Act of August 25, 1910 (39 Stat. 535; 16 U.S.C.

s. 2738, a bill to strengthen interstate reporting and interstate services for par­

conservation, development, or use, in the judgment of the Secretary, is inconsistent with any approved land use regulations, or

providing that the Secretary shall receive notice of any variance granted under and any

The Secretary may, at any time and in his discretion, terminate the suspension of his authority to acquire property by condemnation: Provided, however, That

The Secretary shall be authorized to acquire property by condemnation: Provided, however, That

The Secretary shall be authorized to acquire property by condemnation: Provided, however, That

lands and interests in lands acquired for the seashore shall be administered in accordance with the provisions of this Act, as amended and supplemented, except that any other statutory authority available to the Secretary for the conservation and management of natural or historical resources may be utilized to the extent he finds such authority will further the purposes of the Act.

lands and interests in lands acquired for the seashore shall be administered in accordance with the provisions of this Act, as amended and supplemented, except that any other statutory authority available to the Secretary for the conservation and management of natural or historical resources may be utilized to the extent he finds such authority will further the purposes of the Act.

The Secretary's authority to acquire property by condemnation shall be suspended for a period of not more than five years from the date of acquisition by the Secretary for noncommercial residential purposes, when, there occurs any use, commencing after the date of the publication by the Secretary of any notice of variance granted under and any exception made to the application of such land use regulations.

The Secretary's authority to acquire property by condemnation shall be suspended for a period of not more than five years from the date of acquisition by the Secretary for noncommercial residential purposes, when, there occurs any use, commencing after the date of the publication by the Secretary of any notice of variance granted under and any exception made to the application of such land use regulations.

The Secretary shall permit hunting, fishing, on lands and waters under his jurisdiction within the boundaries of the seashore in accordance with the applicable laws of Guam and the United States to the extent applicable laws authorize that he may designate hunting and fishing zones where, and establish periods when, no hunting or fishing shall be permitted for reasons of public safety, fish and wildlife management, or public use and enjoyment.
pact of mineral exploration in the Atlantic Ocean.

The ACTING PRESIDENT pro tem (Mr. METCALF). Without objection, it is so ordered.

Mr. BRUCEY. Mr. President, I want to say how delighted I am to be a co-sponsor of the bill introduced by the distinguished Senator from Delaware (Mr. BOBCOTT CoT) on the discussions

Atlantic Ocean.

MoRRISON (Mr. METCALF). Without objection, it has been a source of great concern to me that the understandable emotion that has characterized so much of the discussion of offshore drilling for oil in the Atlantic Ocean, that there has been a tendency to draw premature conclusions as to the extent on the environmental hazards which such drilling may pose.

It often requires a great disaster to thrust into the public consciousness theills that have long endured.

Mr. President, I ask unanimous consent that the article be printed in the Record at the conclusion of my remarks.

If the author is correct in his observation that pollution is a concern, we should do everything we can to prevent the development of such a situation, and, once perfected, to insist upon its scrupulous use.

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

### THE GREAT OCEAN SWEEPSTAKES

* * *

**Pantry Bay class tankers. Should one of those new, state-of-the-art defenses for our nation's inshore and offshore coasts actually prove successful in minimizing or preventing the environmental problems that have plagued our environment, oil pollution is one for which a purely technological solution seems feasible, then we are under a moral obligation to encourage the development of such a solution, and, once perfected, to insist upon its scrupulous use.

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

### THE GREAT OCEAN SWEEPSTAKES

* * *

**Pantry Bay class tankers. Should one of those new, state-of-the-art defenses for our nation's inshore and offshore coasts actually prove successful in minimizing or preventing the environmental problems that have plagued our environment, oil pollution is one for which a purely technological solution seems feasible, then we are under a moral obligation to encourage the development of such a solution, and, once perfected, to insist upon its scrupulous use.

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* * *

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* * *

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

### THE GREAT OCEAN SWEEPSTAKES

* * *

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GUMMING UP SLICKS

The ultimate in flexibility is the air barrier, of which a prototype has been built by Ocean Science and Engineering and Submarine Systems Group. The method consists of a perforated conduit that sits on the sea bottom or is suspended at various depths. Air is pumped through the conduit and a stream of tiny bubbles rises to the surface, forming a dike against the passage of oil. Unfortunately, air barriers will not work in open sea, where the strongest wind will blow the bubbles away.

The other method to be made effective if the oil itself were thickened or made less "oily." This can be accomplished with materials that consist of which have been treated with polyurethane and treated sand are common examples. The best oil sorbents in terms of oil absorbed per weight of material are the polyurethane and urea formaldehyde foams. If these are not available or are considered too expensive, baled hay or straw can be used. The sorbents are distributed over the slick as fine particles, by throwing the material into the boat's prop wash or by using a power mixer. If permitted by the authorities, they can also be mixed with the oil and left to evaporate and decay. Inshore areas do not hold oil in currents and most are considered a problem.

Another French device is on the market. The work of Ocean Design Engineering Corporation's chemical method of oil dispersion, including the British Board of Trade's FAIR Program, is aimed at maintaining bacterial populations on surface oil slicks long enough for the bacteria to consume them. The major problem seems to be supplying adequate levels of some important nutrients, chiefly phosphate and nitrate, without which the bacteria cannot metabolize the hydrocarbons. Simply adding nutrients to the slick does not work; the nutrients diffuse too quickly. Some scientists believe that nutrients can be encapsulated in molecular packets that will stay with the oil and keep the bacteria going.

A program is under way at Georgia State College, Atlanta, to investigate the uses of marine yeast in this regard. Yeasts are known to occur naturally in oil-polluted areas, and these populations seem to increase with the extent of pollution. If they do thrive on oil, they might prove even more useful than bacteria, since they are not as vulnerable to sunlight.

At this stage it would seem that the tools for controlling oil pollution are on hand. Whether they will be used correctly or in time to stop environmental damage is another question. It is said that the only success for controlling other forms of pollution have existed, in many cases, for years. They were not necessarily used, however, because use was conflicted with short-term economic goals. Probably it will require continued public vigilance and outrage to insure that oil pollution is prevented when the costs to the region of combustion, rather like a Wick does in a candle.

Methods of doing this is with cellulose glass beads. Developed by Corning, these SeaBeads were used to burn the slick residue off the shore from the spill on the Arrow of Nova Scotia, with good results. After burning, only a negligible amount of oil and the normal amounts required.

The pressure of this method would be required to cope with a major slick. Controlled burning might be such a method. Such burning remains to be used. The most likely future is use of the region of combustion, rather like a Wick does in a candle.

December 10, 1971

CONGRESSIONAL RECORD — SENATE
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based correctional facilities; for the creation of innovative programs of vocational training, job placement, and on-the-job counseling; to develop specialized curriculums; the training of educational personnel and the funding of research and demonstration projects; to provide financial assistance to encourage the States to adopt special probation services; to establish a Federal Corrections Institute; and for other purposes.

S. 2944

At the request of Mr. Buckley, the Senator from New Jersey (Mr. Williams), was added as a co-sponsor of S. 2944, a bill to amend section 112 of the Internal Revenue Code of 1954 to exclude from gross income the entire amount of the compensation of members of the Armed Forces of the United States and of civilian employees who are prisoners of war, missing in action, or in a detained status during the Vietnam conflict.

S. 2945

At the request of Mr. Buckley, the Senator from New Jersey (Mr. Williams), was added as a co-sponsor of S. 2945, a resolution to submit to the President of the United States to adopt special probation from gross income the entire amount of war, missing compensation at the rate he was receiving by law at the time of his death, said sum to be used by his personal representative to pay all taxes, legal fees, funeral expenses, and other allowances.

SENATE RESOLUTION 213—REPORT OF AN ORIGINAL RESOLUTION TO PAY A GRATUITY TO FRANCES J. BANGERT

(Ordered placed on the calendar:)

Mr. JORDAN of North Carolina reported the following resolution:

Calendar No. 640

S. Res. 213

Resolution to pay a gratuity to Frances J. Bangert

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Frances J. Bangert, widow of Richard H. Bangert, an employee of the Senate at the time of his death, a sum equal to one year's compensation at the rate he was receiving by law at the time of his death, and sum to be considered as funeral expenses and all other allowances.

SENATE CONCURRENT RESOLUTION 53—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO THE INTERNATIONAL ECONOMIC AND SOCIAL CONSEQUENCES OF ENVIRONMENTAL STANDARDS AND REGULATIONS

(Referred to the Committee on Foreign Relations.)

ENVIRONMENTAL PROTECTION AND INTERNATIONAL TRADE COMPETITION

Mr. WILLIAMS, Mr. President, today I submit a concurrent resolution to express the sense of the Congress that the 1972 United Nations Conference on the Human Environment consider the international economic and social consequences of environmental standards and regulations.

I submit the resolution on behalf of myself and the following Senators: Messrs. RANKOVICH, MUSKIE, CASE, BERNSTEIN, BURDICK, BYRD of West Virginia, CHURCH, COOPER, CRANSTON, HUGHES, HUMPHREY, JACKSON, JAVITS, KENNEDY, MAGNUSON, MANSFIELD, MCGOVERN, PELL, RINCONOFF, SFONG, and Tunney.

Mr. President, one of the most immense and most urgent tasks facing us today is the need to halt the continued degradation of our environment, and begin correcting the enormous damage which must be done to it.

And, this is perhaps the most universal problem we have, so universal that it transcends age differences, political philosophies, economic rivalries, and national boundaries.

It threatens, in fact, the health and well-being of every human on this planet, and in doing so gives us common ground to stand upon for perhaps the first time in history, for if the pollution trend is not reversed soon, many scientists tell us that the very existence of man on this earth could be in jeopardy.

I want to say right now that I am not among those who believe the human race is on the verge of suffocating in its own wastes.

I do believe that such a disaster is well within the realm of possibility. However, I also believe in our capacity to recognize this threat and do something about it.

Mr. President, throughout the world there is a rapidly growing awareness of the danger of pollution.

Along with it has come a ground swell of grassroots demand for effective solutions.

In this country, the environmental movement has become one of our most powerful political currents.

At every level of government there is now being felt a demand by the citizenry to take strong action to protect the environment.

At the local level, this demand is being answered by better land management, stricter enforcement of zoning regulations, and better regulation of human and industrial wastes.

At the State level, new environmental protection laws are being enacted, and strong economic penalties are being created to administer them.

And at the national level, Congress has in recent years enacted stringent antipollution standards.

There has also been established a unified Environmental Protection Agency which, hopefully, will be given the funds and the freedom to effectively implement the programs mandated by Congress.

One indication of the rise of environmental concern lies in the amount of environmentally oriented legislation we have recently dealt with.

The Legislative Reference Service reports that in the last Congress, one-fifth of all bills introduced addressed themselves in one way or another to preserving the environment.

Furthermore, of the total of 695 bills signed into law during the last Congress, 121 were environmentally oriented.

The trend has been the same during the current session.

This concern about the environment is also being manifested, in varying degrees, in most other industrialized countries throughout the world.

We have discovered that it is all too easy for the industry of a nation with aggressive environmental protection re-
quirements to be undercut by industries in nations with less stringent standards. The international nature of environmental degradation, and its importance of worldwide efforts to combat it, is, I think, self-evident.

A great American statesman, Adlai Stevenson, eloquently described the dilemma in these words:

We all travel together, passengers on a little spaceship, dependent on its vulnerable resources of air and soil; all committed for our safety to乘坐 columns of smoke from furnaces from annihilation only by the care, the work, and the love we give our fragile craft.

Certainly, from an environmental point of view, there is a very strong case to be made for international pollution control efforts.

However, any move in that direction will certainly founder on the rocks of reality if individual nations believe their efforts to fight pollution will place them at a serious trade disadvantage.

I think it is grossly counterproductive to penalize the nations which are trying hard to control pollution by allowing their industry to suffer in international competition.

Yet, this is precisely the situation we face today because of the lack of international environmental protection, and an effective mechanism to enforce them.

I am proud that the United States is moving to lead the way in many aspects of pollution control.

Due largely to strong antipollution measures enacted by Congress in the past few years, we are committed as a nation to restoring and preserving our environment.

However, this massive job carries with it a massive price tag—one that I feel Americans are willing to pay.

Federal officials estimate that American companies will spend some $18 billion over the next 5 years to meet pollution control requirements.

These expenditures may in large part be passed on to the rest of our country in the form of higher prices.

However, not every other industrialized country has moved as quickly as we have to impose strict regulations, thus raising the specter of unfair competitive advantage.

As a result, advantages that foreign producers may now enjoy can in many cases be further enhanced thereby improving the position of their products in this country in relation to our own domestically manufactured products.

In one particular industry—the steel industry—this situation has been painfully apparent.

Last year alone, American steel companies invested more than $166 million in pollution control facilities.

During the last 5 years, this investment has totaled nearly $465 million.

In addition, the cost of operating and maintaining this equipment comes to about 12 percent of its original cost.

Furthermore, one of the American steel industry's chief competitors—the Japanese steel industry—has not yet been required to make such a massive investment.

As a result, the Japanese producers do not have that additional expense to compute in their cost-of-production figures.

Their prices in the international market reflect these production costs, and have helped place American producers at a competitive disadvantage.

Mr. President, it is clear that we must commit ourselves in no uncertain terms to cleaning up our national environment.

But it is just as clear that a nation in which some $5 million workers cannot find jobs, simply cannot afford to ignore the international trade implications of environmental protection.

The answer, I believe, lies not in lowering our own standards, but rather in encouraging other nations to agree to equally high requirements, and insofar as possible, a unified approach.

This is the thrust of the resolution I have introduced today.

During the coming months, the United States will be formulating its official position for the Stockholm Conference.

And, the agenda for that Conference will be more firmly established during this time.

To this date, there is nothing in the Conference agenda, or in the initial U.S. position, that specifically deals with international environmental protection standards designed at least in part to preclude international trade disadvantages.

In my judgment, such standards are essential if we are to effectively combat pollution on the international scale required.

They will help insure that one nation's waste does not become another's pollution problem; they will help win acceptance for pollution control measures from manufacturers who might otherwise fear being placed at a competitive disadvantage; and they will remove the possibility that those nations doing most to control pollution might be penalized for their efforts.

It is entirely appropriate for the Congress to direct our delegates to the United Nations Conference to propose a plan for such worldwide standards, and I thus commend this resolution to Senators consideration.

Mr. President, I ask unanimous consent that the text of the concurrent resolution be printed in the Record at the conclusion of my remarks.

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

Whereas the General Assembly of the United Nations, by its resolution on November 3, 1968, to convene a Conference on the Human Environment in Stockholm, Sweden in June 1972, to emphasize the importance and urgency of environmental problems and to identify those aspects of these problems that can be solved through international cooperation and agreement,

Whereas the General Assembly of the United Nations has proclaimed the International Development Decade beginning on January 1, 1971, suggesting that Governments intensify national and international efforts to combat the deterioration of the Human Environment and to take measures toward its improvement,

Whereas environmental improvement activities may have significant implications for the social and economic functions of individual nations;

Whereas strict environmental standards and regulations may not be agreed to by all nations thereby increasing the possibility of international trade disadvantages; and

Whereas the possibility of adverse impact on trade regulations may inhibit the international acceptance of such standards and regulations;

Resolved, (1) That those delegates to represent the United States of America at the International Conference in Stockholm advocate and support multilateral accords to achieve standards and regulations of pollution control enforceable by the United Nations or multilateral economic sanctions;

(2) That such accords include mechanisms to assist the efforts of the developing nations in meeting such standards and regulations;

(3) That such accords be formulated and proposed to the 1972 United Nations Conference on the Human Environment by the delegates representing the United States of America.

Mr. CASE. Mr. President, as one of two Senate Members of the U.S. delegation to the United Nations Conference on Human Environment in Stockholm next year, I am happy to join in sponsoring this resolution which gives congressional support to the objectives I intend to seek at the conference.

The resolution expresses the sense of Congress that the Stockholm Conference should consider the international economic and social consequences of environmental standards and regulations.

It has long been my position that as we work to protect our own environment we must also consider the social and economic effects of these efforts. This is true of efforts made on a national basis and it is even more true of those made on an international basis, particularly in regard to the social and economic effects on underdeveloped nations.

Attempts to limit the use of DDT and other harmful pesticides, for example, are bound to fail unless we can provide adequate substitutes to control destruction of their food supplies or other waste cause the hardships that might be caused.

Pollution is the special product of any society which places a high value on the production of goods and has the means to provide those goods in abundance.

This means the developed nations of the world are the largest contributors to the pollution of the earth's environment.

As such, they have a special obligation to bring it under control and to assist the underdeveloped nations, as they increase their living standards, to guard against a corresponding increase in pollution.

I believe this responsibility and I believe it would lend support to those of us who will represent the United States at the Stockholm conference.

SENATE CONCURRENT RESOLUTION 54—SUMMISSION OF A CONCUR­RENT RESOLUTION RELATING TO THE PRINTING OF ADDITIONAL COPIES OF HEARINGS ENTITLED "WAR POWERS LEGISLATION" (Referred to the Committee on Rules and Administration.)
Mr. FULBRIGHT submitted the following concurrent resolution:

S. Con. Res. 64

Resolved by the Senate (the House of Representatives concurring), That there be printed for the use of the Senate Committee on Foreign Relations five thousand additional copies of the hearing entitled “War Powers Legislation” held before the Senate Committee on Foreign Relations.

ADDITIONAL COSPONSORS OF A CONCURRENT RESOLUTION

S CENATE CONCURRENT RESOLUTION 45

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Senator from Nevada (Mr. CANNON), the Senator from Wyoming (Mr. HANSEN), the Senator from Washington (Mr. JACKSON), the Senator from Iowa (Mr. MURUS), the Senator from Rhode Island (Mr. PASTORE), the Senator from Virginia (Mr. SPORO), and the Senator from Vermont (Mr. STAFFORD), be added as cosponsors to this concurrent resolution:

Sec. 45. For United Nations Charter review. This brings the total of cosponsors to 68—along with me making 69 Senators on this resolution.

The PRESIDENTIAL CLERK. Without objection, it is so ordered.

ADDITIONAL COSPONSORS OF A RESOLUTION

S CENATE RESOLUTION 203

At the request of Mr. HATFIELD, the Senator from Maryland (Mr. MATTHIAS) was added as a cosponsor of Senate Resolution 203, to express the sense of the Senate that U.S. fishing industry representatives be included in the U.S. delegation to the 1973 United Nations Law of the Sea Conference.

TRANSPORTATION OF GOVERNMENT TRAFFIC BY CIVIL AIR CARRIERS—AMENDMENT

AMENDMENT No. 787

(Ordered to be printed and referred to the Committee on Banking, Housing and Urban Affairs.)

Mr. BROOKS. Mr. President, earlier this fall, that distinguished Senator from Minnesota (Mr. MONDALE) and I announced our intention to introduce legislation designed to expand and simplify existing housing programs. At that time I placed in the Record a summary of the intent of this proposed legislation so that it could be reviewed and discussed during the hearings then being conducted by the Housing Subcommittee of the Committee on Banking, Housing and Urban Affairs. Today, along with Senator MONDALE, I am introducing the actual legislation in the form of two measures to be known collectively as the Housing Reform Amendments Act of 1971. By so doing we hope to build on the much-needed consolidation and simplification efforts already undertaken by the administration in S. 2049. Our overriding interest as we seek to effectively merge the present array of housing assistance programs must continue to center around the alternative that makes these programs more responsive to the needs of families who cannot afford housing within the private market. Moreover, after all, we must realistically come to grips with the problems facing developers and sponsors of such housing.

During the past 35 years, we have seen an emerging recognition of nationwide need for safe and decent housing designed to serve those who have been penalized by the private market. In response, Congress has adopted a number of important and far-reaching programs over these years in an effort to address this need. However, these programs were enacted on an ad hoc basis, with the predictable development of a fragmented, complicated, and too-often confused national housing assistance policy.

Many of these impediments can be traced to the failure of former programs to meet specific needs and to the adoption of a variety of approaches, each with its own eligibility requirements, definitions, restrictions, and regulations. The resulting situation in the area of housing remains chiefly characterized by a lack of uniformity of requirements and gaps in coverage while confusing and often confusing requirements continue to unecessarily hamper developers and sponsors who are attempting to produce sufficient housing to adequately accommodate the needs of low- and moderate-income families.

More important, we cannot ignore the impact that this patchwork of programs has had on the families that have attempted to find adequate and safe housing. A great many families have been failed by our fragmented system designed to meet all needs of shelter. We, under the current law, we may be eligible to rent an apartment in one building where income is less than the other, inadequate to rent a building built under one Federal program but ineligible for a housing program constructed under a different Federal program. An even greater explanation is needed for those needy families who must be told that they will be denied the benefits of all Federal programs simply because they do not fall under the specific eligibility criteria of any program. We cannot continue to allow varying definitions, definitions of income, income limits, and eligibility requirements to frustrate our efforts to provide effective Federal housing assistance for all people of clearly demonstrated need.

Another set of impediments, generated in part by this fragmentation of programs, centers around the isolation and segregation of families on the basis of their incomes. Public housing has become poor people’s housing while other programs have excluded the lowest income families and served only a narrow range of moderate-income families. An even more unfortunate ramification of this approach is that in these areas, where one race or another makes up the lowest income group. In these areas, a federally assisted housing program can become an unwitting accomplice to the perpetuation of de facto racial segregation. Only recently has this issue been raised in our Federal courts. The judicial response to date has amplified the chaos of Negroes and whites separated under the auspices of a Federal government program.

Another undesirable ramification of income segregation is the highly endangered economic and social viability of the project. How much longer can we ignore the compilation of evidence coming from projects that continue to isolate the
lowest income and problem families needing the heaviest support services. How many more Pruitt-Igoe's will it take before we decide to do something about the problem? Even in moderate income projects, narrow ranges of eligibility, coupled with increasing construction costs, are bound to jeopardize their economic feasibility.

The Administration's proposal, S. 2049, the Housing Consolidation and Simplification Act of 1971 is, in my estimate, a step in the right direction. It proposes to rewrite the National Housing Act and thereby reduce the number of programs administered by the Federal Housing Administration. However, its focus is on nonassisted programs. If passed as introduced, S. 2049 would maintain the differences now existing between public housing and FHA-assisted low and moderate-income programs.

Mr. President, Senator Mondale and I believe that the Housing Reform Amendments Act, building on the initiatives of S. 2049, will do much to alleviate the problems that I cited above. We believe that by establishing a unified housing policy, eliminating housing income limits, and allowing the local rent income patterns. However, each project or program would be required to maintain an average rent income ratio of at least 20 percent. This is designed to encourage occupancy income limits. As family income increased, the rent would also increase to the point where the family would be able to pay the full market rent for the unit.

Mr. President, the other major component in the program is the subsidy formula. In essence the single subsidy formula combined the difference between total costs—debt service, management, maintenance, and operational costs, real estate taxes, tenant services—and total revenues—rents and other income.

This flexible formula is, in essence, the same as that which is now used in the public housing program as a result of amendments which the distinguished Chairman of the Housing Subcommittee (Mr. Sparkman) and I introduced in 1968 and 1966. What is proposed in the housing reform amendments is an extension of the principle of some of these concepts to the FHA programs. These programs now contain a minimum rent requirement that restricts FHA program sponsors from instituting adequate management and services programs.

Mr. President, there are a number of other features of the housing reform amendments that I would like to summarize briefly. First, the existing FHA homeownership assistance program would be similarly standardized and expanded to permit assistance to cover total debt service; it is now limited to the difference between a market rate mortgage and a 1 percent mortgage on the same property. Also the homeownership counseling program—section 237—would be maintained.

Second, the act would create a new program to assist in the refinancing of existing properties in conjunction with local programs aimed at neighborhood preservation. The purpose of this provision is to bring about the rehabilitation of many structurally sound buildings has been the unavailability of private mortgage money to refinance these properties. For too long we have ignored the basic desirability of neighborhood preservation. Abandoned housing is rapidly reaching epidemic proportions in many of our urban areas. These provisions would be the first step to reverse this eroding influence. Likewise the bill increases the authorization for the section 312 rehabilitation loan program to $150 million annually in an attempt to provide additional direct Federal assistance in rehabilitating existing structures.

Third, the act provides for special incentives to encourage the development of federal housing. A program of public service grants would be established to help offset any increases in public service requirements as a result of new federally assisted housing. Thus grants could run for 10 years and not exceed $250 per unit annually except for units designed for large families where the grant could run up to $400 annually.

In a selected area the measure would provide that new public agency housing pay full local real estate taxes. Under existing law, public housing projects usually make a payment in lieu of taxes, which is inadequate to finance the range of public services required. This requirement has proven to be a handicap to the location of public housing in many communities.

Fourth, the act would put in motion a program to identify "housing emergency areas" and provide direct Federal provision of housing in these areas. These "housing emergency areas" would be defined as areas where a substantial number of low and moderate-income families reside or work, who need housing, and where there is no sponsor willing to provide such housing.

Fifth, the housing reform amendments would revise and update the national housing goals. The Secretary of HUD would be authorized to encourage the establishment of State and local housing goals to provide a base for determining material housing requirements. Such State and local goals would also include actions necessary to maintain the existing housing stock. Specific annual needs for the subsidized housing on a 5-year basis would be included.

This section would also provide for the periodic updating of the national housing goals and provide that these goals be based on national data, State, and local housing goals, and community development needs—relocation and replacement housing. Likewise, this section would require the Secretary to justify all authorization and appropriation requests for assisted housing programs in terms of the established assisted housing goals. Seventy-five million dollars would be authorized to fund the annual goals report and to assist in preparing local and State goals.

Sixth, the demonstration housing allow­ance program which was adopted as a part of last year's Housing and Urban Development Act would be retained to provide a base for determining general material housing needs. The authorization for the program would be increased to $25 million annually in each year of the authorization.

While my initial suggestions of a housing allowance program met with considerable resistance, I have seen mounting evidence that the tide is changing. As we move closer to meaningful welfare reform, I am confident that we will see an increasing focus of attention on this concept. The time to prepare for this attention is now, in order that we may move forward with the best possible program at the appropriate time.

In summary, Mr. President, the housing reform amendments bill which I am introducing today addresses the need for strengthening Federal housing assistance at five key points where experience demonstrates it now requires improvement.

In the first instance, uniformity of occupancy requirements among all programs will go a long way toward stimulating housing production by eliminating administrative burden and confusion or consternation for the Federal Government, the housing developer, the public agency, the non-profit sponsor and the family to be assisted.
In the second instance, unfair discrimination against those families requiring housing assistance but ineligible under the present fragmentation of assistance programs might be rejected by an individual. Many combination programs would insure that social and economic problems would be minimized, and that changing local conditions could be accommodated without disastrous default and collapse.

Fourth, the establishment of the requirement for local and State housing goals would provide a needed input into the development of national housing goals and into the levels of Federal funding for housing assistance. At the same time, local goals would become the basis for housing allocations to local areas.

Finally, Mr. President, I believe that the Housing Reform Amendments Act will move us toward the position of encouraging area-wide housing development. It is clear by now that meaningful housing that is truly connected in area and design is expanding the area of community, must transcend the limits of local planning.

Mr. President, the measures that I have outlined need a fundamental reconsideration of past practices and procedures. But the problems that I have outlined are stark and cannot be continued as they are. Any continuation is subject to the evident and efficient use of our Federal resources. Commitment is no longer enough to see us through. We must move forward with confidence based on a realistic assessment of the past. I ask unanimous consent that the full text of these amendments along with a summary thereof be printed in full at this point in the Record.

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

**AMENDMENT NO. 786**

On page 5, beginning with line 16, strike through page 6, and insert in lieu thereof the following:

Sec. 3. (a) The Secretary shall not insure a mortgage executed by the occupant of a dwelling unit in a cooperative project the project the cooperative producer has decided to refinance an existing mortgage on that dwelling.

(b) The Secretary shall determine procedures and limits in the area, (c) the application of good design practices and summaries were ordered to secure financing in the area, (d) the sum of (A) 120 per centum of the difference between the fair market value of the property attributable to the cooperative project in the area, and (B) the appraised value of land and the actual cost of site improvements, except that the Secretary may insure a mortgage for a greater amount on an individual case basis if he determines that the part-time insurance is subject to avoidable or unforeseeable cost increases.

(b) The Secretary shall determine procedures and limits in the area, except that (1) his estimate of the construction costs of cooperative producers shall be based on estimates of different types and sizes, (2) the extra durability required for economical maintenance of such housing, (3) the provision of amenities designed to guarantee safe and healthy family life and neighborhood environment, (4) the provision of a transportation component of such housing and maintenance of quality in architecture to reflect the standards of the neighborhood and (5) the effectiveness of existing mortgage limits in the area, and (6) the advice and recommendations of local housing producers.

(c) As used in this section the term "construction costs" means the cost items which are normally reflected in the amount of a home mortgage or multifamily mortgage insured under section 402 or section 502, except the costs of land and site improvements.

(d) On page 9, line 23, before the semicolon insert the following: "and home mortgages insured under section 402 and 502 shall be refinanced without the Secretary's approval of the cooperative project or the cooperative producer, if the Secretary determines that the mortgage would not reduce the amount of any rent increase (or any increase in charges to the members of the cooperative producer, he may extend such terms.

(e) Nothing in this section shall be construed to preclude the insurance of mortgages involving multifamily units to be made available to low or moderate income families, or which involve a change in the management or manner of operation of a project.

On page 26, beginning with line 1, strike out page 23 and insert in lieu thereof the following:

**HOMESTEAD ASSISTANCE**

**Sec. 402.** (a) For the purpose of assuring lower income families in acquiring homeowner or in acquiring ownership of a dwelling unit in a cooperative project, the Secretary is authorized to make, and to contract to make, payments on behalf of such homeowners and cooperative unit owners. The assistance shall be accomplished through payments to mortgagees holding mortgages for such units meeting the requirements specified in this section.

(b) To qualify for assistance payments, the homeowner or the cooperative unit owner shall be of lower income and satisfy eligibility requirements prescribed by the Secretary.

(c) (1) The homeowner shall be a mortgagor under a mortgage which meets the requirements of and is insured under this section.

(d) The owner of a dwelling in a cooperative project shall be a mortgagor under a mortgage which meets the requirements of and is insured under this section; such dwelling unit shall be in a cooperative housing project the cooperative producer has decided to refinance or acquisition of which has been financed with a mortgage insured under section 501 of the Revised National Housing Act and which has been completed within two years prior to the filing of the application for assistance payments and the dwelling unit has not had any previous payments on behalf of another mortgagor other than the mortgagor or which is an existing project insured under section 213, section 301 of the National Housing Act, or receiving the benefit of section 101(a) of the Housing and Community Development Act of 1971 which is a rental project financed under the United States Housing Act of 1937, and such units in the cooperative project are to be sold to tenants in units of 3 or more for less than fair market values or in which the community is planning for neighborhood preservation, conservation, or rehabilitation, and (B) the property is basically sound or capable of repair without substantial rehabilitation.

On page 10, line 4, before the semicolon insert the following: "and project mortgages insured under section 501 (1)"

On page 33, between lines 4 and 5, insert the following:

(A) In order to avoid or reduce the amount of any rent increase to the members of the cooperative producer, he may extend such terms.

(B) To avoid or reduce the amount of any rent increase to the members of the cooperative producer, he may extend such terms.

(C) Provide for complete amortization by periodic payments within such term as the Secretary may prescribe.

(D) No mortgage shall be insured under paragraph 1 unless the Secretary determines that (A) the property to be refinanced is located in a neighborhood which is subject to unavailing or unforeseeable cost increases.

(E) The Secretary shall determine procedures and limits in the area, with respect to a mortgage or part thereof on a home or a cooperative housing project which is insured under this section, and conditions that will continue to provide community facilities for the owners of such units,

Provided, that the cooperative producer is making consumer-oriented assistance payments and assistance payments under this section:

Provided, that the cooperative project is making consumer-oriented assistance payments and will continue to provide community facilities for the owners of such units, and that the cooperative producer is making consumer-oriented assistance payments and will continue to provide community facilities for the owners of such units.

Except that assistance payments may be made on behalf of otherwise eligible families with respect to a mortgage or part thereof on a home or a cooperative housing project which is insured under this section, upon the recommendation of the Secretary, and assistance payments may also be made on behalf of a home owner or owner of a dwelling unit in a cooperative project which is insured under this section and which occupies the property, where the mortgagor has made assistance payments, as defined in section 501 of the Revised National Housing Act which has been completed within two years prior to the filing of the application for assistance payments and the dwelling unit has not had any previous payments on behalf of another mortgagor other than the mortgagor or which is an existing project insured under section 213, section 301 of the National Housing Act, or receiving the benefit of section 101(a) of the Housing and Community Development Act of 1971 which is a rental project financed under the United States Housing Act of 1937, and such units in the cooperative project are to be sold to tenants in units of 3 or more for less than fair market values.
made with respect to dwelling units in exist­
ing projects occupied by displaced families as defined in section 221(f) of the National
Home ownership assistance plan. Five or more
persons without regard to the
limitations of this paragraph.
(2) The difference between the amount of the
monthly payment for principal, interest, taxes, insurance, and
mortgage insurance premiums paid by the mortgagor and that
necessary payment for principal, interest, taxes, insurance, and
mortgage insurance premiums, except that the mortgagor shall be required to
make payments in an amount which shall not be less than the sum of the monthly
payment for principal, interest, taxes, insurance, and
mortgage insurance premiums.
(e) The Secretary may include in the pay­
ment to the mortgagor such amount, in addi­
tion to the amount computed under subsec­
tion (a), as he determines to be necessary to
reimburse the mortgagor for its expenses in handling the
mortgage.
(f) The amount of any payment made
by the Secretary for recertification of the mort­
gagor's income at intervals of two years (or at
shorter intervals if the mortgagor deems it desir­
able) for the purpose of adjust­
ing the amount of such assistance pay­
ments, shall be determined in the manner described in subsection (e). (g) No assistance payments shall be made
under this section unless the Secretary is satisfied that the mortgagor's resi­
dential income is sufficient to pay normal utility and maintenance costs.
(h) The Secretary shall prescribe such
regulations as he deems necessary (1) to
ensure that the sales price of, or other con­
sideration paid in connection with, the
purchase of any cooperative or cooperative unit of the mortgagor with respect to which assistance payments are to be made is not increased above the appraised value on which the maximum mortgage which the Secrec­
tary will insure is computed, and (2) to provide for the adjustment of any
principal payment for principal, interest, taxes, insurance, and
mortgage insurance premiums, or other lesser amount as the Secretary determines to be equitable taking into account the circumstances sur­
rounding such sale or disposition.
(i) There are authorized to be appro­
priated such sums as may be necessary to carry out the provisions of this section, in­
cluding such sums as may be necessary to make the assistance payments under con­
traints that any aggregate amount of outstanding contracts to which this section relates shall not exceed $3,600,000,000 (subject to paragraph (1) of subsection (1)), and that the total amount of outstanding contracts to which this section relates shall not exceed $37,500,000,000 per annum prior to July 1, 1972, for which maximum dollar amount shall be increased by $135,000,000 on July 1, 1969, by $180,000,000 on July 1, 1970, by $200,000,000 on July 1, 1971, by $250,000,000 on July 1, 1972, by $300,000,000 on July 1, 1973, and by $350,000,000 on July 1, 1974. Where the term of any mortgage which is a part of a package of mortgages shall exceed that of the maximum mortgage which the Secretary will insure by more than one year, the term of such mortgage shall be adjusted to be not less than a principal payment for principal, interest, taxes, insurance, and
mortgage insurance premiums, or other lesser amount as the Secretary determines to be equitable taking into account the circumstances sur­rounding such sale or disposition.
(j) The term "manhouse" shall mean a
one-family unit in a cooperative or con­
dominium, and shall include in the pay­
ment for principal, interest, taxes, insure­
ance, and mortgage insurance premiums
of the mortgagee such amount, in
addition to the amount computed under subsection (b), as the Secretary determines to be equitable taking into account the circumstances sur­rounding such sale or disposition.
(k) The term "single-family dwellings" shall mean a
one-family unit in a cooperative or con­
dominium, and shall include in the pay­
ment for principal, interest, taxes, insure­
ance, and mortgage insurance premiums
of the mortgagee such amount, in
addition to the amount computed under subsection (b), as the Secretary determines to be equitable taking into account the circumstances sur­rounding such sale or disposition.
(l) The term "single-family dwellings" shall mean a
one-family unit in a cooperative or con­
dominium, and shall include in the pay­
ment for principal, interest, taxes, insure­
ance, and mortgage insurance premiums
of the mortgagee such amount, in
addition to the amount computed under subsection (b), as the Secretary determines to be equitable taking into account the circumstances sur­rounding such sale or disposition.
(m) The term "single-family dwellings" shall mean a
one-family unit in a cooperative or con­
dominium, and shall include in the pay­
ment for principal, interest, taxes, insure­
ance, and mortgage insurance premiums
of the mortgagee such amount, in
addition to the amount computed under subsection (b), as the Secretary determines to be equitable taking into account the circumstances sur­rounding such sale or disposition.
amount not exceeding the difference between the monthly payment for principal, interest, taxes, and mortgage insurance premium which the mortgagor is obligated to pay under the mortgage and the monthly payment for interest, taxes, and mortgage insurance premium which, the mortgagor is obligated to pay under the mortgage.

(k) The Secretary is authorized to provide, or contract with public or private organization to provide, such budget, debt, management, and related counseling services to mortgagors whose mortgages are insured under this National Housing Act, or Project Improvement, and is financed under a State or local program providing assistance through loans, loan guarantees, or tax credits, that involves either new or existing construction which is approved for receiving the benefits of this section with respect to all or part of the project.

(l) The amount of any assistance payment with respect to a project to which subsection (j) applies shall be paid, to the Secretary by a private nonprofit corporation or other private nonprofit entity, a limited dividend corporation or other limited dividend entity, or a public nonprofit corporation, which has been designated by the Secretary, and is financed under a State or local program providing assistance through loans, loan guarantees, or tax credits, that involves either new or existing construction which is approved for receiving the benefits of this section with respect to all or part of the project.

(m) The Secretary may include in the payment to the mortgagor such amount, in addition to the amount computed under subsection (d) of this section, that shall be reimbursed to the mortgagor for its expenses in handling the mortgage.

(n) As a condition for receiving the benefits of assistance payments under this section, the project owner shall operate the project in accordance with such requirements with respect to tenants and expenditures as the Secretary may prescribe. Procedures shall be adopted by the Secretary for review of tenant expenses at intervals of two years (or at shorter intervals where the Secretary deems it desirable).

(o) For each dwelling unit there shall be established with the approval of the Secretary:

(A) an operating rental charge determined on the basis of the operating project with payments on principal, interest, mortgage insurance premiums, and any other expenses that the mortgagor is obligated to pay under the mortgage covering the project.

(B) The rental for each unit shall be based on the amount determined by the locality, or by the sponsor in any case where local rates are not available, and approved by the Secretary for the project. In determining such rates, such factors as family income, size of family, and prevailing income patterns in the community shall be considered, except that (A) in no case shall a family pay a rental which exceeds 25 per centum of its net income, and (B) the average rental charged to project shall not be less than 20 per centum, except that beginning two years after the date of enactment of this Act, any family which is receiving a majority of its income under a federally-assisted public assistance program shall pay a rental charge based on the operating charge established under paragraph (1) of this subsection.

(p) The project owner shall, as required by the Secretary, and periodically pay to the Secretary all charges collected in excess of those charges described in subparagraph (B) of this paragraph, that arise out of the project, and which includes lease, or rental, or tax, or other debt service charges, for the entire project, or any portion thereof.

(q) The Secretary may, in his discretion, prescribe the use of any funds collected out of the project, or any portion thereof, as required by the Secretary, as he may provide in the case of such mortgage, including such sums as may be necessary to make assistance payments under contracts entered into under this subsection.

(r) The Secretary may prescribe the use of any funds collected out of the project, or any portion thereof, as required by the Secretary, as he may provide in the case of such mortgage, including such sums as may be necessary to make assistance payments under contracts entered into under this subsection.

(s) The Secretary may prescribe the use of any funds collected out of the project, or any portion thereof, as required by the Secretary, as he may provide in the case of such mortgage, including such sums as may be necessary to make assistance payments under contracts entered into under this subsection.

(t) The Secretary shall make such regulations to assure that the availability of funds in any new project shall be published, along with a range of rents, and the Secretary shall prescribe the use of any funds collected out of the project, or any portion thereof, as required by the Secretary, as he may provide in the case of such mortgage, including such sums as may be necessary to make assistance payments under contracts entered into under this subsection.

(u) The Secretary shall, at intervals of two years (or at shorter intervals where the Secretary deems it desirable), establish an operating charge for each unit of rental housing project receiving assistance under this section, subject to limits approved by the committee of the Senate or in the case of the House of Representatives, as the case may be.

(v) The Secretary shall, at intervals of two years (or at shorter intervals where the Secretary deems it desirable), establish an operating charge for each unit of rental housing project receiving assistance under this section, subject to limits approved by the committee of the Senate or in the case of the House of Representatives, as the case may be.

(w) The Secretary shall, at intervals of two years (or at shorter intervals where the Secretary deems it desirable), establish an operating charge for each unit of rental housing project receiving assistance under this section, subject to limits approved by the committee of the Senate or in the case of the House of Representatives, as the case may be.

(x) The Secretary shall, at intervals of two years (or at shorter intervals where the Secretary deems it desirable), establish an operating charge for each unit of rental housing project receiving assistance under this section, subject to limits approved by the committee of the Senate or in the case of the House of Representatives, as the case may be.
shall not exceed 90 per cent of the amount otherwise authorized under this section.

(3) Such a loan or mortgage insured under this subsection which involves a mortgagor other than a cooperative, a public agency or a private nonprofit corporation or association which is sold to a cooperative or a nonprofit corporation or association, the Secretary is further authorized to approve a mortgage insured under this subsection in a loan amount not exceeding the appraised value of the mortgage property from the lien of the mortgage, upon such terms and conditions as he may prescribe, and the mortgage may be insured as a cooperative and any necessary payments of all operating expenses, these are required to serve.

(4) With the approval of the Secretary, the mortgagor may sell the individual dwelling units to eligible lower income purchasers. The Secretary shall establish, in respect to the sale of the mortgagor from his liability under the mortgage and the credit instrument secured thereby, or to third parties, as a cooperative and the mortgagor’s interest, a mortgage with the proceeds of the mortgagor property from the lien of the mortgage, upon such terms and conditions as he may prescribe, and the mortgage may be insured as a cooperative and any necessary payments of all operating expenses, these are required to serve.

(5) For the purpose of this section—

(a) The term "tenant" includes a member of a tenant association as defined in subsection (2) of paragraph (b) of this section: 

(b) Assistance payments with respect to a project shall only be made during such period for which the mortgagor or mortgagor entity, or a cooperative in which is approved by the Secretary, may be made, and such payments may be made, in accordance with the regulations, and procedures adopted by the Secretary under this section, with respect to a project which has been approved by the Secretary, or which is the object of a contract approved by the Secretary under this section. The aggregate amount of assistance payments made to persons or entities under this section, including the aggregate amount of assistance payments made to persons or entities under this section, shall not exceed the aggregate amount of assistance payments made to persons or entities under this section.

(c) The amount of any assistance payment by the Secretary on behalf of a project owner shall not exceed the difference between total costs attributable to the project (principal, interest, mortgage insurance premium, taxes, utilities, maintenance, management, and operating costs (including appropriate tenant services approved by the Secretary)) and the total revenues accruing to the project from the cooperative charges, other fees, and charges collected by the mortgagor in connection with on-residential tenants, interest or any direct project investments and other income to the mortgagor or mortgagor entity. The Secretary may, from time to time, amend any contract for such payments as may be necessary to reflect changes in project costs or revenues.

(d) The Secretary may include in the mortgage the amount of assistance payments under paragraph (3) of this subsection, as he deems appropriate to reimburse the mortgagor for its expenses in handling the mortgage, or the Secretary may not include any assistance payments under paragraph (3) of this subsection.

(e) As a condition for receiving the benefits of assistance payments, the project owner shall, as required by the Secretary and the Secretary may prescribe. Procedures shall be adopted by the Secretary for review of tenancy or a Mortgage supervised by the Secretary under this section, or in the case of a cooperative, a public agency or a private nonprofit corporation or association which is sold to a cooperative or a nonprofit corporation or association, the Secretary is further authorized to approve a mortgage insured under this subsection in a loan amount not exceeding the appraised value of the mortgage property from the lien of the mortgage, upon such terms and conditions as he may prescribe, and the mortgage may be insured as a cooperative and any necessary payments of all operating expenses, these are required to serve.

(1) The Secretary is authorized to enter into agreements with any State or agency having such authority under which such agreements may be approved by the Secretary under this section or in the case of a cooperative, a public agency or a private nonprofit corporation or association which is sold to a cooperative or a nonprofit corporation or association, the Secretary is further authorized to approve a mortgage insured under this subsection in a loan amount not exceeding the appraised value of the mortgage property from the lien of the mortgage, upon such terms and conditions as he may prescribe, and the mortgage may be insured as a cooperative and any necessary payments of all operating expenses, these are required to serve.

(2) The rental for each unit shall be based on local rent-to-income ratios, determined by the locality, or by the sponsor in any case where local ratios are not available, and approved by the Secretary for the project. In determining such ratios, such factors as family income, size of family, and prevailing income patterns in the community shall be considered, except that (A) in no case shall a family pay a rental which exceeds 25 per centum of its net income, and (B) the average local area-median income shall be no less than 20 per centum, except that beginning two years after the date of enactment of this Act, and until a majority of its income under a federally-assisted public assistance program in such area.

The amount of any assistance payments under paragraph (3) of this subsection, as he deems appropriate to reimburse the mortgagor for its expenses in handling the mortgage, or the Secretary may not include any assistance payments under paragraph (3) of this subsection.

(1) The Secretary shall require, in the case of any new project that, at least 20 per cent of the units initially be made available for very low family incomes. The Secretary shall also prescribe regulations to implement this provision, new units shall be available for low-income families on a pro rata basis. The requirements of this paragraph may be waived by the Secretary in any case in which he determines that the project cannot meet such requirements or that the project was not intended to carry out the purpose of such requirements.

(2) The Secretary shall prescribe regulations to ensure that the availability of units is carried out in accordance with a range of rentals, in a daily newspaper of general circulation in the area in which the project is located, and that the project is located in a standard metropolitan statistical area, in a newspaper which serves the area. The Secretary shall prescribe regulations to ensure that the availability of units is carried out in accordance with a range of rentals, in a daily newspaper of general circulation in the area in which the project is located. The project is located in a standard metropolitan statistical area, in a newspaper which serves the area.

(3) For the purpose of this subsection, the term "very low family income" means any family with respect to which assistance payments may be made under paragraph (3) of subsection (b) of section 602 of this Act.

(1) The Secretary is authorized to enter into agreements with any State or agency having such authority under which such agreements may be approved by the Secretary under this section or in the case of a cooperative, a public agency or a private nonprofit corporation or association which is sold to a cooperative or a nonprofit corporation or association, the Secretary is further authorized to approve a mortgage insured under this subsection in a loan amount not exceeding the appraised value of the mortgage property from the lien of the mortgage, upon such terms and conditions as he may prescribe, and the mortgage may be insured as a cooperative and any necessary payments of all operating expenses, these are required to serve.

(2) The rental for each unit shall be based on local rent-to-income ratios, determined by the locality, or by the sponsor in any case where local ratios are not available, and approved by the Secretary for the project. In determining such ratios, such factors as family income, size of family, and prevailing income patterns in the community shall be considered, except that (A) in no case shall a family pay a rental which exceeds 25 per centum of its net income, and (B) the average local area-median income shall be no less than 20 per centum, except that beginning two years after the date of enactment of this Act, and until a majority of its income under a federally-assisted public assistance program in such area.

The amount of any assistance payments under paragraph (3) of this subsection, as he deems appropriate to reimburse the mortgagor for its expenses in handling the mortgage, or the Secretary may not include any assistance payments under paragraph (3) of this subsection.

(1) The Secretary shall require, in the case of any new project that, at least 20 per cent of the units initially be made available for very low family incomes. The Secretary shall also prescribe regulations to implement this provision, new units shall be available for low-income families on a pro rata basis. The requirements of this paragraph may be waived by the Secretary in any case in which he determines that the project cannot meet such requirements or that the project was not intended to carry out the purpose of such requirements.

(2) The Secretary shall prescribe regulations to ensure that the availability of units is carried out in accordance with a range of rentals, in a daily newspaper of general circulation in the area in which the project is located, and that the project is located in a standard metropolitan statistical area, in a newspaper which serves the area. The requirements of this paragraph may be waived by the Secretary in any case in which he determines that the project cannot meet such requirements or that the project was not intended to carry out the purpose of such requirements.

(3) For the purpose of this subsection, the term "very low family income" means any family with respect to which assistance payments may be made under paragraph (3) of subsection (b) of section 602 of this Act.

(1) The Secretary is authorized to enter into agreements with any State or agency having such authority under which such agreements may be approved by the Secretary under this section or in the case of a cooperative, a public agency or a private nonprofit corporation or association which is sold to a cooperative or a nonprofit corporation or association, the Secretary is further authorized to approve a mortgage insured under this subsection in a loan amount not exceeding the appraised value of the mortgage property from the lien of the mortgage, upon such terms and conditions as he may prescribe, and the mortgage may be insured as a cooperative and any necessary payments of all operating expenses, these are required to serve.

(2) The rental for each unit shall be based on local rent-to-income ratios, determined by the locality, or by the sponsor in any case where local ratios are not available, and approved by the Secretary for the project. In determining such ratios, such factors as family income, size of family, and prevailing income patterns in the community shall be considered, except that (A) in no case shall a family pay a rental which exceeds 25 per centum of its net income, and (B) the average local area-median income shall be no less than 20 per centum, except that beginning two years after the date of enactment of this Act, and until a majority of its income under a federally-assisted public assistance program in such area.

The amount of any assistance payments under paragraph (3) of this subsection, as he deems appropriate to reimburse the mortgagor for its expenses in handling the mortgage, or the Secretary may not include any assistance payments under paragraph (3) of this subsection.

(1) The Secretary shall require, in the case of any new project that, at least 20 per cent of the units initially be made available for very low family incomes. The Secretary shall also prescribe regulations to implement this provision, new units shall be available for low-income families on a pro rata basis. The requirements of this paragraph may be waived by the Secretary in any case in which he determines that the project cannot meet such requirements or that the project was not intended to carry out the purpose of such requirements.
contracts to make such payments shall not exceed amounts approved in appropriation law or from funds provided for such payments shall not exceed $75,000,000 per annum prior to July 1, 1969, which maximum dollar amount shall be increased by $250,000,000 on July 1, 1969, by $520,000,000 on July 1, 1970, by $580,000,000 on July 1, 1971, by $580,000,000 on July 1, 1972, and by $540,000,000 on July 1, 1974.

(3) The term ‘tenant services’ includes but is not limited to the following services and facilities: (a) interim financial assistance to low-income families in the purchase of new dwelling units of various sizes and types in the area. The Secretary in determining an appropriate amount shall take into account the extra durability required for the extra maintenance of assisted housing, and the provisions of amenities designed to guarantee safe and healthy family life and neighborhood environment. Further, in the development of such prototypes, emphasis shall be given to the health needs of the essential component of such housing and to producing housing which will be of such quality to reflect the architectural standards of the neighborhood and community. The prototype costs for any area shall become effective upon the date of publication in the Federal Register.

(8) Occupancy shall be limited to families who at time of entry into a project are low-income families. For income housing shall be determined by the public housing agency with the approval of the Secretary. The same maximum dollar amount per annum shall be applicable. The term ‘families’ shall be interpreted as if at least eighteen years of age, except that (a) non-renting income, as determined by the Secretary, or an investor-sponsor, or the current financial condition of the household is 20% of the previous fiscal year’s income, including disaster income, for purposes of this Act, means income from all sources of each family member. The term ‘non-renting income’ includes income received from the mortgagee under this section, or any other relevant factors.

(9) The term ‘elderly families’ means families whose heads (or their spouses) or whose sole members, are at least fifty years of age, are eligible for the term ‘elderly families’ as defined in section 223 of the Social Security Act, or are handicapped. A person shall be constit­uated as handicapped if he is determined, pursuant to regulations issued by the Secretary, to have a physical impairment which (i) is expected to be of long-continued and indefinite duration, (ii) substantially impairs his ability to live independently and (iii) is of such a nature that such ability may be improved by more suitable housing conditions.

(10) The term ‘displaced families’ means families who have been displaced by construction, demolition, or other action, or whose families whose heads or their spouses, or whose sole members, are at least fifty years of age, or are eligible for the term ‘elderly families’ as defined in section 223 of the Social Security Act, or are handicapped. A person shall be constit­uated as handicapped if he is determined, pursuant to regulations issued by the Secretary, to have a physical impairment which (i) is expected to be of long-continued and indefinite duration, (ii) substantially impairs his ability to live independently and (iii) is of such a nature that such ability may be improved by more suitable housing conditions.
to April 1, 1965, to have been affected by a natural disaster, and which have been extensively damaged or destroyed as the result of such disaster.

On page 79, beginning with line 24, strike out all through line 3, on page 80, and insert the following:

"(6) The term 'public housing agency' means any State, county, municipality, or public body (or agency or instrumentality thereof), including a metropolitan or regional agency, or any multi-State agency, which is authorized to make commitments in the development or operation of low-income housing."

On page 82 beginning with line 16, strike out all through line 9, on page 83, and insert the following:

"ANNUAL CONTRIBUTIONS FOR LOW INCOME HOUSING PROJECTS"

SEC. 5. (a) The Secretary may make annual contributions to public housing agencies to assist in achieving and maintaining the low-income character of their projects.

The Secretary shall provide the provisions for such annual contributions in a contract guaranteeing their payment. The contributions shall be payable annually and shall not exceed such amounts as the Secretary may require to assure the low-income character of the projects involved, and shall be payable out of the proceeds of any public housing agency to finance the development of such projects.

The provisions for annual contributions shall be payable annually under this subsection shall be pledged. Any rule of law contrary to this provision shall be deemed inapplicable.

(b) Any contract for loans or annual contributions, or both, entered into by the Secretary with a public housing agency, may cover one or more than one low-income housing project by such public housing agency.

(c) In recognition that there should be local determination of the need for low-income housing,"
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ect-by-proJect basis) that this limltation
should not be applied to the project because
of special considerations."
On page 88, strike out lines 14-18.
On page 88, line 19, strike out "(2)" and
insert "(l) ".
On page 89, line 1, strike out "(3)" and
insert "(2) ".
On page 89, beginning with 11ne 11, strike
out all through line 22, on page 90, and insert the following:
"(d) Except as otherwise herein provided,
every contract for annual contributions under section 5 (a) shall provide that no annual contributions shall be made available
for any project which ls exempt from real
and personal property taxes levied or imposed
by the State, city, county, or other political
subdivision in wlhich the project is located.
Notwithstanding the foregoing, such contributions may be made available for an
existing project which is exempt from such
taxes and with res~ect to which a public
housing agency is required to make payments
in lieu of taxes, 1f the amount of such payments is increased by not less than 10 per
centum each year until such time (not later
than 10 years after the first such increased
payment) as the amounrt of such payments
equals the full amount of such taxes which
would be paid with respect to the project
except for the exemption. The Secretary
shall cause outstanding contracts for annual
contributions to be amended in conformity
with the provisions of this subsection. Estimates for the amounts by which such provisions require an increase in the annual contributions payable to any public housing
agency shall be submitted to the Secretary
by such agency not later than 6 months
after the effective date of this section."
On page 90, line 23, strike out "(f)" and
insert in Ueu thereof " ( e) ".
On page 93, after line 4, insert the following:
"(f) Effective on January 1, 1975, every
contract for annual contributions shall provide that, notwithstanding any other provision of this Act, the rent required of any
tenant family receiving a major portion of
its income in the form of pubUc assistance
payments under any Federal or State program shall be not less than an amount equal
to (A) that part of the operating costs of the
project which is attributable to the dwelling
unit occupied by such famlly, and (B) the
cost of the utllity services furnished to such
dwelling unit. For the purposes of this subsection, the operating costs of a project do
not include principal and interest charges
on obligations issued by the publ1c housing
agency to flnance the development or acquisition cost of the project.
"(g) (1) Every contract for annual contributions shall provide that, 1f the Secretary
and the pubUc housing agency agree that a
project with respect to which such contributions are made 1s obsolete as to physical condition or location, the Secretary may, in lieu
of any other obUgation under such contract
with respect to such project, make a grant
to such agency in an amount sufficient to
retire the outstanding indebtedness on the
project and, if the project is not to be sold,
the cost of demolition. Any such grant shall
be conditioned upon the public housing
agency providing satisfactory replacement or
relocation housing as determined by the
secretary.
"(2) There 1s authorized to be appropriated not to exceed $100,000,000 for grants
under this subsection. Any amounts so appropriated shall remain available until expended."
On page 93, beginning with "Expenditures"
in line 24, strike out all through line 3, on
page 94, and insert the following: "Expenditures incurred by a public agency in the
operation of a central dining facll1ty in connection with congregate housing shall be

considered as one of the costs of the project,
except that not to exceed 25 per centum of
the cost of providing food and service shall
be included."
On page 100, beginning with line 23, strike
out all through line 26, on page 103, and insert the following:
"HOMEOWNERSHIP FOB LOW-INCOME FAMILIES

"SEC. 10. (a) For the purpose of assisting
families of low income in acquiring homeownership or in acquiring membership in a
cooperative or other association operating a
housing project, a public housing agency is
authorized to develop, acquire, or lease low
income housing for subsequent resale to low
income housing tenants and fammes eligible
for low income housing under the terms and
conditions contained in this section. The
provisions of this section also apply to the
sale of rental housing owned by the public
housing agency.
"(b) (1) To purchase low-Income housing
under this subsection, a mortgage or other
obligations shall,
"(A) be given to the public housing agency
by a. family of J.ow income eligible for lowincome housing, a tenant family in low-income housing, or a qualified entity approved
by the Secretary;
"(B) be secured by the property which is
to be purchased;
" ( C) be in a principal amount of not more
than the sa.le price plus closing costs and
prepaid expenses;
"(D) bear interest at a rate not to exceed
the maximum rate applicable to mortgages
insured under section 402 of the Revised National Housing Act, or the rate on the public
housing agency's principal debt on the project, whichever is applicable;
"(E) provide for a maturity satisfa.ctory
to the secretary, but not to exceed forty
years;
"(F) provide thait the purchaser's income
contribution to monthly homeownership expense shall be an amount equal to one-fifth
of the purchaser's income, but in no case
sha.11 the purchaser's income contribution be
less than the am.ount ot 'monthly homeownership expense• excluding payment for
principal and interest;
"(G) provide that the income contribution to monthly homeownership expense for
a purchaser which is a qualified entity shall
be determined by using an aggregate amount
based on the contribution that would be required under paragraph ( 6) of each family
who occupies a dwelling unit in rthe purchased property;
"(H) provide that the purchaser sha.11
make monthly payments for a.ny services furn1shed by the public housing agency to the
purchaser; and
" (I) include other terms and conditions
which the Secretary determines are required
to carry out the purposes of this section.
"(2) As used in this subsection, the term
'monthly homeownership expense' shall include monthly amounts for principal and
interest under the amortization provtslons
of the mortgage or other obl!tgatlon, e.mounts
for insurance and taxes, and an amount attributable to the cost of utlltties as determined by the Secretary on the basis of estimated costs for utilities in the area. Subject to subsection ( e) , the term 'sale price'
means (A) in the case of housing newly developed, acquired, or !leased for subsequent
resale under this subsection, the portion of
the unpaid balance on the public housing
agency's principal debt on the project at the
ti.me of sale which is allocable to the dwelling unit or un1ts involved, (B) in the case
of low-income rental housing, the appraised
value of the property at the time of sale, or
(C) in cases where participants in mutualhelp projects or homebuyers in homeownership opportunity projects voluntarily elect to
purchase their _low-income housing units

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under the terms of this subsection, the purchase price provided for under their lease
with option to purchase type of contracts
with the public housing agencies involved.
" ( c) ( 1) In furtherance of the purposes of
this section, and as an alternative procedure for assisting families of low income to
acqutre homeownership, any public housing
agency may permit any adult member of a
tenant family to enter into a contract (either
individually or as a member of a group) for
the acquls1t1on Of a. dwelling unit in a.ny
project of the public housing agency, if the
property to be acquired is sufficiently separable from other property retained by the
public housing agency to make it suitable
for sale and for occupancy by such purchaser
or a. member or members of his family, upon
the following terms:
"(A) The purchaser Shall pa,y e.t least (1)
ia pro rat.a. share cost of any services furnished
him by the public agency, including but not
limited to, administration, maintenance, repairs, utlllties, insurance, provtston of reserves, and other expenses, (1i) local taxes
on his dwelling unit, or a portion thereof,
as determined. 'by ,t he Secretary, and (lll)
moili'lihly payments of interest and principal
sufficient to a.mortioo :a. sales price, equal to
the greater of. the un&morrtized debt or the
,a ippreised value (a.t the time such purchase
ooDttract is enitered into) of the dwelling
unit, m ll.dt more .tha.n forty yealt'S.
"(B) [ f a.t any time (1) a purchaser falls
to carry out his contract 'With the public
housi!llg agency and 1f no adult member of
his fa.mlly who resides in the dwelling assumes such contract, or (11) the purchaser
or a member of his f-a.m.ily who assumes the
contract does not reside in the dwelling, the
public housing agency sha.11 have a.n option
to ,acquire his interest under such contract
upon payment ·t o him or his estate of. an
amount equal to his aggregate principal payments plus the va,lue to the public housing
agency of. a.ny improvements made by him.
" ( 2) The ipU!blic houst.ng agency sha.11 con·
tinue to make local tax payments upon the
sale under this subsection of the project, or
any dwelling unit in the project, if (A) the
looaJ. governing body so requests, or (B) the
Secretary determines that such payments
should lbe continued, m whole or 1n pa.rt, to
make it possible !for any low-incom.e fa-mlly
to pUTcbase a home. Any payments so made
sha.11 (1) ,b e in lieu of real or persona.I property taxes wh1.ch might otherwise be levied.
or imposed on the project or dwelling unit,
a.s the case may ·b e, and (11) be considered
one of the costs of the project for purposes
of annual contributions.
"(d) Notwithstanding any other provision
of this Act, the sale of a project or dwelling
unit in a project shall not ,a ffect the Secretary's commitment to pay annual contributions wi,th respect to such project, but such
oontributlons shrul not exceed the maximum
con,tributions authorized under this Act.
" ( e) A public housing agency shall, before
selling any project or dwelling un1t in a
project pursuant to this section, make such
repairs or improvements to the project or
dwelling unit as may be necessary to conform to standards prescribed by the secretary. In addition to the contributions authorized under section 5, the secretary may
make annual contributions to any public
housing agency in such amounts as the Secretary determines are required to pay the
interest and principal charges on obligations
issued by the public housing agency to
flnance repairs or improvements in accordance with the provisions of this subsection.
The sales price of any project or dwelling
un1t with respect to which repairs or improvements are made under this subsection
shall include that portion of the unpaid
balance on the public housing agency's debt,
at the time of sale, which was incurred to


finance such repairs or improvements and is allowable to the dwelling unit or units involved.

“(c) The Secretary shall by regulation prescribe the conditions under which a low-income family which purchases a dwelling unit pursuant to this section may sell such unit. Among the conditions so prescribed shall be a statement that the proceeds of the sale of such unit the seller shall be obligated to pay to the United States an amount equal to (1) the sum of the cost of site, if any, less the benefit, if any, to the seller in reduction of the principal amount of any mortgage covering property during the period in which it was held by the seller, and the sales price which is in excess of the seller’s equity (including the reasonable value of repairs and improvements made by the seller) in the property at the time of the sale, whichever is the lesser.

“(d) Subject to the approval of the Secretary, any conveyance, contract, or agreement heretofore executed by a public housing agency for the sale or lease of low-income housing to low-income families or public housing tenants may be amended to include any of the terms and conditions of this section.

On page 110, strike out lines 7–11, and insert the following:

“TITLE XVII: MORTGAGE CREDIT ASSISTANCE

Section 401. Home mortgage insurance. – Base insurance program. – Section 401 of the ‘Revised National Housing Act of 1971’ as inserted by the Senate Committee on Banking, Housing, and Urban Affairs, July 13, 1971 (72 Stat. 492, as amended by the Higher Mortgage Credit Act of 1972, Pub. L. 92–492, 86 Stat. 847, title I, section 401), deals with the maximum loan limits and the amounts the mortgage insurance company may advance in connection with the purchase of property.

No mortgage can be insured under this subsection unless it is (a) located in a stable neighborhood containing adequate public facilities; (b) in an area in which the community is planning to carry out a plan for neighborhood preservation, conservation, or rehabilitation; and (c) the property is sound, does not exceed 60 per cent of the appraisal value of the property plus the estimated cost of any repairs; and (d) the occupation of the property by the mortgagee is adequate for the purpose of repairing the dwelling and the property at the time the mortgage is insured.

Subsection (f) provides that procedures shall be adopted to ensure that the mortgagor is entitled to receive the benefits of the mortgage insurance program.

(c) The provisions of section 5(d) of the ‘Revised National Housing Act of 1937’ as amended by section 201 of this title, in what is to be considered income, or in any other manner in which a dwelling unit is sold, shall be made at the first regular reexamination of tenant income following such sale which is allocable to the dwelling.

Title 2 of S. 2049 contains a complete rewrite of the National Housing Act and proposes a seven title ‘Revised National Housing Act of 1971.’ The following sections of this ‘Revised National Housing Act.’

Section 202. Flexible mortgage amounts. – The proposed section 3 of S. 2049 would be deleted and new section inserted in its place. Subsection (a) would prohibit the Secretary from insuring any mortgage under section 402 (Homeownership Assistance) or section 502 (Multifamily Housing Assistance) which exceeds, for that portion attributable to dwelling use, the sum of (1) 120% of the prototype construction cost for the type of dwelling involved; (2) the sales price of properties to be purchased under the program are not increased above the appraised value of the property plus the estimated cost of repairs.

Subsection (b) directs the Secretary to determine prototype construction costs for each type, size, and type of dwelling units and projects in each housing market area at least annually. These prototype would be based on the following: (a) the cumulative cost of construction costs of comparable new dwelling units of various types and sizes; (b) the extraneous costs and maintenance tenance of such housing; (c) the provision of satisfactory financing assistance for family life and neighborhood environment; (d) the provision of satisfactory quality and in architecture to reflect neighborhood and community characteristics; (e) the availability of an FHA mortgage limit in the areas, and (f) the advice and recommendations of local real estate appraisers.

Subsection (c) would define ‘construction costs’ as those costs which are normally reflected in the cost of a home mortgaged under section 402 or 502, except for the cost of land and site improvements.

Subsection 201. Insurance funds. – Section 201(b) of S. 2049, which describes the Special Risk Insurance Fund would be amended to include the mortgages of two new programs subsequently added to the ‘Revised National Housing Act.’ Section 201(b)(2) would be amended to include home mortgages insured under section 401(g) and section 201(b)(4) would be amended to include multifamily mortgages under 501(j) [refinanced mortgages].

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Subsection (f) provides that procedures shall be adopted to ensure that the mortgagor is entitled to receive the benefits of the mortgage insurance program.
shall not exceed amounts approved in appro­
priations acts, and such contracts shall not
in fiscal year 1970, and shall be increased by $125
lion in fiscal year 1971, and $200 million for fiscal
year 1972, $300 million in fiscal year 1973, $400
million in fiscal year 1974, and $500 mil­
lion in fiscal year 1975.

This subsection also provides that not more than 30 percent of the contract authority specified in this section shall be used for properties approved in appropriations acts shall be used for properties approved by the Secretary prior to substantial rehabilitation.

Subsection (1) authorizes the Secretary to issue a mortgage guaranteed by a nonprofit organization, public body or agency to finance the purchase (and rehabilitation if necessary) of housing for resale to families eligible for assistance under section 402. The housing must include five or more one-family dwellings or units in any case where the mortgage is executed for the purpose of rehabilitating or renovating the property involved. The mortgage shall not exceed the appraised value of the property at time of purchase plus the estimated cost of rehabilitation and bear market rate interest. Properties eligible for insurance shall be located in stable neighborhoods with adequate public facilities or amenities or in areas where actions are being taken (including the rehabilitation under this subsection) to give reasonable promise that a suitable environment will be created.

Under subsection (1), (4), the Secretary is authorized to insure the individual mortgage guarantee on the resale of this housing to families eligible to receive assistance under this section after the purchase and rehabilitation of the property involved. The Secretary also is authorized to pay on behalf of the mortgagor the difference between the resale price and the mortgage insurance. Insured mortgage insurance premium obligated under the mortgage and the monthly payment for interest, taxes, and mortgage insurance premiums.

Subsection (k) incorporates Section 237 of the National Housing Act. The Secretary is authorized to provide, or contracts with public or private organizations to provide, budget, debt management, and related counseling services to families whose mortgages are insured under this section. The Secretary also may provide counseling to eligible families whose needs for a down payment to help them save for this purpose.

Subsection (1) defines "lower income families" to mean those families whose income does not exceed amounts for exclusion for the area. The Secretary may make adjustments for family size and can raise or lower these ceilings. For principal, interest, taxes, insurance, and mortgage insurance premium obligated under the mortgage, the monthly payment for interest, taxes, and mortgage insurance premiums.

The Secretary may extend the amortization term of any mortgage insured under this subsection if he determines that a rent increase would not result in a change in the terms of ownership, or manner of operation of the project.

This section does not preclude the insurance of mortgages which involve projects containing units to be made available to low and moderate income persons with higher income ratios determined by the locality (or sponsor if no such local ratios exist) and the Secretary may require an existing owner, maintenance services provided have been adequate.

The Secretary may permit the amortization term of any mortgage insured under this subsection if he determines that a rent increase would not result in a change in the terms of ownership, or manner of operation of the project.

Subsection (l) provides an allowance for additional assistance payments to reimburse the mortgagee for its expenses in handling the mortgage.

Subsection (m) provides that the benefits of assistance payments are made conditional on the project owner operating the project in compliance with the requirements that the Secretary may prescribe with respect to tenant eligibility and rents. Also, the Secretary is required to adopt procedures for reviewing tenants income at intervals of not more than 3 years.

Subsection (n) requires that an "operating rental charge" and a "fair market rental charge" be established for each assisted unit. The operating rental charge would be based on the actual cost of operation, consisting of interest, taxes, insurance, and mortgage insurance premium, the monthly payment for interest, taxes, and mortgage insurance premiums.

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Subsection (o) requires that an "operating rental charge" and a "fair market rental charge" be established for each assisted unit. The operating rental charge would be based on the actual cost of operation, consisting of interest, taxes, insurance, and mortgage insurance premium, the monthly payment for interest, taxes, and mortgage insurance premiums.

The Secretary may extend the amortization term of any mortgage insured under this subsection if he determines that a rent increase would not result in a change in the terms of ownership, or manner of operation of the project.

Section 603 Multi-family housing assistance.—S. 2049 provides in Section 502 a program designed to reduce rentals for lower income families. Under this program, rentals would be adjusted to the level of their income, with 50 percent of the income needed for current obligations could be used for savings or other purposes.

Subsection (p) provides for additional assistance payments to reimburse the mortgagee for its expenses in handling the mortgage.

Subsection (q) requires that an "operating rental charge" and a "fair market rental charge" be established for each assisted unit. The operating rental charge would be based on the actual cost of operation, consisting of interest, taxes, insurance, and mortgage insurance premium, the monthly payment for interest, taxes, and mortgage insurance premiums.

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Subsection (r) requires that an "operating rental charge" and a "fair market rental charge" be established for each assisted unit. The operating rental charge would be based on the actual cost of operation, consisting of interest, taxes, insurance, and mortgage insurance premium, the monthly payment for interest, taxes, and mortgage insurance premiurns.
case of a new project, at least 20 percent of the units initially be made available for families of very low income, defined as those requiring an initial occupancy guarantee of at least $500 for the first year, and later not more than 60 percent of the fair market rental. The requirement could be waived if, due to economic or social factors, the project cannot meet this requirement. This subsection also requires the Secretary to pre- sent annual reports to Congress on the availability of units in any new project shall be published, along with a rental rate, in a daily newspaper of general circulation in the area. The public should have the right to inspect the office serving the center if the project is located in a standard statistical metro- politan area.

Subsection (j) authorizes the appropriation of funds to carry out the provisions of this section, including contributions to make assistance payments under contracts entered into under this section. Such contract authority shall not exceed amounts approved in appro- priation acts and was not more than $75 million prior to the beginning of fiscal year 1970, and shall be increased by not less than $150 million in fiscal year 1971, $250 million in fiscal year 1972, $350 million in fiscal year 1973, $400 million in fiscal year 1974, and $550 million in fiscal year 1975.

Subsection (i) authorizes the Secretary to insure a mortgage (including advances on such mortgage payments) as required by this section to be occupied primarily by lower income tenants. Such a mortgage should include the following exceptions: (a) If the mortgage is executed by a cooperative, nonprofit corporation, or association, a public agency, or a subsidiary thereof (by the Secretary), the principal obligation shall not exceed: (a) If new construction, the estimated re- placement cost of the property, when completed; (b) If rehabilitation, the sum of the cost of the rehabilitation plus the estimated value of the property prior to rehabilitation; or (c) If refinancing, the appraised value of the property. If the mortgage is executed by a limited distribution corporation or other limited distribution associations between the states or by a public agency, or a subsidiary of such an agency (by the Secretary), the principal obligation shall not exceed: (a) If new construction, the estimated re- placement cost of the property, when completed; (b) If rehabilitation, the sum of the cost of the rehabilitation plus the estimated value of the property prior to rehabilitation; or (c) If refinancing, the appraised value of the property.

If a project is financed with a mortgage executed by other than a cooperative, non- profit, or public agency and later sold to a cooperatively or to a non-profit association or corpo- ration the Secretary under subsection (j) (4) is authorized to insure such a mortgage, provided such mortgage is insured in the manner described above and who agrees to sell the project to a cooperatively, the principal amount shall not exceed 90 percent of the mortgage amount. If a project is financed with a mortgage executed by another than a cooperative, non-profit, or public agency and later sold to a cooperative or to a non-profit association or corporation, the Secretary under subsection (j) (4) is authorized to insure such a mortgage, provided the mortgage is insured in the manner described above and who agrees to sell the project to a cooperatively, the principal amount shall not exceed 90 percent of the mortgage amount.
housing, except that (1) is amended to read as follows: "and (ii) unless the public housing agency has demonstrated to the satisfaction of the Secretary that there is a need for such low-income housing under the conditions set forth in this Act," (h) This subsection is the same as subsection 5(f) of S. 2049, granting the Secretary the authority to utilize the proceeds of such loans and other terms of contract to which he is a party, under certain conditions.

(c) This subsection is the same as subsection 6(e) (c) and (3) of S. 2049, requiring (1) certification and two-year review of regulations and (c) and (e) and (p) for inelegible applicants. (d) This subsection is a substitute for subsection 6(d) of S. 2049 providing that all new public housing agencies would be established as public housing agencies and would have the sole responsibility for providing public housing. (e) This subsection is the same as subsection 6(e) (c) of S. 2049, requiring the Secretary to determine whether annual contributions to such agencies under this subsection shall be payable annually and shall not exceed such amounts as the Secretary shall determine.

(a) (A) This subsection is the same as subsection 5(e) of S. 2049, and provides that for total contributions to be made under this subsection shall be payable annually and shall not exceed such amounts as the Secretary shall determine.

(b) This subsection is the same as subsection 5(f) of S. 2049, granting the Secretary the authority to utilize the proceeds of such loans and other terms of contract to which he is a party, under certain conditions.

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under this alternative, the Secretary of HUD would have the discretion to assist the low-income home purchaser to meet all or part of total reasonable development costs (c); (d) Upon sale of any unit, the family would be required to pay from the sales proceeds, if any, any subsidy which has covered the principal.

The conditions for disposition of a housing development, either for sale to low-income tenants, or to non-profit, or cooperative purchasers shall include a requirement that any necessary repairs or improvements be made and any disposition of the property. The Secretary is authorized to provide supplemental annual contributions to cover debt service on loans to make such repairs and improvements. The sale price shall cover: The outstanding bonded indebtedness, the costs of any supplemental loan to cover necessary repairs and improvements, the costs of conversion, closing costs and prepaid expenses. The legislation makes clear that annual contributions will continue to cover debt service both on the original loan and on new loans, resulting in the making of such contributions or portions thereof be reimbursable from the annual contributions authorized under section 1604.

(b) The Congress further finds that the achievement of national housing goals will require a more efficient use of the Nation's existing housing stock through such measures as rehabilitation, and improvements in management and maintenance policies, in order that losses to the Section 204 trust fund may be minimized or eliminated, the current level of housing services improved.

(c) In order to facilitate the achievement of the national housing goal and provide a more prompt and more efficient method of meeting national housing requirements, the Secretary of Housing and Urban Development shall have authority to formulate plans of rehabilitation, modernization, and financing assistance and otherwise) the formulation of State and local housing goals covering major housing market areas. Such State and local housing goals shall be developed and formulated so as to include both the housing production requirements of the areas involved and the actions needed to preserve the existing housing stock in such areas, including:

1. The numbers and types of subsidized housing units which are needed annually to serve various income groups and are necessary for replacement of the existing housing stock, and housing units resulting from community development programs.
2. The Federal, State, and local programs which might or should be utilized to meet the goals established, and the adequacy of present and projected financing resources in meeting these goals.
3. The identification of impediments to meeting these goals, such as unrealistic or obsolete building codes and zoning regulations, and any recommendations or proposals for eliminating such impediments, and
4. The determination of low- and moderate-income housing so as to provide the residents thereof with greater access to employment opportunities.
(b) Section 1602 of such Act is amended—
1. by inserting "(a)" after "Section 1602;" and
2. by adding at the end thereof the following new subsection:

"(b) The President shall from time to time report to the Congress such changes in the plan submitted pursuant to subsection (a) as he determines to be necessary or appropriate for the carrying out of the plan so described. Revisions so reported shall take into account (1) State and local housing goals and objectives established during the period of the period in excess of one year in which the report was made, and (2) community development needs pursuant to title II of the Housing Act of 1968, as amended.
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1. by inserting "(a)" after "Section 1602;" and
2. by adding at the end thereof the following new subsection:

"(b) The President shall from time to time report to the Congress such changes in the plan submitted pursuant to subsection (a) as he determines to be necessary or appropriate for the carrying out of the plan so described. Revisions so reported shall take into account (1) State and local housing goals and objectives established during the period of the period in excess of one year in which the report was made, and (2) community development needs pursuant to title II of the Housing Act of 1968, as amended.
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prioritizing such sums as may be necessary to carry out the provisions of this section, including the final balance of annual grants if contracts entered into under this section. The aggregate amount of contracts to make such grants shall not exceed amounts approximately $150 million, 000 per annum prior to July 1, 1972, whose annual balance is increased by $150,000,000 on July 1 of each of the years 1973 and 1974.

acts of Congress.

Housing Emergency Areas

Sec. 312. (a) The Congress finds and declares:

(1) that a serious impediment exists with respect to the realization of the national housing goal, established in the Housing Act of 1949, in those areas of the country where a substantial number of low- and moderate-income families are unable to obtain decent, safe, and sanitary housing either through the purchase of public or private organizations willing or able to sponsor, or with or without Federal assistance, the housing requisite to meet their needs; and

(2) that there is a need to formulate criteria for the designation of housing emergency areas, and to provide the necessary authority for the Secretary of Housing and Urban Development to act as sponsor of last resort of the requisite housing in such areas.

(b) The Secretary of Housing and Urban Development shall, in consultation with the Congress, at the earliest practicable date (in no event later than one year after the date of enactment of this title), and in accordance with the criteria established in subsection (a), designate such areas as emergency areas, and designates the following new sections:

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Subsection (a) would make the Secretary of Housing and Urban Development responsible for the designation of emergency areas, which would be subject to congressional review. The Secretary would be required to designate such areas in consultation with the Congress, and the Congress would have the authority to disapprove the Secretary's designations.

36160

This section would authorize the Secretary of Housing and Urban Development to designate emergency areas and to provide for the support of housing in such areas through the use of federal funds.

36170

The section would also provide for the periodic updating of the national housing goal, and the Secretary would be required to submit to Congress reports on the implementation of the national housing goal. The reports would include information on the progress made in meeting the goal and the need for additional assistance.

36180

The Housing Reform Amendments Act of 1971 fully recognizes this problem. Subsection (b) would provide the Secretary of Housing and Urban Development with the authority to designate emergency areas, which would be subject to congressional review. The Secretary would be required to designate such areas in consultation with the Congress, and the Congress would have the authority to disapprove the Secretary's designations.

36190

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and offers the mechanisms to achieve social and economic integration within all assisted projects whether sponsored by a public agency, a nonprofit corporation, a limited dividend, a cooperative, or a private developer. Under this bill, both FHA programs were restricted to moderate-income families—and public housing—now limited to those of the lowest income—would be able to serve a larger range of families. Those of lowest income to those of median income in an area. This flexibility in renting and selling units, plus the requirement that at least 20 percent of the units have to be re served for families of very low income, will means totally new policy directions resulting in socially and economically viable housing. Such changes must be implemented as soon as possible, to reverse recent trends which have transformed, or will transform, some public housing projects into concentrations of sub groups, welfare families, and problem families.

Mr. President, much has been written and said on this topic by public housing officials, psychologists, sociologists, urban planners, and even the Honorable Wes Uhlman, mayor of Seattle, Wash., in a recent speech discussed the effects of over concentration of low-income families.

To quote his discussion of the situation in Seattle—

Over 1,300 low-income families are concentrated in one project. This has obvious adverse effects on the neighborhoods and the residents of the project. In an effort to alleviate this condition, we are exploring the possibility of redeveloping this project using the new town, in-town concept—one that will mix income levels as well as housing types. Never again will we in Seattle, at least while I am mayor, accept projects which merely concentrate low-income families.

The Housing Reform Amendments Act of 1971 would provide the mechanism to accomplish this. It is a proposal as Mayor Uhlman suggests.

Some efforts to bring about such integrated living arrangements already exist. Seattle, St. Louis, or programs to supplement Federal subsidies with the "piggy backing" of Federal subsidies such as allocating a percentage of units within an FHA moderate-income project to low-income families through the leased public housing program or rent supplements. This is a complicated process which involves added paperwork on the part of the sponsor and the HUD administrators. Also, the project must have sufficient funds in all the programs to be used. Finally, the question of basic reform to the public housing program remains.

However, one of the most ambitious programs announced to date is that of the New York State Urban Development Corp., headed by Edward J. Logue, one of the New York property owners in our country. By using a State housing finance program, Federal subsidies and other State and Federal programs, Mr. Logue has been able to achieve an economic balance in every residential project this State corporation develops.

Mr. Logue described this program in an article which appeared in the May 15, 1971, issue of The New York Times.

I firmly believe that housing developments that cater exclusively to low income families are inherently undesirable since they are perpetuating the concept of an "apartheid" community. UDC's housing policy has led in most cases to a 70-20-10 formula—70 percent of all housing units on a site for middle- and moderate-income families, 20 percent for low-income families and 10 percent for the elderly. This housing mix seeks to provide a balanced environment and income levels in a diversified community, where, incidentally, the elderly are not isolated from the young.

Again, I repeat that the Housing Reform Amendments Act of 1971 is trying to institute similar policy—projects where needy families regardless of income would be housed.

At the same time, Mr. President, this legislation also addresses itself to the broader question of how to provide housing for those of moderate income in areas where little or no units are now available. This is probably one of the most controversial issues of the day. Communities and neighborhoods across the country have become engulfed in dissention and acrimony as the result of the opposition to such housing. Simultaneously, the need for moderate-income housing has been a political issue of national proportions. Again, the question is, can this commitment can be fulfilled.

It would be too simplistic to charge that the opposition to such housing was the result of bigotry and callousness. No, some of the opposition is based on real concerns of these communities and its citizens—will my taxes go up to care for these families, will there be sufficient public facilities to care for them, will my property go down in value because it is located near this project? Again, Mr. President, the housing reform amendments seek to reassure such citizens.

First of all, these projects would not be located within the poorer and more problem families but serve a wide range of incomes. Second, all assisted housing must be of high architectural quality and offer a formula for developing maximizing social advantages: It provides for higher concentration of problem families but serve a wide range of income groups, whereas the administration bill has a common policy for dispersing the Federal contribution; that is, an assistance payment covering the difference between total costs of the project, and total revenue based on the ability of the beneficiaries to pay their income for rent.

The Housing Reform amendments provide a basis for developing housing which will provide shelter for a cross section of income groups. The administration's bill perpetuates the segmentation of housing by income; that is, lowest income in public housing; moderate to middle income families in FHA assisted projects. The provision for developing housing with a range of income groups has important economic and social advantages: It provides for higher rent paying—families which can help offset the low rents paid by the lowest income families—cross-section of income occupancy—reducing the Federal subsidy required for a sound social environment by not segregating all of the lowest income and problem families in separate housing.

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Fourth, the bill also recognizes that assisted housing might mean an influx of some families who require additional public services—additional or special education, health welfare programs, the cost of which must be borne at least in part by the locality. Under the housing reform amendments, communities in which assisted housing is provided should be eligible to receive public service grants to help offset any increases in public services attributable to these families. These two provisions go to the heart of the economic arguments used against locating projects in certain communities or neighborhoods.

Last, the program contains a provision which would permit the Federal development of housing which is not eligible for public assistance. The "piggy backing" of Federal subsidies within an FHA moderate-income project and offer a formula for developing a cross-section of income groups. The administration bill has substantial differences in all of these items between programs, except for prototypes. Moreover, the single subsidy program has common prototypes, income limits, definition of income, rent offset the low rents paid by the lowest income families—cross-section of income occupancy—reducing the Federal subsidy required for a sound social environment by not segregating all of the lowest income and problem families in separate housing.

Mr. President, as the distinguished Senator from Massachusetts (Mr. Basko) mentioned in his statement, this legislation is actually a series of amendments to S. 2049, the administration's Housing Reform Bill. These amendments would, however, make major changes in the administration bill.
by making these services an integral part of the management operation of every assisted housing program, making certain an eligible operating cost, against which the Federal contribution may be used if project income cannot cover essential tenant service costs. The administration bill, titled "Grants to assist in displacement services," provides a grant program for all but public agency housing and as such is a "hit and miss" method of providing tenant services, having little to do with the regular management operation; and subject to separate appropriations funding by the Congress.

Fifth. The housing reform amendments would also expand the FHA homeownership program to low-income families and individuals including the U.S. Conference of Mayors, the National League of Cities, and the National Association of Housing and Redevelopment Officials.

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Mr. EAGLETON. Mr. President, the District of Columbia Committee will hold a hearing at 9 a.m. on Monday, December 13, 1971, on the nomination of Joseph M. F. Ryan, Jr., of Maryland, to be an associate judge for the Superior Court of the District of Columbia. This is a reappointment. Persons wishing to testify on this nomination should notify Robert O. Harris, at the committee office, room 2222, New Senate Office Building.

The NATIONAL CANCER ACT OF 1971

Mr. KENNEDY. Mr. President, as chairman of the Subcommittee on Health, I am pleased the Senate is about to vote on the bill S. 2536, the National Cancer Act of 1971. This bill grows out of the action taken by the Senate on September 17, 1971, when I agreed to by the conferees. There is provision for realistic maintenance counseling program, and a housing counseling program, while the administration bill eliminates it.

To the

Seventh. The administration amendments provide for the "incentive of general purpose governments to cover additional service costs related to assisted housing, such as school costs, thus encouraging localities to accept associated with these services. The administration bill does not include this provision.

Eight. The reform program provides for realistic and flexible maximum development costs for assisted housing. There is a percent of local construction cost to the housing needs of this Nation. Yet it is not one which includes using new institutions or new mechanisms. It builds on those programs and devices which have worked and revamped, removes, or rewrites those which have not. It has the support of a wide range of groups and individuals including the U.S. Conference of Mayors, the National League of Cities, and the National Association of Housing and Redevelopment Officials.

Mr. President, I would also like to point out that the Housing Reform Amendments Act of 1971, which I am cosponsoring with the distinguished Senator from Massachusetts (Mr. Brooke), is very similar to S. 2536, the Housing Opportunities Act of 1971 that I introduced on September 17, 1971. When I introduced S. 2536, I indicated that I was working with Senator Brooke on the reform amendments and that I would be cosponsoring the amendments with the distinguished Senator from Massachusetts (Mr. Brooke), and that I am cosponsoring the Housing Reform Amendments Act while at the same time, cosponsoring the Housing Opportunities Act. I would hope that Congress will be able to give serious consideration to each of these bills and to act quickly on this needed legislation.

Mr. President, I want to lay to rest one myth regarding this legislation; namely, that the House and the Senate were radically different. This is simply not the case. Both bills provide for the submission of annual reports to the President, both bills relied upon the excellence of the National Cancer Institute of the National Institutes of Health. Both bills relied upon the excellence of scientific peer review with respect to program decisions. Both bills find and declare that now is the time to begin a substantially larger national effort in research on cancer. Both bills requested the Director of the cancer program to submit his budget directly to the President. And both bills were overwhelmingly approved by their respective legislative bodies.

Mr. President, as you may know, nine members of the Senate conferees wrote to the President on December 3, and asked for his guidance with respect to the differences between the Senate and House bills. Three days later the President responded by indicating that—

The most important point I can make about this cancer program is that it will be necessary to pass it promptly. The differences which still exist are largely a matter of detail, and I urge the Congress to resolve them during the current session of the Congress so that I can sign cancer legislation into law in the very near future.

Finally, Mr. President, I do want to disclaim full and complete support for a specific aspect of the conference report. The House bill, in a direct attempt to approach the Senate bill, included authority for the creation of a three-man cancer attack panel—this panel to be appointed by the President, and to advise him with respect to the effectiveness of the cancer program. Section 407(d) (1) of the House bill states:

There is hereby established the President's Cancer Attack Panel which shall be composed of three persons appointed by the President, one of whom shall be a person of science, and background, are especially qualified to appraise the National Cancer Attack program. At least two of the members of the panel shall be distinguished scientists or physicians.

The language of the House bill is quite clear. The only requirement for members on the panel is with respect to the individuals' training, experience, and background. There is no legislative prohibition with respect to such persons' employment. That is to say, the President could appoint either or both the Director of the National Cancer Institute, or the Director of the National Institutes of Health to the advisory panel. As a matter of fact, in response to my letter of December 3, 1971, in respect to the composition of the advisory panel, the President said:

The Senate version would have the advantage of bringing those who are directly concerned with the government's cancer effort into all discussions of the progress concerning its progress.

The Senate version to which the President made reference was a compromise version drafted by the Senate conferees which would have added the Director of the cancer program, the Director of
Mr. President, the conferees have put together a good bill. I urge my colleagues on both sides of the aisle to vote for the adoption of the conference report.

Mr. DOMINICK. Mr. President, I support without reservation the conference report on S. 1828, the National Cancer Act of 1971. While the bill agreed on by both houses includes several amendments from S. 1828 as it was passed by the Senate, I believe it is consistent with the essential principles upon which the Senate bill was based.

The starting point for this legislation was a broad consensus that our national effort against cancer should be greatly strengthened. Both the administration, on whose behalf I introduced S. 1828, and the panel of consultants on the conquest of cancer felt that the man in charge of the new cancer program should be given considerable management and budgetary authority in order to fully exploit new research opportunities, and to mobilize, in the President's words, "a total national commitment" against cancer. Under the bill, the Director of the National Cancer Institute will have that independence. He will formulate and submit the annual cancer budget directly to the President. He will be entitled by the provision enabling him to report directly to the President as he would have under the Senate bill, several administrative layers between him and the President will be eliminated by the provision enabling him to report directly to the Director of the National Institutes of Health, a very constructive provision targeted at the Senate bill—a three-year "Cancer Attack Panel" appointed by the President, and reporting directly to him—will provide independent outside assessment of the cancer program as well as direct access to the President.

Since the new cancer program will be centered at the National Cancer Institute within the National Institutes of Health, this legislation should put an end to the fears expressed by the scientific community that the increased independence of the cancer program would threaten the integrity of the National Institutes of Health and its broad support for biomedical research. In this connection, I think it is important to keep in mind that this new legislation does not guarantee quick success against cancer. Much essential information will still be lacking, continued support for basic biomedical research, as well as cancer-targeted research, will be necessary to obtain that information. But I do think there is good reason for hope that this bill, by improving the organization of our cancer effort and substantially increasing the resources committed to it, will shorten the time between success.

Mr. President, in conclusion, I would like to add only that the cooperative spirit in which this legislation developed was remarkable. As a result, it is a mix of the best ideas put forth by the administration, the distinguished panel of consultants on the conquest of cancer, and the members of both the Senate and House committees which considered the bill. As a result, Senators KENNEDY, JAVITS, SCHWARTZ, and all the other members of the Health Subcommittee deserve special recognition for their contributions to this coordinator effort and their commitment to the most dreaded disease, cancer.

Mr. TAFT. Mr. President, I wholeheartedly support the adoption of the conference report on the National Cancer Act 1971. We have before us what I hope will be an effective vehicle for the conquest of cancer.

Now is the time for decisive action against a disease which claims nearly 1,000 lives each day. In 1969, 323,000 Americans died of cancer. I believe that we can be proud of the final version of this bill which represents an effective national commitment to the development of concerned citizens, physicians, scientists, Government officials, Congressmen, my colleagues in the Senate, and President Nixon.

Testimony before our committee has indicated that in 1969 we spent $410 per citizen for national defense, $125 for the war in Vietnam, and $15.50 for space exploration but only 89 cents for cancer research. We must now give cancer research its proper place, higher on our national list of priorities. President Nixon recognized this when he requested an additional $100 million for cancer research this year. The Congress recognized this by honoring the immediate budget request and by working in the committees and on the floors of both Houses and in conference to come up with an effective bill such as this.

This measure will provide that cancer research continue within the National Institutes of Health, but with a separate budget to insure a top priority. I believe that the funds authorized in this bill will be adequate to insure that our attack on cancer is not weakened. A $1.5 billion is authorized over the next 3 years. I urge that this conference report be unanimously adopted so that the effort against cancer may get underway.

Mr. EAGLETON. Mr. President, I rise in support of the report of the Senate conference committee appointed to resolve differences in the separate versions of the Cancer Act of 1971 passed by both houses.

The scope of the national health problem caused by cancer has been amply demonstrated. It has been estimated that one-quarter of the 200 million Americans now alive will develop some form of cancer, and unless research into detection and treatment of cancer is stepped up, 34 million of them will die of the disease.

Cancer is a disease of all ages. It is killing more old people than it ever did before. It strikes each member of every family. But now as never before the trend of cancer death—excluding accidents—is among the youth between the ages of 1 and 35 years. Staggering though these figures are, they cannot convey the human tragedy wrought by cancer. It is estimated that cancer will strike two out of every three American families. There are few who have not seen a friend or relative wasted by this disease.

Today cancer is being attacked by research conducted within nearly every branch of biomedical science. Major advances have been made. One cancer patient out of three is now being saved as compared with one in four just a few years ago. As a result, about 208,000 Americans will be saved from cancer this year—a gain in lives saved of some 62,000 people annually.

The progress to date is most encouraging, but much more needs to be done. Promising research leads must be explored. The knowledge gained from research must be applied to the development of new treatment methods.

A national program for the conquest of cancer has been supported by the American people through the great opportunities that lie within our grasp. S. 1828, the Cancer Act of 1971 provides a base from which such a program can be launched.

Mr. President, the conference committee has given the President's support, an additional $100 million over the amount allotted last year has been appropriated for cancer research in this fiscal year. In order to fulfill the fragmentary promises of Government-supported biomedical research, the conference committee—of which I was a member—has agreed to provide that the National Cancer Institute shall remain within the overall organizational structure of the National Institutes of Health. However, the status of the Cancer Institute has been raised by making the Director a direct appointee of the President. Further, the Cancer Institute Director is given direct access to the President for purposes of budget review. The bill also be given the necessary priorities and funds to maintain a single coordinated national program—a vast new national effort.

I am confident that enactment of this legislation will provide the promise of a new era of accomplishment in our battle with this disease. There is reason for optimism. Scientific researchers tell us they are on the verge of breakthroughs in the diagnosis, prevention, and cure of several forms of cancer. The President, with the cooperation of those who have been struck by this dreaded menace in the fervent hope that the enactment of this legislation marks the beginning of a new era of accomplishment in our battle with disease.
of knowledge, these figures may even be conservative.

The National Cancer Act of 1971 places a new focus on the attack against cancer. Much of the checkout funding for cancer research has been obstructed the development of a coherent national program will be cut away. New cancer research centers will be established. More funds will be provided.

There may be delays, and there may be setbacks on the road to the conquest of cancer. But, as I said in the Senate on July 7 of this year:

If lives can be saved, it pain and suffering can be lessened, if progress can be made toward creating a better life for all mankind, how can such a program be rejected?

The Senate recognizes the dedication of their colleague who guided this important legislation through committee, through the Senate, and through the conference with the other body. The chairman of the Health Subcommittee, the Senator from Massachusetts (Mr. KENNEDY), deserves our genuine thanks.

Mr. HUMPHREY. Mr. President, the President has called for prompt action on legislation to establish a national program for the conquest of cancer. The Nation receives a new program which the Senate will take final action today, fulfills the commitment of Congress to enable the launching of an all-out attack against this dread disease without delay.

The original legislation for the conquest of cancer, I welcome the President's sense of urgency. For the fundamental fact is that time is the real enemy in the war against this life-destruction. Nearly 1,000 people perish every day from cancer in America alone—a death toll that is multiplied severalfold throughout the world.

But it is also time that we must battle against in an intensive and sustained nationwide program of cancer research, requiring the instantaneous exchange and analysis of information on the latest discoveries. Recent landmine discoveries, for example, appear to link two viruses directly to cancer, and we must seize hold of these new insights and exploit them to the fullest in achieving long-term cures for this disease. Important advances have been made in curing certain forms of cancer through surgery, radiation therapy, and chemotherapy. And it is essential that major advances in the fundamental knowledge of cancer be far more effectively interrelated—knowledge about the chemical, physical, environmental, and viral causes of cancer, about cell and tumor biology, immunology and epidemiology, and about combinations of treatment modalities.

I find it incredible that with this great progress in developing a cure for cancer, the Federal Government in 1969 could allocate $410 for defense and $19 on the space program for every $89 cents on cancer research. And it must be corrected.

I am greatly encouraged that with the administration's strong public support for the Senate's initiative to design a comprehensive and adequately funded cancer research program, these past priorities can be substantially changed and decisive progress made toward destroying this disease. And millions of dollars are being spent by the Federal Government to destroy the biggest disease in America.

And the urgent need to exploit scientific leads toward a cancer cure has been recognized in the authorization of $75 million per year for the establishment of 15 new centers for clinical research, training, and demonstration of advanced diagnostic and therapeutic methods relating to cancer. An additional 3-year authorization of $90 million is to be applied by the Director of the National Cancer Institute for cooperation with such programs in State and other health agencies. Finally, to assure that a national program of cancer research will not be backed up by essential financial resources, if $12 billion is authorized over a 3-year period. And to help insure that these funds are spent wisely and without unnecessary bureaucratic delays, the President is to carry out a review of all administrative processes of the Nation's cancer program and shall submit a comprehensive report to Congress within 1 year of the date of enactment of this legislation.

Mr. President, I believe the National Cancer Act of 1971 will prove to be historic legislation. Not only will it enable America to launch a major offensive in the conquest of cancer, but in implementing a basic program which I have called for over several years to support research in the cancer field outside the United States, it can initiate an international war on mankind's common enemy. I urge the Senate to adopt the conference report on the National Cancer Act.

CHILDREN'S DENTAL ACT—CORRECTION OF REPORT

Mr. KENNEDY. Mr. President, in the report on the bill, S. 874, on the children's dental health care, in the third paragraph, line 7 of the first page, "66" ought to be "26." I ask unanimous consent that the permanent Record so reflect that change.

The PRESIDING OFFICER. Without objection, the Record will so reflect the change.

Mr. BOGGS. Mr. President, I wish to express my strong support for that portion of S. 874, the Dental Health Act of 1971, which creates a dental health program for children and also adds a new section to the Lead-Based Paint Poisoning Prevention Act.

Due to what I consider to be a misinterpretation of the intent of that act, the people of Delaware and Rhode Island have been denied participating in this program. This denial has occurred because Delaware and Rhode Island both operate their public health services at the State level, and the Lead-Based Paint Poisoning Prevention Act, Public Law 91-695, has been interpreted so that grants can go only to local units of Government.

Quite obviously, this would be a needless and wasteful duplication for a local unit of government in Delaware to set up the administrative machinery to administer such a health grant, when the grant can be handled more effectively by the State department of health and social services.

The language of the new section added by S. 874 would enable to the State health agencies of Delaware and Rhode Island to qualify as recipients for grants to detect and treat incidents of poisoning associated with the hazards of lead-based paints.

To give Senators an understanding of what this amendment could mean to the people of Delaware and Rhode Island, I would request unanimous consent that a letter written to me by Dr. Albert L. Ingrain, Jr., secretary of the Delaware Department of Health and Social Services, be printed in the Record at the conclusion of my remarks.

Dr. Ingrain's letter explains the vital need for such a program in order to deal effectively with the danger of lead poisoning to our children. Dr. Ingrain points out that nearly half of 82 children tested in the Wilmington model cities area had more lead in their blood than is described as the "safe" level. This is deplorable, and it must be corrected.

I should point out that the Department's request calls for a grant of $80,000. That is a small cost compared with the benefits it will bring. But this grant application cannot be considered unless this new section is added to the Lead-Based Paint Poisoning Prevention Act.

Mr. President, this new section was included in the bill at the suggestion of the distinguished Senator from Rhode Island (Mr. PELL). I want to commend Senator PELL for his work on this program and for over several years to support research in the cancer field outside the United States, it can initiate an international war on mankind's common enemy. I urge the Senate to adopt the conference report on the National Cancer Act.
was ordered to be printed in the Record, as follows:

WILMINGTON, DE...


My Dear Senator Boggs: The State of Delaware, through the Department of Health and Social Services for carrying out all health services in the State, is responsible for health services in all counties and the City of Wilmington, Delaware, therefore, does not qualify to receive a grant under Section 5, Title V, of the Lead Hazards Prevention Act, Public Law 91-695. In the City of Wilmington and its metropolitan area, there is known to be a special problem with lead poisoning.

Our Division of Physical Health in cooperation with the Department of Health, Education, and Welfare, Health Services and Mental Health Administration, conducted a lead poisoning survey in the Model Cities area of Wilmington which was completed in October 1971. Out of 82 children ages 1 to 6 screened 38 or 47.5% had blood lead levels above 40 micrograms per 100 mls (the maximum allowable level). In addition physicians and hospitals have reported 26 cases of lead poisoning since January 1, 1971. Obviously the equipment to do the testing. Our need is grant funds to implement a program. We have submitted an application under Region III, Department of Health, Education, and Welfare, on September 14, 1971. To date no approval has been received.

It has been reported that the Lead Poisoning Project submitted by the State of Rhode Island has been disapproved and local services is provided in the same way as Delaware. We would very much favor an amendment to P.L. 91-695 which would make the states responsible for rendering direct local services to its citizens. Unless this is done children in the State of Delaware who live in high lead-poisoning risk areas will be denied a highly essential service. States responsible for local health services need to be permitted to receive grants to carry out programs of lead poisoning detection and prevention. Otherwise irreparable and irreversible morbidity including severe disabilities will occur.

Your assistance is deeply appreciated.

Respectfully yours,

Albert L. Ingram, Jr., M.D.
Secretary.

Mr. Matthias. Mr. President, I am very pleased to have become a cosponsor of S. 1874, the Children's Dental Health Act, which will shortly be before us. The need for an increased Federal dental health effort has been strikingly obvious for many years. The facts are very disturbing: by the age of 2 years, half of America's children have already been struck by tooth decay. By the time of entering school, the average child has three decayed teeth, and by his 15th year he has 11 decayed, missing, or filled teeth. And I find over and over again, that all the children in this country have never been to a dentist. And an even larger proportion of rural youngsters have never visited a dentist. But by far the greatest need is in low-income families, for almost 70 percent of them have gone totally without even a single visit to a dentist.

Just as is the case with medical care, the continuing demand for dental care necessitates our placing much greater emphasis on preventive services and maximizing the productivity of our dentists. The necessity of doing this was noted by the "Carnegie Report on Higher Education and the Nation's Health" which stated:

"Despite the current progress in dental productivity and rapid progress could be achieved through more extensive use of dentist's assistants and dental hygienists and through a modernization of programs. The view has been expressed that dentistry has an excellent chance of being the first health profession to become truly preventive."

A major thrust of the Children's Dental Health Act, therefore, is to begin in earnest the task of maximizing our dentists' productivity by increasing the number and utilization of dental auxiliaries. The practicality and wisdom of this approach has been widely noted. In his health message to the Congress early this year, President Nixon said:

"One of the most promising ways to expand the supply of medical care and to reduce its costs is through a greater use of allied health personnel, especially those who work as physicians' and dentists' assistants."

To provide for institutional training for dentists and dental students in the use of dental auxiliaries, as well as to provide for the training of much greater numbers of dental auxiliaries, this bill authorizes grants to Region III.

The hope, therefore, is to make the dentist the captain of a team, rather than an entire team in and of himself.

Another major provision of the bill authorizes the number of grant projects to provide preventive, corrective, and followup care to children from low-income families and to other children who are unable to obtain proper dental care. These projects would be administered by public and nonprofit agencies. Priority would be given to projects serving preschool children and those in the first five grades so that minor defects can be remedied before they grow into more painful, serious, and costly defects.

At the same time it is hoped that the Department of Health, Education, and Welfare and the dental profession will learn from these projects as to how to best utilize them.

Mr. Beall. Mr. President, as a co-sponsor of S. 1874, the Children's Dental Health Act of 1971, I strongly support this measure.

The bill basically authorizes a $142 million, 3-year dental care program. The need for this bill is obvious from the following national statistics:

It is shocking to hear that 70 percent of low-income youngsters have never been to a dentist.

More than half of the population over age 65 have lost all their natural teeth.

For every recruit entering the service, Uncle Sam on the average, must perform five fillings. On eight out of 10, it is necessary to extract a tooth.


Of the total $142 million authorized, $50 million would be for a much needed and long awaited beginning of a program to provide preventive, corrective and followup care for disadvantaged children. While decay affects 98 percent of my State's population, 75 percent of our children are under six and have never been to a dentist. This affects both the urban and rural disadvantaged and the primary reason is lack of financial resources. These pilot dental care projects would make available health care in combination with programs of prevention and health education.

I am convinced that we can avoid the serious consequences of the failure to get care in the dental area. And if nothing is done, we would be practicing preventive care in the dental area, and the value of preventive care in this area is unquantifiable. Periodic checkups and proper treatment of minor oral problems from becoming major ones.

This program will work and about 3 years ago the University of Maryland School of Dentistry and the Baltimore City Welfare Department conducted a successful program but had to discontinue it because of lack of funds.

The bill authorizes $113 million to train auxiliaries and to train 150 dental students in 1971 and 1972, and to carry on research and training projects, and up to 3 years of additional training. The savings that will accrue to the Federal Government and to the states from early diagnosis and treatment of dental problems is obvious. The savings that will be made by the dental profession in terms of reduced litigation and decreased complications of dental work is obvious.

Through no stretch of the imagination nor the dollar can we meet dental manpower needs in the foreseeable future in Maryland except through training more auxiliary personnel.

Mr. President, the training of dental auxiliaries is most important for my State. It will assist such institutions as Allegany Community College, the Community College of Allegheny County and the Community Colleges in Montgomery and Prince Georges Counties and the University of Maryland in preparing young men and women to enter the dental auxiliary field. The University of Maryland has already received support from the Public Health Service for a team project—a program to train dental students to manage a team of expanded function dentists. Our university was one of nine dental schools in the Nation to receive such a grant and without the additional assistance that may be forthcoming under this act, it will be limited to the amount of time each student will work in the team project may result.

Third, the bill would authorize community-based programs only if they are designed for the purchasing and installation of water treatment equipment.

Mr. President, a projection of Maryland health manpower needs through the 1980's developed by the Maryland Council for Higher Education in 1969, recommended the following:

Immediate attention should be given to increasing the productivity of dental manpower...
Today we have the opportunity in the Senate to vote for a measure which is an important beginning in finding answers to our dental crisis. S. 1874, of which I am a sponsor, authorizes an appropriation of $142 million over the next 3 years for dental health care.

Specifically, the money would be allocated for the following purposes: $50 million for pilot dental care projects to help disadvantaged children; $9 million to help communities and schools wishing to fluoridate their water supplies; $57 million to train dental assistants and other auxiliary personnel; and $26 million to train dentists and dental students on how to utilize most effectively the auxiliary people.

As the committee report frankly states, this would not be a crash dental program. It is largely an experimental effort prior to the development of a national dental care program. The Senate Labor and Public Welfare Committee had the view of the American Dental Association that—

Experience with programs such as those proposed by S. 1874 is absolutely essential to the stopping and to the beginning of a substantial national dental care program.

I have no doubt but that this measure has the resounding support of the parents and children of this country. I urge the Senate to adopt the Children's Dental Health Act of 1971.

Mr. President, Mr. Humphrey, Mr. President, no one who has traveled extensively through the towns and cities of our country can honestly dispute the urgent need for a dental health care plan for our Nation's children and urban people.

The astute observer will readily recognize that in the United States dental care is still largely inaccessible. Teeth are missing. There are signs of decay—often heavily decayed and of precious teeth that nature can never replace.

And you sadly see, too misshapen mouths that, if uncorrected, will senten­d these children to a life of ugliness and perhaps accompanying psychological difficulties.

It has been reported—and accurately, I believe—that half of all children in our country under the age of 15 have never been to a dentist—and for nonwhite children that rate jumps to 75 percent. Yet 95 percent of all children have tooth decay.

When money is in short supply—as it is for so many families with young children—it is only the most pressing needs that are usually met.

And, because dental disease is rarely fatal, this is the type of health care need which parents are most inclined to postpone or to ignore entirely, except in an emergency.

The meantime irreparable teeth are lost to decay. We are confronted with the disturbing national statistic that 20 million of our citizens have lost all their teeth and another 25 million have lost half or more. Only 6 persons in every 1,000 possess a full complement of sound teeth.

In a country blessed with the potential to remedy this situation, this lack of dental care can only be regarded as a national disgrace.

The problem is not only providing funds for dental care, however. It is also a staffing problem—of training a sufficient number of dentists, hygienists, and other staff to provide the dental care which is needed.

In the rural and urban poverty areas of our Nation there is a great shortage of these specialists, along with other medical personnel.

Particularly in small towns, parents often must drive many miles to take children to the nearest hospital. Many dental health problems, particularly cavities, affect children 15 years of age and under. It is particularly significant for that reason that this legislation has been brought forward by the Senator from Washington.

The bill will authorize $142 million over the next 3 years for use to combat dental disease. It provides preventive, corrective, and followup care for disadvantaged children. Nine million dollars is authorized to assist communities and schools which wish to fluoridate their water supplies; $57 million is used to train dental auxiliary personnel, and $26 million will be used to train dentists and dental students to best utilize these new personnel.

The bill would also provide for the appointment of a Dental Advisory Committee which would appraise the programs established under the bill and report to the Secretary of Health, Educa­tion, and Welfare. The bill further pro­vides that the Secretary submit a report to Congress each year regarding progress of the programs. A final re­port containing his recommendation concerning the need and feasibility of a national dental health program for children. Finally, the bill amends title XIX of the Social Security Act in order to allow dental services to be provided for persons under 18 without making available such services in the same amount, duration and scope to individu­als of any other age.

Leading experts in the field of dental health believe that the most effective way to obtain maximum value for dollars spent is to concentrate upon preventive care in the programs. This accentuates prevention. The $9 million author­ization designed to provide up to 80 percent Federal matching funds for the purpose of fluoridating community water supplies is considered by most leading organizations concerned with dental health in the country to be the single most effective measure which can be taken to promote dental health. This bill would provide funds to enable communities to voluntarily fluoridate their water supplies. No compulsion is intended in the legislation.

Mr. President, the following represents a list of those organizations which have endorsed fluoridation as an efficacious method for decreasing the incidence of dental caries.

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<td>American Academy of Pediatrics.</td>
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<td>American Association for the Advancement of Science.</td>
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<td>American Association of Dental Schools.</td>
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<td>American Association of Industrial Dentists.</td>
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<td>American Dental Hygienists Association.</td>
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<td>American Federation of Labor and Congress of Industrial Organizations.</td>
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<td>American Heart Association.</td>
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Effective public health measure and urges all communities to make this benefits available at the earliest possible time.

I recognize that fluoridation has been the subject of intense controversy; however, dental, medical, and statistical data, judged by a committee of experts and special councils of national and international organizations in both public health and dental care, concluded that the adjustment of the fluoride content of water supplies to a concentration optimal for dental health is a safe and beneficial procedure. We are convinced that our program to provide fluoridation, which is based on broad national support, has been successful in improving the dental health of the nation. The bill would provide $50 million to establish and support a substantially expanded Federal dental health effort in this area of critical need.

Mr. President, I strongly support the Children's Dental Health Act, S. 1874. This legislation—authorized by the Senate from Washington (Mr. Mannus) and recommended by the American Academy of Pediatrics—permits us to launch a substantially expanded Federal dental health effort in this area of critical need.

To begin to bring dental care to the more than half the children in the Nation who have never visited a dentist—and I might note that among low-income groups the number approaches 70 percent, which is to say that almost three-quarters of these children have never seen a dentist—a total of $50 million is authorized over 3 years for pilot dental care projects providing preventive, corrective, and follow-up care to children. These projects would provide dental care to all children or even to all economically disadvantaged children. We have neither the funds nor the manpower to provide care to all children or even to all economically disadvantaged children. But these pilot projects—while providing direct care to 1.5 million disadvantaged children—would provide an opportunity for determining how quality dental care can be provided to large numbers of people with maximum efficiency and minimum cost.

No child should be permitted to suffer ill health because of an isolated area or because his father is poor and this provision would move that principle from promise to performance. To make it possible for the American people to have a high standard of living and to eliminate the nearly $4 billion which they are spending every year on corrective dental care, the bill provides $9 million over 3 years for Federal matching grants to schools or communities desiring to fluoridate their water supplies. The effectiveness and safety of fluoridation in preventing tooth decay has been demonstrated again and again. In March 1969 the Surgeon General stated:

The United States Public Health Service endorses water fluoridation as a safe and effective public health measure and urges all communities to make this benefits available at the earliest possible time.
Academy of Pediatrics reports that: "Dental disease is nearly universal in children." Likewise, in its report to the President, "The American Dental Health Act addresses this need by authorizing $26 million to be used during the next 3 years to train dentists and dental students to work effectively with auxiliary personnel. Taken together, sections 1103 and 1104 will provide us with dentists and dental auxiliaries trained to work as efficient, productive teams capable of providing higher quality dental care to more Americans than ever before.

Mr. President, the Children's Dental Health Act of 1971 would help to substantially reduce the incidence of dental problems and would greatly increase the dental profession's capacity to deal with those that do occur. Enactment and full implementation of this legislation would comprise a sound investment in the Nation's health.

I urge the Senate to pass this bill and to make that investment.

The fourth— and final— major section of S. 1874 would authorize $9 million to train approximately 15,000 new dental auxiliaries during the next 3 years. While even this increase will not completely close the gap between auxiliaries needed and auxiliaries available, it will substantially meet the increasing demand for dental services we know lies ahead.
and nays have been previously 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 New Mexico (Mr. ANDERSON), the Senator from Alaska (Mr. GRavel), the Senator from Oklahoma (Mr. HARKIN), the Senator from Indiana (Mr. HARTKE), the Senator from Arkansas (Mr. McCLELLAN), the Senator from Minnesota (Mr. MONDALe), the Senator from Maine (Mr. MUSKIE), the Senator from California (Mr. TURNER), and the Senator from Virginia (Mr. BYRD) are necessarily absent.

I further announce that, if present and voting, the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), and the Senator from Virginia (Mr. BYRD) would each vote “aye.”

Mr. GRIFFIN, I announce that the Senator from Utah (Mr. BENNETT) and the Senator from South Dakota (Mr. MUNDT) are absent because of illness. The Senator from Illinois (Mr. FERCY), the Senator from Maine (Mrs. SMITH), and the Senator from Vermont (Mr. STAFFORD), are necessarily absent.

The Senator from Arizona (Mr. GOLDWATER) is detained on official business. If present, the Senator from Illinois (Mr. FERCY) and the Senator from Maine (Mrs. SMITH) would each vote “aye.”

The result was announced—aye 85, nays 0, as follows:

[No. 444 Leg.]

YEAS—85

Aiken
Allen
Allott
Baker
Bayh
Beall
Bell
Bilson
Bennett
Bentsen
Bibb
Boozer
Boggs
Boggs
Boggs
Bongino
Buckley
Burdick
Byrd, W.Va.
Byrd, N.C.
Cannon
Case
Chiles
Church
Cook
Cooke
Curtis
Dole
Dominick
Eagleton
Eastland
Eliender

NAYS—0

NOT VOTING—15

Anderson
Bennett
Byrd, Va.
Goldwater
Gravel

So the conference report was agreed to.

CHILDREN’S DENTAL HEALTH ACT

The PRESIDING OFFICER (Mr. BENZER). In accordance with the previous order, the Senator from Alaska will now proceed to vote on the bill (S. 1874) to provide for the establishment of projects for dental auxiliaries, to increase the availability of dentists, the efficient use of dental personnel, and for other purposes. On this question, the yeas and nays have been ordered.

Mr. ALLEN. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk reads as follows:

Amend S. 1874 by striking the following:
Commencing with page 11—Starting with line 21 Grants for Water Treatment Programs through page 12, line 18.

The PRESIDING OFFICER. No time for debate being permitted, the question is on agreement to the amendment of the Senator from Alabama.

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

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. KENNEDY. As I understand, there is no time allotted on this amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. As chairman of the Health Subcommittee, I would be delighted to make the request myself, or the Senator from Alabama may do so if he wishes, for an allowance of time to explain the amendment. I know there is no time, but if he wanted to request it, I certainly would not object.

Mr. ALLEN. Mr. President, I do not know what the amendment is all about. I think it ought to be explained to the Senate before we vote. Can we not have 2 minutes to have it explained?

Mr. KENNEDY. Mr. President, I ask unanimous consent that there be 5 minutes on the amendment, 2½ minutes to the Senator from Alabama, and I will take 2½ minutes on the amendment, if it is allowable.

Mr. ALLEN. Mr. President, I ask unanimous consent that there be 5 minutes on the amendment, 2½ minutes to the Senator from Alabama, and I will take 2½ minutes on the amendment, if it is allowable.

Mr. KENNEDY. Mr. President, who is the proponent of the amendment?

Mr. ALLEN. We do not know what the amendment is all about. I think it ought to be explained to the Senate before we vote. Can we not have 2 minutes to have it explained?

Mr. KENNEDY. Mr. President, I ask unanimous consent that there be 5 minutes on the amendment, 2½ minutes to the Senator from Alabama, and I will take 2½ minutes on the amendment, if it is allowable.

Mr. ALLEN. Mr. President, I ask unanimous consent that there be 5 minutes on the amendment, 2½ minutes to the Senator from Alabama, and I will take 2½ minutes on the amendment, if it is allowable.

The yeas and nays were ordered.

The result was announced—yes 85, nays 0, as follows:

[No. 444 Leg.]

YEAS—85

Aiken
Allen
Allott
Baker
Bayh
Beall
Bell
Bilson
Bennett
Bentsen
Bibb
Boozer
Boggs
Boggs
Boggs
Bongino
Buckley
Burdick
Byrd, W.Va.
Byrd, N.C.
Cannon
Case
Chiles
Church
Cook
Cooke
Curtis
Dole
Dominick
Eagleton
Eastland
Eliender

NAYS—0

NOT VOTING—15

Anderson
Bennett
Byrd, Va.
Goldwater
Gravel

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

Mr. MANSFIELD. Mr. President, in view of the unanimous consent request, I suggest most respectfully that the time allotted to the distinguished Senators from Alabama and Massachusetts be used up, that there then be a quorum call, that the roll call vote be taken, that the amendment be laid on the table, and that after the call vote on the cloture motion the vote occur on the Allen amendment, to be followed immediately by the vote on section 3 of S. 1874.

The PRESIDING OFFICER. Is there objection?

Mr. MANSFIELD. We do not have a quorum.

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

Mr. KENNEDY. Yes; that is correct.

The PRESIDING OFFICER. Without objection, the request of the Senator from Massachusetts is agreed to.

Mr. ALLEN. Senator, under the rules, this amendment merely would knock out one section of the bill, starting on page 11, line 21—Grants for Water Treatment Programs.

There is no authorization in this title for $9 million for a water treatment program which would be a fluoridation program, to which many people object. This section in this title is not at all necessary in that a full hour can be taken to debate the entire remaining authorization, some $50 million to $60 million, for free dental care. It would knock out the section providing authorization for fluoridation programs. That is all it would do.

I believe that we do not need to get into the business of giving grants for programs to which so many people object and we should not force these people to participate in these programs. It will be said that it would be a voluntary program. Yes, it would be voluntary as regards participation by the State or the county or the city. It would equally be voluntary as to the schoolchild, himself, who would have to drink the water provided for him.

The remaining authorization provides plenty of funds for carrying out the program envisioned by the distinguished Senator from Massachusetts, providing the necessary funds for dental care for poor children.

I reserve the remainder of my time.

Mr. KENNEDY. I yield myself 3 minutes.

Mr. President, there is a $9 million authorization in this bill. This is a much bigger program with much more community. It will make available 80 percent Federal funds. There will also have to be participation on the part of the local community. It is not a program for any grant, it is a voluntary program.

This is a strictly voluntary program. It does not require any community of this Nation to go ahead with fluoridation. It says that if any community has voted for fluoridation and wants to have a fluoridation program, some resources will be available at the national level to go ahead with fluoridation. The $9 million was actually appropriated, it would cover up to 45 million Americans; 100 million Americans are...
now covered by programs that have reservoirs with some fluoridation. Approximately 120 million are not. If we were able to place the $9 million in communities in the country, we could cover an additional 45 million Americans.

This program is endorsed by 45 different organizations including the American Medical Association, the American Dental Association, the American Association of Retired Persons, the American Association of Dental Schools, the American Association of Industrial Dentists, the Association of Public Health Dentists. The list is on page 7 of the committee report.

I would say that this is really one of the most effective and important kinds of programs that can be included in the proposed legislation. If any of the people who testified before our committee, with the exception of those who came specifically to oppose fluoridation, were asked the one action that could be taken by Congress to really help meet the problems of tooth decay, they would say it is in the area of fluoridation.

I think this program is extremely modest—only $9 million. We know, in terms of a program of that size, that it will be less, but it could have an important voluntary impact on communities in this Nation. Approximately 95 percent of tooth decay occurs in children under 15 years of age. These children have a voice in the local communities. When it comes down to the town fathers, who decide where the money is going to be spent, too often we have seen, in the course of our testifying, that the money, a few thousand dollars, has not been there for the development of a fluoridation program. We think this will provide additional impetus to meet the problems of tooth decay in our country.

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

Mr. KENNEDY. I yield.

Mr. PASTORE. Will the Senator be against this amendment?

Mr. KENNEDY. I am against this amendment.

Mr. PASTORE. I did not hear that.

Mr. KENNEDY. I hope the amendment is rejected.

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

Mr. MAGNUSON. Will the Senator yield me 20 seconds?

Mr. KENNEDY. I yield.

Mr. MAGNUSON. I appreciate the action of the Senator from Massachusetts and the other committee members on this very important bill. I now wish to add the Senator from Maryland (Mr. Mathias) as a cosponsor of the bill.

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

The PRESIDING OFFICER. The clerk will call the roll.

The Sergeant at Arms called the roll, and a quorum was present.

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

The PRESIDING OFFICER. The Senator from Indiana (Mr. Eagleton). Without objection, it is so ordered.
had full opportunity to debate the question before us: The Flood Insurance Act; supplemental appropriations; District of Columbia appropriations; District of Columbia Revenue Act; Federal election reform; Federal credit unions; Defense appropriations; the Revenue Act; foreign economic assistance; foreign military assistance; Indian reservations; Alaska; Native lands; Public Health Service.

Even this morning we find ourselves debating two important pieces of health legislation and taking time away from the business of the Senate. I am quite confident that the debate went on for a very long time. I am quite confident member how long the debate went on to end so that we can go home just to the traditions of the Senate.

Mr. Rehnquist are trying-to keep this time. And I do not think any of us are interested to that we received the preceding day, not been raised before, which should not, but rather on the merits of the case. The distinguished Senator from Arkansas, who is not here who very dedicately yesterday said he was going to remain resolute in his feeling about free debate, but felt very strongly opposed to the Senator from Indiana on the merits. I said a very important principle to him, that if that is what he feels, I might disagree with him on that principle, but there is a man who stays with to what he believes, and I salute him for it.

This, Senators might be interested to know, is a rather unique nomination which is before us. I noticed just recently that for the first time in our history the distinguished Senator from Indiana made on yesterday relative to the Senator from Indiana. I think the Senator will recall that for the first time in our history. And we had 6 hours on debate, but felt very strongly opposed to the Senator from Indiana on the merits. I said a very important principle to him, that if that is what he feels, I might disagree with him on that principle, but there is a man who stays with to what he believes, and I salute him for it.

I congratulate the Senator. I think he is entirely correct in his comments about there not being any justification to call this debate a filibuster.

Mr. BAYH. Mr. President, I appreciate the comments as well as the very perception. The Senator from Arkansas, who is not here, to who former Justice Jackson's secretary was published in the New York Times about Donald Cronson, I wonder why he would not have the right to a full and thorough discussion and to focus attention on this matter and to have all Senators know what they are voting on, what kind of a man it is and what he believes.

Mr. BAYH. Mr. President, I yield as much time as he desires to the Senator from Kentucky.

Mr. COOK. Mr. President, I might say that a Senator having the right to a full and thorough discussion and to focus attention on this matter and to have all Senators know what they are voting on, what kind of a man it is and what he believes.

Mr. BAYH. Mr. President, I yield as much time as he desires to the Senator from Kentucky.

Mr. FANNIN, Mr. President, I yield as much time as he desires to the Senator from Kentucky.

Mr. COOK. Mr. President, I yield as much time as he desires to the Senator from Kentucky.

Mr. FANNIN, Mr. President, I yield as much time as he desires to the Senator from Kentucky.

We had an amendment a week or so ago which was called the Pastore amendment. Under the unanimous-consent the Senate had 6 hours provided for debate on that amendment. That amendment would have turned the political system of the United States entirely around and absolutely change the political system of the United States more than anything we had ever known of before in our history. And we had 6 hours to debate that measure.

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

Mr. COOK. I will yield in a minute. I say that it was very interesting to note that during the course of the debate there were Senators who were here at all hours and on all occasions except during the course of the debate. And there were a lot of handcarters that could have been purchased rather cheaply, because everyone had them off for awhile. This is a matter that was discussed for only 6 hours.

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

Mr. COOK. I now yield to the Senator from Arkansas.

Mr. FULBRIGHT. Mr. President, if the Senator from Kentucky thought that this was so important that there should be great debate on the matter, it would have been very easy to prevent a limitation of 6 hours on debate.

Mr. COOK. Mr. President, I might say to the Senator from Kentucky that this remarks are well taken. However, one has to be on the floor at the time when the majority whip stands up and asks for unanimous consent that a measure be brought to the floor for debate. As a matter of fact, there was a time limitation on that amendment before it was even printed and before it was on the desks of the Senators.

Mr. FULBRIGHT. Mr. President, I beg to differ. If the Senator believes that was an important matter, he could have told his own representatives that he registered an objection. That desire would have carried the day.

A Senator does not have to be here. The Senator from Kentucky knows that if he really feels strongly about a matter he brings it up to a time he thought it to be that important. Mr. COOK. Mr. President, that would be very fine, except that that amendment was not available to the Members of the Senate at the time the amendment was made that there would be 6 hours of debate. No one had an opportunity to see it at that time.

So, what are we faced with? We are faced, first of all, the fact that we now get into this debate—and I wish the Senator from Indiana would listen to this—and I do not have any argument over the story that was published in the Washington Post this morning that Cronson, who is former Justice Jackson's secretary, about who former Justice Jackson's secretary was. However, when the Senator from Indiana read the article in the New York Times about Donald Cronson, I wonder why he would say that Cronson was a so-called clerk. I do not dispute the fact that it was Mr. Jackson's secretary.

Mr. BAYH. Mr. President, will the Senator yield?
Mr. COOK. I yield.

Mr. BAYH. Mr. President, I ask unanimous consent that my remarks be changed to read "clerk" instead of "so-called clerk."

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

Mr. COOK. That is fine, because I think there is an inference to "so-called clerk" that has gotten into nomination to it with respect to certain members of the press in the gallery. And they will use it to great advantage, when, in fact, he was a clerk and the record so shows.

I do not see why we should make such remarks.

Mr. BAYH. The Senator from Indiana has not seen such a record.

Mr. COOK. Well, the Senator from Kentucky has so.

Mr. BAYH. I take the word of the Senator from Kentucky on the matter. This is the first time I have ever heard anyone say that he has seen a record.

Mr. COOK. I do not see why we cannot use in innuendoes and we wake up in the morning and have a new issue because the facts have changed in the last 12 hours. I have listened with great interest to the Senator from California (Mr. CRANSTON). In the first part of his speech, he said very distinctly that the nominee did not answer certain questions. And after those questions, he says that he does not really believe him, anyway, and it does not mean that much to him. The Senator from California was not satisfied with the answers he got anyway.

The Senator from Indiana knows that he has been talking to practically an empty house and, if the cloture motion fails today at noon, I suppose he will speak until it doth dawn.

When the rollcall vote has been taken, the Senators can analyze it, and it will be to their advantage or disadvantage, as the case may be.

If a large number of votes are cast in favor of cloture, even though it might not be successful, the Senator from Indiana can take a cursory glance at the rollcall vote and see who votes on his side of the matter. There are not very many, although a substantial majority, that favor cloture, he will continue his argument and move on to the next one that will do it, this matter might be over and we could put it to rest, regardless of whether there is a recess pending.

I might say to the Senator that I am in no hurry to leave. I will stay until Christmas Eve if he got any fandango out of the discussion of a gentleman who can no longer defend himself because he is in the grave, and I refer to the late Justice Jackson.

There is a great deal on Justice Jackson at the University of Chicago that can be discussed on this floor and which may have to be discussed on this floor, but I would say I think it is a little strange that we would be attempting to interpret for ourselves a Justice of the Supreme Court of the United States. I might suggest that maybe this debate will turn into what Justice Jackson's philosophy really was and not what the philosophy of the nominee really is. I would regret if that were to happen.

I read the memorandum of the Senator from Indiana this morning and I might say I think some of the statements in it might shock some Members of the Senate—they shocked me—particularly those such as: "An examination raises the gravest questions of basic honesty."

I think this cuts pretty close to the bone.

Mr. BAYH. That is what the Senator from Indiana felt or he would not have said it.

Mr. COOK. I might say, in all fairness to the Senator from Indiana, I wondered whether he did decide to put it in. I say that in all fairness and honesty.

Mr. BAYH. I appreciate it.

Mr. COOK. I can only say to my colleagues in the Chamber that I think the issue has been well debated and discussed. During the course of the hearings, after the matter got to committee, we made an agreement as to when the report would go out, and on the time limitation. I might say I congratulate the Senator from Indiana on the minority views they got out in the time period that was set because I think they were aware of the fact that there had been a posed and agreed to by the members of the Committee on the Judiciary.

If we continue the debate until Monday or Tuesday, fine, but I would suggest to the Senator from Indiana that I have other things to do, whether it takes all of next week or does not. I only say to him there are extremely important hearings, and the President only asked, can I not sure the Senator from Indiana is going to come up with any change in the minds of Members of the Senate the longer he goes on.

Mr. President, I ask unanimous consent to have printed in the Record an article entitled "Ex-Colleague Says Rehnquist Opposed Segregation," published today in the New York Times.

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

[From the New York Times, Dec. 10, 1971]

EX-COLLEAGUE SAYS RHENQUIST OPPOSED SEGREGATION

(By Anthony Lewis)

LONDON, December 9.—A former colleague of William H. Rehnquist said tonight that in 1953 Mr. Rehnquist was personally opposed to the legal doctrine of racial segregation.

Donald Cronson, who in 1952 was a law clerk to Supreme Court Justice Robert H. Jackson, along with Mr. Rehnquist, spoke out in the controversy over Mr. Rehnquist's nomination to the Supreme Court.

The latest phase of that controversy has turned on a memorandum bearing Mr. Rehnquist's initials, directed to Justice Jackson, contending that the doctrine of segregation and the right to private property were constitutional. Justice Jackson was part of that unanimous Court.

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

Mr. COOK. I yield.

Mr. DOLE. There is no doubt in the Senator's mind that Mr. Rehnquist will be confirmed, is there?

Mr. COOK. No doubt at all.

Mr. DOLE. I would like to ask, in any conversation on the floor, I did not know there was a debate. I have come to the Chamber every day, and I did not see any debate. Perhaps there has been and I was not aware of it. I would have to check the record.

I think the Senator from Indiana has a perfect right to check the qualifications of the nominee at length, and that is a right that all of us have.

I do not know much about filibusters or extended debate. I learned a little last summer from the distinguished Senator from Arkansas about novices, filibusters, or extended debate, as some would use that term.

But it seems to me some of us would like to move ahead on this nomination and give it careful consideration and then shape a decision that Congress. I think most people in America would be happy to see Congress adjourn. It appears to me that Mr. Rehnquist is qualified. As the Senator from Kentucky stated, we could speculate about what might appear in tomorrow morning's paper or Sunday's newspaper. I do not single out any one particular newspaper. But it appears to me there has been very little evidence that Mr. Rehnquist should be questioned further, and I hope the Senate can vote soon.

Mr. COOK. I thank the Senator from Kansas. The Senator knows I agree with him about adjournment of Congress.

Mr. President, I yield the floor.

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

Mr. BAYH. I yield to the Senator from Arkansas.

Mr. FULBRIGHT. Mr. President, the Senator from Kansas is very candid. He said he has not observed any real debate.
The supporters of the nomination have refrained from debate or discussion; they simply have boycotted debating this nomination. I have seen this before. They have declined to engage in any argument with the Senator from Indiana or anyone else about the nomination, standing on their belief they have the votes.

The Senator from Kansas said he does not know about extended debate. I accept that. I do know a lot about it. I have been here a long time. Of course, the Senator from Kansas was a Member of the House, where they did not allow debate of any consequence. They were under rules there which limited them to 5 minutes, and often that is all the time an individual Member has to discuss measures, even the important measures.

I am not criticizing the Senator from Kansas but he identifies his interest with the executive, with the President. He does not believe, as I judge his remarks, that the Senate is a co-equal body and that it should not debate these matters. I understand and sympathize with that; most people of the world today do identify with the executive power. The practice has been left in the world that function as legislatures should.

The influence of this body is gradually being eroded, and some of us have been trying to respect its traditional influence, especially in foreign policy, which has gotten us into so much trouble in recent years.

I do not understand it is much more agreeable to be identified with the throne in any government, and I take that generally to mean the executive. It is always a pleasure to be associated with power, with great power, and the power to speak with a single voice, with what is in some countries such as the Soviet Union, called "cult of the personality" but which I call "cult of the Presidency," I suppose.

I have found during my experience in the Senate that I have been intimate with Presidents for brief periods, but I have found it difficult to maintain that close association because they have a different attitude about the Senate's role regarding major issues of policy in our Government, and I believe the Senate's independence is fundamental to our system.

I do not criticize the President for taking advantage of his power and using it. I do criticize the Senate when it does not exercise its power and responsibility given to it by the Constitution.

My objection to this nominee is not that he is not prepared to advocate that he represent the executive branch; he speaks for it. But apparently we are now going to put a man on the judiciary who believes in supremacy of the executive. I think that would distort our fundamental system and undermine the role of the Senate in the governmental structure.

That is my one objection to this nominee.

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

Mr. FULBRIGHT. I yield.

Mr. FULBRIGHT. I was on the floor listening to the very eloquent speech of the Senator from Arkansas. Maybe the Senator from Kansas does not consider that to be

worthy of debate, but I thought it was one of the most perceptive presentations I have heard since I have been here, and that has been a day or two. Has anyone in the Chamber raised a challenge for the Senator from Arkansas to try to destroy the logic of that presentation in debate?

Mr. FULBRIGHT. No. The Senator from Kentucky and the Senator from Indiana both remarked that the Senator from Indiana has been speaking to an empty Chamber. All those in support of the nomination have avoided any real, meaningful debate. They have refrained from asking questions—almost completely refrained from asking questions of me or the Senator from Indiana. They do not want to discuss the nomination. They want to accept it. They want to close debate and they want to vote it up or down with a minimum of discussion.

This has been the practice of most people who believe the executive is the source of all wisdom. That is an understandable attitude. Three-fourths of the people of the world today function in one of another—executive government. There are practically no other governments, outside of Scandinavia, the British, and a few others, that have what I call a functioning legislature.

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

Mr. FULBRIGHT. I yield for a question.

Mr. BAYH. Mr. President, if I may, I wish to impose an inquiry as to the time.

Mr. FULBRIGHT. I ask the question on the time of the Senator from Arizona.

Mr. FULBRIGHT. I would like to ask the Senator is: Did he look into the testimony and the background of Chief Justice Burger or Justice Blackmun and make a reasonable interpretation in his mind that these people were not in any way what one could call executive prose in background or any of their decisions, the decision he made on Mr. Rehnquist?

Mr. FULBRIGHT. Apparently he came to a contrary decision on Chief Justice Burger and Justice Blackmun.

Mr. FULBRIGHT. Yes, indeed, insofar as I knew about Mr. Burger. I have since found that he has become well acquainted with Chief Justice Burger. I have become much better acquainted with him since then. I served on a board with him. I have great respect for him. In fact, personally, I like him very much.

I objected at that time that we were being forced to vote ahead of time. There was almost no debate. Only a few days were devoted to an adequate debate. It is taxing to be brought about here. I knew too little about him. I did not vote against Mr. Burger because I had no evidence comparable to what is on the record about this nominee in his attitude toward the Senate and our constitutional system.

I do not regard Mr. Rehnquist as a conservative as far as the Constitution is concerned. He is a learned constructionist; he is not a strict constructionist of the Constitution. He is quite willing to believe the proposition that the Constitution is elastic. I thought his judgment was deeply lacking as far as his constitutional interest was concerned. But he was an intelligence of Mr. Rehnquist. It said he is an intellectual man. People of this kind are often what I call intellectually arrogant in their views and opinions of the legislature. I remember the late Dean Acheson: God bless his soul. He used to come before us often. He had great contempt for the legislature. He thought we were fools and he had little tolerance for us and thought we had no right to ask questions of such people as he was. I thought his judgment was deeply lacking as far as his constitutional interest was concerned.

Mr. FULBRIGHT. I have no objection to men of great intellect. They do not split infinitives. I understand you do not split infinitives if he is in accord with our constitutional system and uses it to determine what is in our national interest. I think it is in the national interest that this man should be able to be powerful and that we cut off debate is a sound one. The principal difference between the House and the Senate is our capacity to question and debate. That is what distinguishes us from the House. If we cannot have extended debate in the Senate, we ought to abolish it and save several million dollars. There is little value to it if we cannot have full debate on important issues.

That is the way I feel about it. The Senator from Kansas says he has not had much experience.

Mr. DOLE. I am learning.

Mr. FULBRIGHT. The Senator from Louisiana, I, and others who have been here a while used to have debates that went on all night because we felt strongly enough about some issues to warrant it. I do not wish to criticize. I sympathize with the Senator from Kentucky. A practice has grown up here of limiting debate on every issue, but, after all, it is done by unanimous consent. In matters in which I have an interest, I have appealed to the majority whip that I be notified on those matters. We do not want to enter into an agreement. He has abided by that request, so it may work out all right—at least, that part of it—but I am weary of what could happen to the Senate.

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

Mr. FULBRIGHT. I yield.

Mr. DOLE. I want to thank the Senator for all his instructive efforts. They have been very helpful to me. I have learned a lot from the Senator from Arkansas, some things that I cannot use, Mr. President, but just as I may possibly use at a little later time.

Mr. FULBRIGHT. Well, there may come a time when the Senator will want...
to use it. He sees how opinions have changed about a lot of things.

Mr. DOLE. Things change. I am reminded of the fact that the distinguished Senator from Arkansas has changed from what he said in a speech in 1961, in which it was indicated that the Supreme Court ought to have more power insofar as war-making powers are concerned. I assume the Senate has changed.

Mr. FULBRIGHT. No, not war-making.

Mr. DOLE. What was it?

Mr. FULBRIGHT. If the Senator wishes—I do not know if we have time, but that article is often cited.

Mr. DOLE. I cite it frequently.

Mr. BAYH. Mr. President, a parliamentary inquiry.

Mr. FULBRIGHT. I do not mind discussing it at a proper time.

The PRESIDING OFFICER. Does the Senator from Indiana have a parliamentary inquiry?

Mr. BAYH. Yes, I do.

The PRESIDING OFFICER. The Senator from Indiana?

Mr. BAYH. I am glad to see that for the first time the opposition is here.

Mr. DOLE. We are just sort of passing through the Chamber. We do not intend to stay.

Mr. BAYH. The Senator from Indiana is glad to see the Senator from Kansas is here. He has been strangely missing from the debate. But a parliamentary inquiry, Mr. President: whose time is being expended in this debate.

The PRESIDING OFFICER. Immediately preceding the exchange between the Senator from Arkansas and the Senator from Kansas the time had been charged to the Senator from Indiana.

Mr. BAYH. Let us forget it. The other side can ask questions on our time, but we cannot ask them a comment on their time. There has been the rule during the course of this debate.

Mr. FANNIN. I do not think that has been the rule.

I was referring to the testimony of Mr. Rehnquist and others when they were before the Judiciary Committee. Hon. Walter Early Craig, a judge in the Federal District Court of Arizona, appeared before Mr. Rehnquist—"Incidentally, this judge is also the past president of the American Bar Association. He said:

I have known Mr. Rehnquist since his admission to the bar in Arizona, both in a professional capacity and since I have been on the bench, which I ascended in 1966. Mr. Rehnquist's achievements are already a matter of record. They are remarkable. The only reason I mention those high achievements is because it relates to his qualifications. In my experience, Mr. Rehnquist's professional skills and ability are outstanding.

This is coming from a past president of the American Bar Association, and now U.S. District Judge in Arizona, Walter E. Craig:

In his appearances before my court, Mr. Rehnquist conducted himself not only with the highest standards of integrity, but also with that intelligence, and I think he has conducted his life that way so long as I have known him.

When we talk about whether or not Mr. Rehnquist has compassion, I would like also to refer to what Judge Craig had to say about that. This was in answer to a question from the distinguished Senator from Indiana (Mr. BAYH). The Senator asked:

Do you know anything about the nominee that would lead you to have cause for concern about his insensitivity in the area of human rights? Have you heard or over about Mr. Rehnquist's nomination to the Supreme Court of the United States?

Judge Craig said:

I want to say this in response to that inquiry: I believe this man has a humanity about him and a human warmth that would make him, if anything, more sensitive to the needs of people with respect to the necessity to improve their lives and their society. I don't think that he would be in any way insensitive to the principles of human rights or to the disparity of any other rights.

He went on throughout that testimony praising William H. Rehnquist for his accomplishments both as an outstanding member of the bar and also in his private life. He is a fine family man and one of the finest standing in our country.

There are many in Arizona, both on the Democratic side and on the Republican side, who have come forward with strong support of Mr. Rehnquist. We have had a considerable response from the academic community. In fact, in one of our schools, Arizona State University, the dean of the Law School, tried to obtain Mr. Rehnquist's services. The dean offered him a very good position at the Arizona State University, but Mr. Rehnquist had an obligation with the Justice Department; he had made a commitment, and so he did not accept that assignment.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. FANNIN. I note that the greatest praise we can give to this man is the fact that the people who have been associated with him are his very strong supporters. Even when they have opposed him, whether in legal cases or political causes, they still speak very highly of him. When statements have been made about what Mr. Rehnquist is alleged to have done on different occasions, and knowing how strong his former adversaries as well as his friends were quick to make efforts to correct the record, I have had many calls from Arizona after the stories we saw in the press, and there were many who wanted to come back and appear as witnesses, but time was limited, and we did not think it was necessary. This man has been a splendid public servant, and I did not see how he could possibly be challenged. Mr. President, I think it is now very clear that the attempts to raise questions about his outstanding reputation and qualifications are not directed to his character, but are directed to this man will be overwhelmingly approved by the Senate.

The PRESIDING OFFICER. Who yields time?

Mr. FANNIN. I yield 5 minutes to the distinguished Senator from Nebraska.

Mr. HURSTKA. Mr. President, no one believes in the principle of full and free debate more than this Senator. So much has been said on this subject that I feel no need to expound further on this feature. But I have also voted for cloture in the past when I have been convinced that a discussion on the floor of this chamber was absolutely essential to the Senate.
position on certain issues and then, when he makes a clear and unequivocal statement, he is allegedly not believed. If I have heard or seen the quotation which followed, I have heard or seen it a dozen times:

We are no more dedicated to an "integrated" society than we are to a "segregated" society.

Mr. President, repetition is not free and free debate. It is instead a very obviouly intended threat to the doctrine that if you repeat something often enough and loud enough people may begin to believe it. Not that I really blame the opponents of this nomination from attempting to use this technique, for they have little of substance to offer. I feel strongly, however, that the time has come to end this fruitless expedition and get on with the business of the Senate. This is why I signed the cloture petition, and why I will support it with my vote.

Those who want this nomination defeated act as if the supporters of Mr. Rehnquist were building a wall that they must take through the Senate. But let us look at the facts. First, the following chronology of events will no doubt be of interest to all Senators:

Nominations made, October 21;
Hearings begun, November 3;
Hearings concluded, November 10;
Committee exchange session, November 11; November 18; November 23;
Minority views filed, November 30; and December 1;
It might further be pointed out that on November 11, at the first executive session of the Judiciary Committee, a majority was ready to report the nomination to the Senate. Four Senators, however, delayed a committee vote until November 23—and then asked for an additional week to file minority views. I am not complaining, Mr. President, as this is their right. However, with talk about insurrection and the like, I must point out that this nomination this sequence of events must be borne in mind.

Let us talk about another nomination for which the Senate is about to vote. The nomination of Mr. Harry Butz, as Secretary of Agriculture, was nominated by the President on November 11. This was a situation not without some controversy. In fact, I would venture the guess that Mr. Rehnquist will be confirmed by a greater margin than that by which Secretary Butz was approved by the Senate. And yet, the Senate managed to explore this candidate and work its will. On December 2, this nominee's name was sent up after Mr. Rehnquist, and he has already been confirmed.

Mr. President, here are a few more facts on the subject of cloture. Have we any chance to express our views, for the record or otherwise? An examination of the Congressional Record shows that the opponents of Mr. Rehnquist have been able to fill some 200 columns of the Record with statements of concern about the candidate—all prior to the date the actual floor debate began. I would not begin to presume to set limits on the printed expression of his views. However, 202 columns is not an insignificant amount when one considers the size of the print used in the Record.

Mr. Rehnquist's opponents have run up one trial balloon after another, only to see it shot down. While I admire their persistence in an effort to cause in which they believeso, I do not believe the Senate as a body should any longer indulge them in their fishing expedition. Frankly, I believe each time they raise these issues and then face the true facts they lose more ground and more votes. Each day they have made their position less credible, not more. But there is no sense in prolonging this matter.

Let us waste no further time in sending him to the Court or, if the majority so decides, let us say now we do not want to send him there.

Mr. President, I have said in my individual views and on this floor that those who know Mr. Rehnquist best have given him the strongest support. This is of critical importance. We learn the make-up of a man when we can observe him on a daily basis, working and socializing with him over a period of time. In this connection, the Washington Post yesterday printed a letter from Richard Berg, Assistant Attorney General of Legal Counsel who is now executive secretary of the Administrative Conference of the United States. Having served under four Assistant Attorneys General who preceded him in the office, Mr. Berg is in an excellent position to evaluate Mr. Rehnquist and compare him with his predecessors.

Mr. President, the letter is short, and the insight to the facts that I am unanimous consent that it be inserted at this point in my remarks.

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

From The Washington Post, Dec. 9, 1971

REHNQUIST'S APPROACH

Since the public discussion of the nomination of William Rehnquist to the Supreme Court has turned to a considerable extent on his views on civil rights and liberties, some comments of mine may be pertinent.

I served as an attorney in the Office of Legal Counsel, Legal Advisor to the Attorney General for eight years (1961-65, 1967-71). In the latter period, which included two years under Mr. Rehnquist, I worked on the civil rights problems presented by the Office, including the question of the legality of the Philadelphia Plan.

Mr. Rehnquist's approach to these problems, like his approach to all other matters on which we worked together, was objective and lawyerlike in the highest degree. He never expressed or showed, to my knowledge, any reluctance or disinclination to interpret and apply the law against discrimination in accordance with a sympathetic reading of their terms. Indeed, the legal opinions and memoranda on civil rights matters issued by the Office during Mr. Rehnquist's tenure differed little, if at all, in general philosophy from those issued by his predecessors.

It was suggested, however, in Professor Arthur Miller's article of some weeks ago that Mr. Rehnquist's legal conclusions as to the constitutionality of the most important laws were shaped by a desire to please his superiors. No lawyer can be oblivious to the needs of his clients. But then the president's lawyer is no exception. For any head of the Office of Legal Counsel there is an obvious conflict of interest between his role as adviser to and advocate for the Executive Branch and his role as the foremost interpreter and exponent of the law to the Executive Branch.

I served in the office under four assistant attorneys general, all lawyers of uncommon ability and integrity. Of the four Mr. Rehnquist was, in my opinion, the most objective, and the most rigorous in excluding considerations from the process of resolving a legal problem.

In his tenure as head of the Office of Legal Counsel, Mr. Rehnquist has won the respect and high regard of his colleagues, including many, like myself, whose views on political and social issues differ considerably from his. I believe that Mr. Rehnquist is well qualified for service on the Supreme Court and that the Senate should confirm his nomination.

ARLINGTON. RICHARD K. BRES.

Mr. HRUSKA. He concluded that letter with the following statement:

I served in the office under four assistant attorneys general, all lawyers of uncommon ability and integrity. Of the four Mr. Rehnquist was, in my opinion, the most objective, and the most rigorous in excluding considerations from the process of resolving a legal problem.

The PRESIDING OFFICER. The Senate's time has expired.

Mr. HRUSKA. One more minute, please.

Mr. FANNIN. I yield the Senate 1 additional minute.

Mr. HRUSKA. Mr. President, it has been said that this nominee is more in favor of executive power than of congressional power. Yet it is overlooked that he asserted that position when he was a representative and an advocate of the executive department.

What else would one expect of him?

Secondly, I want to mention a classic example of his always being bound by the limitations of the Constitution. Up until the time Mr. Rehnquist came to the legal counsel's office it had been the position of the Department of Justice that there was an inherent right on the part of the National Government to maintain cases of national security. Mr. Rehnquist pushed that aside, and asserted instead this doctrine: that it was reasonable, within the Bill of Rights, for the National Government to maintain cases of national security—a classic example of his being for the executive, but all within the bounds of the Bill of Rights.

The PRESIDING OFFICER. Who yields time?

Mr. SCOTT. Mr. President, will the Senator yield me 4 minutes?

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

The PRESIDING OFFICER. The Senator has only 3 minutes remaining.

Mr. FANNIN. I yield it to the Senator from Pennsylvania.

Mr. SCOTT. Mr. President, the opponents of this nominee have struck the rock of reason and evoked a waterfall of illogic.

They have abandoned totally, they have jettisoned, every one of the 100 or more arguments which they raised in hearings in the committee and elsewhere in order to rely on an undated, unsigned, or otherwise unsubstantiated—by them—document which allegedly reflected the views 19 years ago of the nominee. How ridiculous can you get? How many people live who know what really happened on that occasion? One man. They evoke
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THE PRESIDENT pro tempore. The time of the Senate has expired. There are 2 minutes remaining. Who yields time?

The Senator from Indiana has 2 minutes.

Mr. BAYH. Since I have 2 minutes, as I look around the floor here, I am sure we can change a lot of votes.

I have been in the Senate for 9 years, and I have not participated in any filibuster and do not intend to, but I would hope that the Senate would give us a chance to answer the questions that have been raised.

I would like to answer my friend, the Senator from Kentucky, whom I did not have the chance to answer earlier. I would be glad to talk to him, or the other leading, or anybody, about what date certain the Senator from Indiana will set, I do not know what facts are going to arise. I was thinking that we would vote by now, had that 1952 memorandum of last Saturday. Now it has been answered, and it has been reanswered. The telegram from London, and the Rehnquist reply are diametrically opposed to one another.

I ask anyone in the Senate to look at the last memorandum of that memorandum and to look at the Rehnquist explanation of that memorandum, and then decide for himself whether those are similar replies or whether they are entirely inconsistent and therefore incomplete.

CALL OF THE ROLL

The PRESIDENT pro tempore. The hour of 12 o'clock now having arrived, under rule XXII, the Chair directs the clerk to call the roll to ascertain the presence of a quorum.

The legislative clerk called the roll and the following Senators answered to their names:

[No. 445 Ex.]

Alben... Montoya
Allen... Pong
Andrews... Fulbright
Baker... Carabell
Bays... Goldwater
Beall... Gravel
Bell... Giffith
Bellon... Hansen
Benstone... Harris
Bible... Harrar
Boggs... Hartke
Brooke... Hatfield
Brooks... Hays
Burke... Hruska
Burke, W. V. A. ... Hughes
Byrd... Humphrey
Cannon... Humphrey
Case... Jackson
Chiles... Jackson
Church... Jordan, N.C.
Cochrane... Javits
Coffin... Javits
Copeland... Javits
Cowley... Jordan, Idaho
Cox... Kennedy
Curtis... Kennedy
Cranston... Kennedy
Curtis... Magnuscus
Davis... Mansfield
Dannemeyer... Mansfield
Dominick... Magee
Douglas... Malone
Eastland... Malone
Evans... McFadden
Erich... Milbank
Evans... Miller
Fannin... Mondale

The PRESIDENT pro tempore. A quorum is present.
VOTE

The PRESIDENT pro tempore. Pursuant to rule XXII, a rollcall has been had, and a quorum is present.

The question before the Senate is: Is it the sense of the Senate that the debate on the confirmation of the nomination of William Rehnquist to be an Associate Justice of the Supreme Court of the United States shall be brought to a close?

The yeas and nays are mandated under the rule.

The clerk will now call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from New Mexico (Mr. ANDERSON), and the Senator from Arkansas (Mr. MCCLELLAN) are absent because of illness.

The Senator from Illinois (Mr. PARRY) and the Senator from Maine (Mrs. SMITH) are necessarily absent.

If present and voting, the Senator from Illinois (Mr. PARRY) would vote "yea."

Also if present and voting the Senator from Maine (Mrs. SMITH) would vote "nay."

The yeas and nays resulted—yeas 52, nays 42, as follows:

[No. 446 Ex.]

YEAS—52

Alten
Allen
Allott
Baker
Baker
Bell
Belmont
Bentsen
Boggs
Brooks
Buelley
Chiles
Cook
Cotton
Curtis
Dole
Dominick
Eastland
Ervin
Feingold

NAYS—42

Allen
Bahr
Baldwin
Bible
Brooke
Burke
Byrd, Va.
Byrd, W. Va.
Cannon
Case
Church
Cooper
Cranson
Eagleton
Ellender

_Presidential Record — Senate_
The PRESIDENT pro tempore. And that the date in the motion be changed to January 18? Without objection the date in the motion will be changed to January 18.
Mr. MANSFIELD. Yes.

The PRESIDENT pro tempore. That the vote occur at 1 o'clock. Without objection—
Mr. MILLER. Mr. President, reserving the right to object—and I shall not object—may I ask the distinguished leader, in view of the question of the Senator from Alabama (Mr. Allen), is this 1 o'clock a compromise? I must say, without regard to any amendments that may be offered to it, or will we have time to consider any amendments to be offered at that time?
Mr. MANSFIELD. No; under the rules amendments could be offered, but they would not be debatable.
Mr. SCOTT. After 1 o'clock. After the vote.

Mr. MILLER. Mr. President, if the Senator from Alabama is going to offer an amendment, it seems to me he ought to have time to explain it. I thought the Senator would yield him 5 minutes.
Mr. MANSFIELD. Mr. President, I ask unanimous consent that I may proceed for several more minutes, and I would hope that we would not engage in a debate at 1 o'clock.

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

Mr. MANSFIELD. A most serious issue is before us. The Senator from Indiana, Mr. Allen, to achieve what any Senator has a right to do—to set a date certain on which vote on the pending nomination. The agreement had already been entered into to vote at 1 o'clock. Then the distinguished Senator from Alabama raised a question as to whether or not amendments could be offered. The Chair answered in the affirmative. But if the time is used up between now and 1 o'clock and amendments are offered at that time, they are not debatable, but they can be voted on if the Senate so desires.

So again I renew my request that the vote be at 1 o'clock.

The PRESIDENT pro tempore. Is there objection?
Mr. KENNEDY. Mr. President, reserving the right to object, just for the information of the Senate, we have an agreement to vote on S. 1874, so I do not want any illusion that if we agree to the majority leader's recommendation there will be that much time, because 15 minutes will be used for the rollcall vote. If the Senator would like to couple his request with the request that the vote on S. 1874 come after the motion, I will be glad to do so. But I think Senators should be informed that we are going to use 15 minutes of the next 25 minutes on a rollcall vote.

Mr. MANSFIELD. The Senator is not going to lose any time on the next bill—
Mr. KENNEDY. I understand, but I understood the Senator wanted 5 or 7 minutes. I cannot discuss the matter, and there would not be that much time if we proceed under the previous order.

Mr. MANSFIELD. The Senator is not going to lose any time on the next bill—

Mr. Kennedy. I understand, but I understood the Senator wanted 5 or 7 minutes. I cannot discuss the matter, and there would not be that much time if we proceed under the previous order.

Mr. MANSFIELD. The President will so state it.

Mr. ALLEN. Would the motion of the Senator from Indiana be amendable? The PRESIDENT pro tempore. Yes. Mr. MANSFIELD. Mr. President, I renew my request.

The PRESIDENT pro tempore. That the Senate vote at 1 o'clock.
Mr. MANSFIELD. Yes.
vote on the nomination of Mr. Rehnquist? The PRESIDENT pro tempore. It would not be in order.

Mr. SCOTT. Would the Chair advise me why a substitute amendment in that form could not be offered?

The PRESIDENT pro tempore. Under rule XXII, when a question is before the Senate, the following motions are in order before the motion pending is disposed of: To take a recess; to proceed to the consideration of executive business; to lay on the table; to report indefinitely. All these motions are in order before the question can be disposed of. Such a substitute would have the effect of shutting out these motions. Besides, it takes unanimous consent to set a specific time to vote on final passage of a bill or to fix a time for final action on a treaty or nomination. Mr. SCOTT. Mr. President, I first demanded the yeas and nays, then, on the vote. The yeas and nays were ordered. The PRESIDENT pro tempore. Who yields the floor?

Mr. SCOTT. I now yield myself 3 minutes.

Mr. President, I do not know how many Senators heard that motion, but I think if they did hear it, they would be appalled, because the motion is simply to postpone consideration to the date on which we reconvene, the 18th of January, at which time it is hoped that there will be far more of some importance before the Senate.

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

Mr. SCOTT. Could I read the motion first?

Mr. BAYH. Mr. President, if the Senator will permit me to state this, the original proposition of the Senator from Indiana, when we were discussing the matter and talking about the parliamentary rules was to establish not only the date of the 18th, but to guarantee a vote after 2 hours of debate, the time to be equally divided between the opposing factions.

I am advised by the Parliamentary that that kind of motion would require a special order by a two-thirds vote. If the Senator from Pennsylvania will bear with me, I pledge that that is what I am trying to accomplish.

Mr. SCOTT. I appreciate the pledge of the Senator from Indiana, but it would not accomplish it, because on the 18th, any other Senator could raise the question that the matter is debatable, and we have no applicable rule; therefore we could be here from January 18 until July 4, debating, debating, debating the Rehnquist nomination.

A far better reason, however, is the fact that the distinguished majority leader has given his word to the Senate that we will stay in session until we dispose of this matter. I have joined in that pledge, and have committed myself to a daily cloture motion unless we dispose of it. I think I would dispose of it by the vote on the cloture motion tomorrow, is my judgment. So certainly the Senate is only falling over its own feet. If Senators should decide that all this debate is useless, then we will start afresh, with a whole lot of new ideas, on January 18.

Moreover, both the minority and majority leaders ought to have some trust on their part of their colleagues and I believe we are trying to dispose of legislation and bring the Senate to an adjournment, we ought to have, and I hope we will have, the backing of our colleagues when we make commitments.

This commitment was made in good faith, and the majority leader ought not to be reversed by the Senate. While he has been very careful in saying that the Senator from Indiana has a right to do this—and I agree with that—and while I do not wish to belabor this point, I certainly hope that the Senator will not repudiate the majority and minority leaders.

The PRESIDENT pro tempore. Who yields time?

Mr. BAYH. Mr. President, I yield myself 30 seconds.

I ask unanimous consent that after the vote on the pending resolution, if it is accepted, the vote occur 2 hours after the reconvening of the Senate on January 18, the vote be equally divided between the Senator from Pennsylvania and the Senator from Indiana.

Mr. SCOTT. I object.

The PRESIDENT pro tempore. Objection is heard. Who yields time?

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

Mr. President, from Indiana is operating in as good faith as he knows how, and I do not find anyone here to suggest that, although we may differ on issues, there is a break down of faith between the Senator from Indiana and another individual Senator.

I think it is important for the Senate to answer one question, and that is: Has each Member of this body had a sufficient opportunity to look at all of the factors involved in this nomination?

The PRESIDENT pro tempore. The Senate will be in order.

Mr. BAYH. The Senator from Arkansas (Mr. Fulbright) this morning was on the floor of the Senate articulating once again in a most eloquent manner his opposition to the nominee on the basic question of division of powers.

Do we want a man put on the Supreme Court of the United States who, the Senator from Arkansas strongly feels very properly the respect for the legislative branch, and want to expand the powers of the executive branch?

I do not know whether every Member or any Member of this body has had a chance to study the very pertinent remarks of the Senator from Arkansas. How many Members of this body have had a chance to read the Cronon telegram? How many have had a chance to read the Rehnquist response in explanation of the 1962 memorandum? How many have had a chance to read the memorandum?

These are questions which have to be asked and answered and laid to rest in my mind before I could vote on the nomination, and I would think every other Senator would feel likewise.

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

Mr. BAYH. Let me just finish with one other sentence.

I made this motion with great reluctance, because I knew in advance—I had discussed the matter with the majority leader, and he knew what I was going to do—that because of his commitment to resolve the question—and I would not want to cause the majority leader to violate his commitment; he would vote against the motion of the Senator from Indiana.

But I respectfully suggest that any commitment that was made, was made in the basis of the facts we were faced with at the time. There have been a number of facts disclosed since the decision was made to resolve this issue before we go home that were not present and will affect the majority leader or the minority leader at the time that commitment was made.

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

Mr. BAYH. I yield.

The PRESIDENT pro tempore. How much time does the Senator yield?

Mr. PASTORE. Mr. President?

I think the Senator from Indiana is absolutely correct, in the sense that many of us have been busy in conferences and have not had the opportunity to be on the floor of the Senate as the merits of this particular nominee deserved, and I do not think anything should be tied up here with our desire to go home for Christmas. I think that, too, would be a mistake.

I think, in view of the fact that we had the Cronon rebuttal, and then the rebuttal by Mrs. Douglas, we ought to have the weekend over which to consider some of these communications.

Would the Senator from Indiana be willing, in view of the fact that there is another cloture motion that will be voted on tomorrow, to consider a unanimous consent agreement to vote at 5 o'clock let us say, next Monday, giving us an opportunity to read the record over the weekend and to read these letters over the weekend?

I think much of the story has been told. I think some parts of it have not been completely told. But that would give us the opportunity, over the weekend, to study the record, and it would give weight to our individual capacities and responsibilities, and then it could be debated the rest of the day today. Here it is, only a quarter to 1. It could be debated all day tomorrow, which could debate another motion. On Sunday, and we could debate it again in communication with one another on Monday, and at 5 o'clock we have a vote.

I think at that time the complete story

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would have been told, and we could get away from all of these cloture motions and we could get away from all of this misunderstanding.

I would hope the Senator would consider that I have not made up my mind. I may vote for him, and I may vote against him. But the fact remains that at some point, there must come a time of decision, and the question is: Has the story been told?

Maybe it has not been fully told, as the Senator from Indiana has said. He would have 3 1/2 days to tell the rest of it, and we would have 3 1/2 days to consider it. I would hope the Senator would consider that, and withdraw his motion, and that the cloture motion would be withdrawn.

We are going to come back here next Monday.

We are hung up on the foreign aid bill. We are hung up on the defense appropriation bill. We are hung up on the customs legislation revision bill. We are pretty well hung up, if you ask me. [Laughter.]

That being the case, I think that if we could reach a unanimous-consent agreement to vote at 5 o'clock today, we would eliminate all this confusion.

The PRESIDENT pro tempore. Is the Senator putting that in the form of a question?

MR. PASTORE. No.

The PRESIDENT pro tempore. Who yields time?

MR. BAYH. Mr. President, what is the time situation?

The PRESIDENT pro tempore. The Senator from Indiana has 7 minutes, and the Senator from Pennsylvania has 3 minutes.

MR. BAYH. Mr. President, I think the request of the Senator from Rhode Island is very reasonable. Those of us who have carried on what I think is a most legitimate debate on the merits of the Rehnquist cloture reform bill, we are very concerned about imposing our feelings and the continuance of this debate on the Senate. However, the Senator from Indiana has 2 reservations about it.

Although there are some here who have said that the Rehnquist nomination might necessitate the possibility of a delay, going on until Christmas—I have heard some of these proclamations; this has not been the case, and it is not my desire. I have heard from some that it is entirely possible that we will be out of here by Saturday night. Frankly, the Senator from Indiana does not want to cause his colleagues to come back on Monday.

I would, however, like to get a test of the Senate. If a sizable majority of the Senate feels that they have really answered all these questions in their own minds, in the face of 42 Members of the Senate who have said they have not, just now, then the Senator from Indiana would be willing to accept such a unanimous-consent request. But I suggest that I just heard that a number of reporters have talked to Mr. Cranston, who is now in Gstaad, Switzerland. I understand that he does not have access to the memorandum which he says he and

Mr. Rehnquist wrote, the one that Mr. Rehnquist has tried to explain to us. I do not see how any of us, between now and Monday, can answer the questions that have been raised in our minds. With a 3-day, or 7-day, or 14-day, or 21-day, or whatever cloture, we can be free to consider the other business before us. We could go home, study this matter, come back, have a couple of hours of debate, and put it to rest.

The PRESIDENT pro tempore. Who yields time?

MR. COOPER. Mr. President, will the Senator yield?

MR. SCOTT. I yield 1 minute to the Senator.

MR. COOPER. Mr. President, the Senator from Indiana has said that the vote on cloture indicated that the views of many of us have not made up our minds. I voted against cloture, as I said yesterday I would, because I thought that over the weekend everyone would have the opportunity to find out the position of the opponents to provide any additional information. I am for Mr. Rehnquist, I spoke in his support yesterday so I do not want it to be thought that my vote against cloture means anything else.

I think the proposal of the Senator from Rhode Island is very reasonable. I have read the record and the report in just a few hours and the speeches of those who have spoken against Mr. Rehnquist.

I think one can read the record of hearings, read it all, in a few hours. We should vote on the nomination in this session.

MR. SCOTT. I yield myself 1 minute. Mr. President, I think the Senator from Indiana is justified in saying that he wants a record vote of the views of his colleagues. Our point is, of course, that the majority leader and I are committed, and we will stay committed, that we will vote on it now. I am opposed to the resolution. The majority leader said he is opposed to the resolution at the desk. I hope it will be rejected. I do not think we need too much time on it.

I would then move to a decision either to vote up or down on the nomination or to go on to cloture tomorrow. Anything that serves the convenience of the Senate serves the convenience of the majority leader and the minority leader.

If the Senator from Indiana wishes to yield back his time, I will be glad to do the same.

The PRESIDENT pro tempore. Who yields time?

MR. BAYH. Mr. President, what is the time situation?

The PRESIDENT pro tempore. The Senator from Indiana has 3 minutes remaining.

MR. BAYH. How much time does the Senator from Pennsylvania have to yield be?

The PRESIDENT pro tempore. Two minutes.

MR. BAYH. I would rather use the 3 minutes available.

I think it is important for us to recognize that the Supreme Court is about to go into recess. I am advised that they are not going to return until the 10th of January. I am advised, also, by a return of one of the local newspapers that the Court has done an exceptional job and is far ahead of where it was this time last year and the year before, so far as its docket is concerned.

I say to Senators that I do not think we are imposing any great burden on the country or on the Court. What we are deciding is whether, after 3 days of debate on a Supreme Court nomination, we are going to vote by a cloture vote, or whether we are going to put it off to a day certain, after the disposition of the other matters that have occupied our minds during the last 2 weeks, and then give this matter the kind of attention and deliberation a decision like this deserves.

MR. FULBRIGHT. Mr. President, will the Senator yield?

MR. BAYH. I yield.

MR. FULBRIGHT. I recall that in the case of the nomination of Justice Fortas to be Chief Justice, a tremendous change came about by virtue of the time that elapsed and certain incidents which were brought to light. It seems to me that in view of the fact that the Court is going into recess there is nothing to be lost by having the vote on the 17th of January.

Nobody knows what will turn up in the meantime.

MR. BAYH. That is right—nobody knows what will turn up in the meantime. But I think of greater significance I think the fact that we will have a chance to thoroughly examine what has been brought up already.

I suggest that this is consistent with what this body has tried to do during the past month. In an effort to adjourn by Christmas, we have put off a half-dozen or so very important matters—which is understandable—but I think we can approach them carefully and give them the type of consideration they deserve next year. We have postponed the post card registration; the latter, the EEOC, the genocide treaty, the income tax reform, the higher education bill. These matters were put off so that the Senate will have a chance to make a final determination in a non-dispassionate, objective, dispassionate way. No date was set for those matters. I think we should set a date certain on the nomination. I do not want to filibuster this. I do not want to treat this nomination the way the Fortas nomination was treated.

I think we all owe an obligation to ourselves to consider this in the environment in which we can make a dispassionate, objective decision, and then let the nomination rise or fall on the merits.

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

MR. SCOTT. I yield 2 minutes to the Senator from Virginia.

MR. BYRD. Mr. President, I voted against cloture. I did so because I wanted to give additional time to the opponents to debate on the floor of the Senate the Rehnquist nomination.

I favor the nomination of Mr. Rehnquist, but I wanted the opponents to have additional time. Under this proposal there will be no more debate on the floor, but the nomination will be carried over until January, another month.
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I do not think that is fair to the nominee. I do not think it is fair to the President.

As a result of this, I must reexamine any future votes, if there are any future cloture votes, on this nomination.

I shall vote against the pending proposal by the Senator from Indiana (Mr. BAYH).

Mr. BAYH. Mr. President, a parliamentary inquiry appropriate?

The PRESIDENT pro tempore. All time has expired.

Mr. BAYH. Mr. President, is a parliamentary inquiry appropriate?

The PRESIDENT pro tempore. The Senator will state it.

Mr. BAYH. Is it possible for the Senator from Indiana to change his amendment to read that the pending order of business, the nomination, will be debated until the Senate adjourns sine die. At that time, the nomination will be put off until the January 18 date?

Mr. SCOTT. Mr. President, reserving the right to object—

The PRESIDENT pro tempore. It would take unanimous consent to do that.

Mr. DOLE. Mr. President, I object.

Mr. HANSEN. Mr. President, I object.

The PRESIDENT pro tempore. Objection is heard.

Mr. BYRD of West Virginia. Mr. President, I ask that the clerk read the motion for the benefit of the Senate.

The PRESIDENT pro tempore. The clerk will state the motion.

The legislative clerk read the motion as follows:

I move that the Senate postpone further consideration of the nomination of William H. Rehnquist to be an Associate Justice of the Supreme Court until January 18, 1972.

The PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Indiana (Mr. BAYH).

On this motion, the ayes and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BAYH. Mr. President, at this time, I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Oklahoma (Mr. HARRIS), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Wyoming (Mr. McGee) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT) and the Senator from South Dakota (Mr. MIYOSHI) are absent because of illness.

The Senator from Illinois (Mr. PERCY) and the Senator from Maine (Mrs. SMITH) are necessarily absent.

If present and voting, the Senator from Illinois (Mr. PERCY) and the Senator from Maine (Mrs. SMITH) would each vote "nay."

The vote was announced—yeas 22, nays 70, as follows:

Yeas—70—Alben, Aiken, Allen, Allott, Baker, Bell, Bellmon, Benton, Bibb, Boggs, Brock, Buckley, Burdick, Byrd, V. A., Byrd, W. V., Case, Chiles, Chitwood, Clinton, Cooper, Cotton, Craig, Curtiss, Dale, Dominiak, Edgerton, Eastland, Farmer, Fincher, Finlay, Foreman, Gage, Gurney, Haddox, Hash, Hatfield, Hollings, Howard, Hruska, Hughes, Inouye, Jackson, Jackson, James, Javits, Jordan, N. C., Jordan, Idaho, Kasem, Long, Magnuson, McCain, Mennenhyer, Miller, Montgomery, Moats, Montoya, Moynihan, Packwood, Pastore, Pearson, Parkinson, Parkinson, Patterson, Pell, Pinkston, Proxmire, Robinson, Robertson, Roth, Russell, Schmeling, Schuette, Scott, Snow, Spenkelink, Symington, Taft, Thut, Tower, Tower, Udall, Vought, Young

Nay—8—Baker, Beall, Bell, Bleicken, Boren, Boren, Byrd, W. V., Long, Packwood, Proxmire, Randol, Re寰, Ribicoff, Roth, Scott

NOT VOTING—8

Anderson, McClellan, Percy, Bennett, McClellan, Harris, Mendenhall, Mundt, Smith

So Mr. BAYH's motion was rejected.

Mr. SCOTT. Mr. President, I move to reconsider the vote by which the motion was rejected.

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

The motion to lay on the table was agreed to.

MESSAGE FROM THE PRESIDENT

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

LEGISLATIVE SESSION

As in executive session,

The PRESIDING OFFICER (Mr. Eagleton) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

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

ORDER FOR RECOGNITION OF SENATOR MCCLELLAN TOMORROW

Mr. MANSFIELD. Mr. President, again I ask the Senate to indulge me and ask unanimous consent that I may be recognized to make a series of proposals.

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent that after the joint leadership is recognized tomorrow morning, the distinguished Senator from Arkansas (Mr. MCCLELLAN) be recognized for not to exceed 15 minutes.

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

ORDER FOR SUPPLEMENTAL APPROPRIATIONS BILL TO BE MADE THE PENDING BUSINESS UNDER A TIME LIMITATION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that after the vote on the dental health bill, the supplemental appropriations bill become the pending business and that there be a time limitation of 1 hour, the time to be equally divided between the manager of the bill and the ranking minority Member or whomever he may designate.

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

ORDER TO VOTE ON CONFIRMATION OF NOMINATION OF WILLIAM H. REHNQUIST AT 5 P.M. TODAY

Mr. MANSFIELD. Mr. President, if I may have the attention of the distinguished Senator from Indiana, I ask unanimous consent that the vote on the confirmation of the Rehnquist nomination occur at 5 o'clock this afternoon.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Montana?

Mr. BAYH. Mr. President, reserving the right to object, and I will not object, the Senator from Indiana has tried his best, as have several of the other Senators, to convince the Senate that we have not had sufficient time to debate the pending question. This morning 42 Members of the Senate said "yea" to that question.

It is conceivable to the Senator from Indiana that a sufficient number of votes could be secured on tomorrow to again prevent cloture from being invoked.

In light of the vote which was just now taken, it seems that we have a clear indication of the number of Senators who feel that we need a prolonged length of time to debate the question, and perhaps inconvenience the Senate thereby. I do not intend, as one Senator to do so.

Thus, with great reluctance, I am inclined not to object to the request of the majority leader.

Mr. NELSON. Mr. President, reserving the right to object, I wonder if the distinguished majority leader would respond to a question. I wish to make some remarks on this nomination. Am I assured that I will have about an hour and a half in which to speak prior to the time set for the vote?

Mr. MANSFIELD. I would think so, because we have an hour on the supplemental appropriations bill and 2 minutes on the District of Columbia revenue bill. We will have plenty of time. The time will be under the control of the Senator from Indiana and the distinguished minority leader or whomever he may designate. And I would hope that one of them would agree to that request.

Mr. NELSON. Mr. President, will the Senator from Indiana yield at least 30 minutes to me prior to the vote at 5 o'clock?

Mr. BAYH. I will be glad to yield to the
Senator from Wisconsin. It is ironic in that we have several Members present who feel that Senators are not interested in debating this matter. Here, we have the example of a good colleague who has not been heard from, and he can have all the time he requests, as far as I am concerned.

Mr. FRED of Virginia. Mr. President, reserving the right to object, may I inquire of the majority leader with respect to this matter. The Senator from Indiana, in making the previous motion, was not entitled to take the time I requested. He discharged a unanimous consent agreement that 2 hours of debate occur on January 18. I want to be sure the majority leader’s proposal will now permit the Senator from Indiana to have the same amount of time he would have had on January 18.

Mr. MANSFIELD. The Senator from Indiana is agreeable to the time, and I think that would suffice.

Mr. BYRD of Virginia. I thank the Senator.

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

Mr. MANSFIELD. Mr. President, as I understand it, the next order of business will be the dental care bill.

The PRESIDENT pro tempore. The Senate will be in order so the majority leader may be heard. The Senate is not in order. The galleries will be in order, and permission will the Senate please be in order.

The Senator from Montana may proceed.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at this time the distinguished Senator from Missouri (Mr. EAGLETON) be recognized for not to exceed 5 minutes to present the District of Columbia Revenue Act.

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

DISTRICT OF COLUMBIA REVENUE ACT OF 1971—CONFERENCE REPORT

Mr. EAGLETON. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11341) to provide additional revenue for the District of Columbia, and for other purposes. I ask unanimous consent for the present consideration of the report.

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

There being no objection, the Senate proceeded to consider the report, which reads as follows:

CONFERENCE REPORT

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11341) to provide additional revenue for the District of Columbia, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1, 2, 3, 4, 5, 6, 7, 9, 15, 16, 17, 19, 20, 21, 22, 28, 30, 31, 32, 33, 34, 35, and 37.

The House recede from its disagreement to the amendments of the Senate numbered 8 and 10 and agree to the same.

Amendment numbered 11: That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows:

On page 2, line 3, of the Senate engrossed amendments, strike out “692” and insert in lieu thereof the following: “602”; and the Senate agree to the same.

Amendment numbered 12: That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with amendments, as follows:

On page 4, line 7, of the Senate engrossed amendments, strike out “603” and insert in lieu thereof the following: “604,” and strike out the period immediately following “Act.”

On page 4, line 8, of the Senate engrossed amendments, strike out “17-1971’s” and insert in lieu thereof the following: “47-1757’s”, and the Senate agree to the same.

Amendment numbered 13: That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same with amendments, as follows:

On page 4, line 11, of the Senate engrossed amendments, strike out “604” and insert in lieu thereof the following: “404”; and the Senate agree to the same.

Amendment numbered 14: That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with amendments, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

“Sec. 405. The amendments made by sections 401 and 402 of this title shall apply with respect to taxable years beginning after December 31, 1971, but before January 1, 1974. The amendments made by sections 403 and 404 of this title shall apply with respect to taxable years beginning on or after January 1, 1974.”

And the Senate agree to the same.

Amendment numbered 15: That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with amendments, as follows:

“Restore the matter proposed to be stricken out by the Senate amendment and—

On page 7, line 17, of the House engrossed bill insert “(a)” immediately after “1971.”

On page 7 of the House engrossed bill, strike out lines 19 through 21 and insert in lieu thereof the following:

“Sec. 1. There are authorized to be appropriated, as the annual payment by the United States toward defraying the expenses of the government of the District of Columbia, not to exceed $173,000,000 for the fiscal year ending June 30, 1972, and not to exceed $178,000,000 for the fiscal year ending June 30, 1973, and for each fiscal year thereafter. Sums appropriated under this section shall be paid into the general fund of the District of Columbia.

(b) In addition to the amount authorized to be appropriated under section 1 of this title, the Secretary of the Treasury shall, for the fiscal year ending June 30, 1972, there be appropriated to the District of Columbia for average fiscal year not to exceed $6,000,000 which may only be used for the payment of interest on the debts of the District of Columbia, and for the payment of the annual interest due on the debts of the District of Columbia.

The Secretary of the Treasury is hereby directed to cause to be paid into the general fund of the District of Columbia the sums so appropriated under this section. The District of Columbia shall be entitled to tax the revenue from real and personal property within the District of Columbia for the purpose of raising the sums necessary to pay the sums so appropriated under this section.

The Secretary of the Treasury is hereby directed to cause to be paid into the general fund of the District of Columbia the sums so appropriated under this section. The District of Columbia shall be entitled to tax the revenue from real and personal property within the District of Columbia for the purpose of raising the sums necessary to pay the sums so appropriated under this section.

The District of Columbia shall be entitled to tax the revenue from real and personal property within the District of Columbia for the purpose of raising the sums necessary to pay the sums so appropriated under this section.”

And the Senate agree to the same.

Amendment numbered 24: That the House recede from its disagreement to the amendment of the Senate numbered 24 and agree to the same with amendments, as follows:

On page 7, line 10, of the Senate engrossed amendments, strike out “804” and insert in lieu thereof the following: “706”; and the Senate agree to the same.

Amendment numbered 25: That the House recede from its disagreement to the amendment of the Senate numbered 25 and agree to the same with an amendment as follows:

“(2) In addition to the amount authorized to be appropriated under section 1 of this title, the Secretary of the Treasury, for the fiscal year ending June 30, 1973, and for each fiscal year thereafter, shall, for the payment of the annual interest due on the debts of the District of Columbia, be appropriated to the District of Columbia not to exceed $12,000,000 for each such fiscal year which amount shall be paid into the general fund of the District of Columbia and shall be used by the District of Columbia for the payment of the annual interest due on the debts of the District of Columbia increased compensation which is required by comparison to be made on or after January 1, 1972, in the rates of payment of statutory pay systems (as defined in section 5301(e) of title 5, United States Code), based on the 1971 Bureau of Labor Statistics survey.” And the Senate agree to the same.

Amendment numbered 26: That the House recede from its disagreement to the amendment of the Senate numbered 26 and agree to the same with amendments as follows:

“Restore the matter proposed to be stricken out by the Senate amendment, and—

On page 10, line 16, of the House engrossed bill strike out “(including a sublessor)”.

On page 10, line 16, of the House engrossed bill strike out “such notice” and insert in lieu thereof the following: “the notice to the Commissioner.”

On page 11, line 22, of the House engrossed bill strike out “shall” and insert in lieu thereof the following: “after appropriate notice to all interested parties and an opportunity for a hearing,”

On page 12 of the House engrossed bill, strike out lines 10 and 14 and insert in lieu thereof the following:

“(d) The failure of any lessee to receive all or part of a monthly shelter allotment withheld from any recipient pursuant to subsection (b), or the suspension of rental payments under subsection (c), of this section shall not be cause for eviction of any recipient.”

On page 12, line 25, of the House engrossed bill, strike out lines 10 and 14 and add after line 25 the following:

“(f) For purposes of subsections (b) and (c) the term ‘tenant’ includes sublessee.”

(g) The District of Columbia Council is authorized to issue such regulations as may be necessary to carry out the provisions of this section.”

And the Senate agree to the same.
In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "706"; and the Senate agree to the same.

Amendment numbered 26: That the House recede from its disagreement to the amendment of the Senate numbered 26 and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "707"; and the Senate agree to the same.

Amendment numbered 27: That the House recede from its disagreement to the amendment of the Senate numbered 27, and agree to the same with an amendment as follows: Strike out the part after the word "enact" on page 14 of the House engrossed bill and on page 14 of the Senate amendment and on page 14 of the House engrossed bill insert the following after line 21:

"Sec. 706. (a) Section 4(b) of the District of Columbia Minimum Wage Act (D.C. Code, sec. 36-404(b)) is amended—"

(1) by inserting "or" at the end of paragraph (4)

(2) by striking out "or" at the end of paragraph (5) and inserting in lieu thereof a period;

(3) by striking out paragraph (6).

(b) The amendments made by subsection (a) shall take effect on January 1, 1972; and the Senate agree to the same.

Amendment numbered 28: That the House recede from its disagreement to the amendment of the Senate numbered 29 and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "709"; and the Senate agree to the same.

Senate amendment numbered 36: That the House recede from its disagreement to the amendment of the Senate numbered 36 and agree to the same with an amendment as follows:

On page 10, line 18, of the Senate engrossed amendments strike out "905" and insert in lieu thereof the following: "906."

THOMAS P. EAGLETON, DANIEL K. INOUYE, ADOLPH E. STEVENSON III, CHARLES Mc. MATTHES, JR., Managers on the Part of the Senate.


Mr. EAGLETON. Mr. President, I ask unanimous consent that the requirement that the conference report be printed as a Senate report be waived.

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

Mr. EAGLETON. Mr. President, as chairman of the managers on the part of the Senate, it is my privilege to report to the Senate that agreement has been reached between the Senate and the District of Columbia Revenue Act of 1971.

Basically, the bill as agreed to by the conference provides for a Federal payment for the fiscal year ending June 30, 1977, with an additional $8 million allocated for District of Columbia pay raise in the event the Federal pay raise of 5.5 percent which is presently in conference is approved for a total of $178 million. The Federal payment for fiscal year 1973 was set at $178 million plus $12 million for the full year's pay increase or a total of $190 million.

I believe that the Federal payment which is being authorized for the District of Columbia is a sum which represents not only, as it has in the past, a sum representing the amount of real estate taxes which would be paid to the District if the real property owned or held by the Federal Government in the District were subject to taxation, but also an amount to compensate the District, because the Congress has decided that at this time it is proper to levy an income tax on nonresidents of the District who are employed in the District. Were the Congress to decide to authorize a nonresident income tax, it is expected that there would be a reduction in the Federal payment.

The managers have also for the first time authorized a two-step increase in the Federal payment taking into account the anticipated revenue needs for the District government. This is to enable the District government to plan intelligently the allocation of its resources prior to the beginning of each fiscal year. By Congression authorization in advance, the District will know exactly what the authorized Federal payment will be and, barring complete unforeseen circumstances, the payment authorized will not be raised. In fact, barring such circumstances the appropriate committees of the Congress do not intend to be dealing with the Federal payment during the second session of this Congress.

It should be noted that $5 million of the amount authorized for the Federal payment for fiscal year 1972 and $12 million of the amount authorized for fiscal year 1973, and for each succeeding fiscal year, have been specifically allocated to pay increases in compensation of officers and employees of the District of Columbia if authorized by Congress. These pay increases do not include any increases for policemen, firemen, or teachers. If the District government intends to ask Congress to pay these increases, it must be noted that the Federal government will not be required to increase the Federal payment to cover this type of pay increase.

There are two other provisions in the conference agreement which should be called to the attention of the Senate:

The first provision relates to the overtime exemption for certain categories of employees relating to the trucking industry specifically section 707. Section 707 of the conference substitute amends the District of Columbia Minimum Wage Act to remove from that act an exemption from overtime pay for certain drivers, conductors, mechanics, and mechanics. These employees will now be entitled to overtime compensation as they were prior to the adoption of the exemption.

The second provision relates to the suspension of rental allotments payable to welfare recipients. While I have deep sympathy with the needs of recipients, it is my belief that this provision on both equal protection and deprivation of right of due process, the Senate was unable to prevail on its position that this amendment should be eliminated. However, an attempt was made to insert such due process elements as a hearing before the deprivation of property and a finding of fact based upon that hearing in case such a procedure was implemented and not found unconstitutional.

Mr. President, I move that the conference report be agreed to.

The report was agreed to.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I yield 1 minute to the Senator from Pennsylvania.

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

DESIGNATION OF SENATOR FANNIN TO CONTROL-HALF THE TIME ON REHQUIST NOMINATION DEBATE

Mr. SCOTT. Mr. President, I take this time to designate the distinguished Senator from Arizona (Mr. FANNIN) in charge of the time on this side between now and the vote at 5 p.m. on the nomination.

ECONOMIC OPPORTUNITY AMENDMENTS OF 1971—UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, again, with the indulgence of the distinguished Senator from Massachusetts, I ask unanimous consent that after the vote on the confirmation of Mr. Rehquist, the Senate turn to the consideration of the Presidential veto on OEO, and that there be a time limitation of 2 hours within which to divide the time between myself and the minority leader, or whomever they designate.

Mr. JAVITS. Mr. President, reserving the right to object, let us hear again what the unanimous-consent request is on the veto?

Mr. MANSFIELD. Two hours.

Mr. JAVITS. I just entered the Chamber and I am the ranking minority member of that committee.

Mr. MANSFIELD. I am taking time from the Senator from Massachusetts.

Mr. KENNEDY. I yield.

Mr. JAVITS. Mr. President, will the Senate give us a minute? This is the first time I heard about this matter. I am perfectly willing to vote on the override. As to the time for debate, it will leave 1 hour for the opponents and 1 hour for the proponents. I do not think that the opponents are particularly interested in using all of their time. I shall vote to override and I am interested in the amount of time provided for the proponents of the measure.
Mr. NELSON. Mr. President, I wonder if the other side would make an agreement similar to the one we gave them. We had 3 hours and 15 minutes on the corn syrup report. I agreed to give the other side 3 hours and we would take 15 minutes. I wonder if they would give us an hour and a half and they would reserve a half hour for themselves. I do not know who will be handling the matter on this side, but I am willing.

The PRESIDENT pro tempore. Is there objection?

Mr. JAVITS. Mr. President, in the right to objection to the way we worked it before was that I controlled the time for the opponents because I am the ranking minority member. I am happy to yield to the Senator from Colorado (Mr. DOMINO) But I wish it to be understood by the majority leader that we are operating a little in the dark.

This arrangement is fine. I wish to indicate to him that I will place a silent on the other side as to those who would seek to sustain the veto. As to our side, the Republican side, I suggest we consummate the arrangement in the same manner. I understand that if I receive further request for time I will come back to the majority leader. Mr. MANSFIELD. The Senator has that assurance.

Mr. MONDALE. Mr. President, reserving the right to object, we will be in session tomorrow.

Mr. MANSFIELD. Yes.

Mr. MONDALE. Is there any chance this could be brought up tomorrow morning rather than this evening?

Mr. MANSFIELD. We have gone so far I think we should go ahead with it. I think we will have better attendance tonight, more interest, and make the best possible showing, one way or the other.

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

Mr. President, I ask for the regular order.

CHILDREN'S DENTAL HEALTH ACT

Under the previous order, the Senate resumed consideration of the bill (S. 1874) to provide for the establishment of projects for the dental auxiliaries, to increase the availability of dental care through efficient use of dental personnel, and for other purposes.

The PRESIDENT pro tempore. The question now is on agreeing to the Allen amendment to S. 1874.

On motion of Mr. ALLEN, the yeas and nays have been ordered.

Mr. ALLEN, Mr. President, in order to save time, I ask unanimous consent that the order for the yeas and nays be rescinded on this matter.

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

The question is on agreeing to the amendment of the Senator from Alabama (Mr. ALLEN).

The amendment was rejected.

Mr. HUMPHREY. Mr. President, I send to the desk an amendment on behalf of myself and the Senator from Minnesota (Mr. MONDALE).

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

The PRESIDENT pro tempore. The Chair has been trying to maintain order. The Senate will remain in order.

The amendment was stated. The amendment was read as follows:

S. 1874

On page 26, line — insert the following:

At the end of the bill add the following new section:

AMENDMENTS TO THE FOOD STAMP ACT OF 1964

(a) Sec. — That section 5(b) of the Food Stamp Act of 1964 is amended by inserting after the first sentence thereunder the following:

"Notwithstanding the foregoing, the standards of eligibility under any State plan of operation shall not make ineligible any household which would have been eligible under the standards of eligibility provided for by the State plan of operation in effect just prior to enactment of Public Law 91-671 which was approved January 11, 1971."

(b) The first sentence of section 7(b) of the Food Stamp Act of 1964 (which deals with the charge to be made for food stamps) is amended by inserting before the colon the words "and notice that:

"more than would have been charged for a coupon allotment of similar face value prior to the enactment of Public Law 91-671 which was enacted on January 11, 1971."

Mr. BYRD of West Virginia. Mr. President, we cannot hear the clerk.

The PRESIDENT pro tempore. Senators will please seat.

Mr. HUBBARD. Mr. President, I received today a copy of a letter sent to the Minnesota commissioner of public welfare by Mr. R. J. McMullen, director of the Clay County Welfare Board in Minnesota. The letter is addressed to the following problems which will be created in Minnesota if USDA's new food stamp regulations are allowed to go into effect.

Mr. President, I ask unanimous consent to insert this letter at this point in the Record.

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

CAY COUNTY WELFARE BOARD,
MOORHEAD, MINN., DECEMBER 2, 1971.

Mr. Morris Hurlbut,
Commissioner, Department of Public Welfare,
Centennial Building, St. Paul, Minn.

Attention: Mr. Curtis Johnson, Food Stamp Supervisor.

Dear Mr. Hurlbut: This is in reference to your Request Bulletin 226, dated November 26, 1971, relative to the revised Food Stamp Program regulations.

In paragraph one the following is brought to our attention:

Present bonus New bonus

1-member family $10 $5
2-member family 21 6
3-member family 22 9
4-member family 23 12
5-member family 24 15

These figures are for the public assistance recipients who are participating in the Food Stamp Program. Presently the purpose of this agency that the reduced amount in bonus stamps will enunciate the Program and render it unuseable by most public assistance clients.

In the next paragraph I note that each particpate is given the option, at the time of purchase, of buying the full amount of Food Stamps, at three-fourths, one-half, or one-fourth. This option is mentioned may from month to month ac-
question now is on the.engrossment and third reading of the bill.
The bill was ordered to be engrossed for a third reading, and was read that third time.
The PRESIDENT pro tempore. The bill having been read the third time, the question is, Shall it pass?
Mr. JAVITS. Mr. President, a parliamentary inquiry.
The PRESIDENT pro tempore. The Senator from Maine.
Mr. JAVITS. Is there any time available for debate on the bill?
The PRESIDENT pro tempore. No.
Mr. JAVITS, Mr. President, I will propound a unanimous-consent request. I ask unanimous consent that the Senator from Minnesota (Mr. HUMPHREY) may have 3 minutes to explain his amendment to the Senate. Though it was adopted, I do not think any Members of the Senate knew what it was. At least the record ought to show what the proponent of the amendment intends so that it may stand in the record when it goes to conference.
The PRESIDENT pro tempore. Is there objection to the request of the Senator from New York? Without objection, the Senator from Minnesota may proceed for 3 minutes.
Mr. HUMPHREY. Mr. President, I understand the amendment has been adopted, so I do not want to talk myself out of it.
This amendment merely clarifies a regulation relating to the Food Stamp Act which the Senate has acted on one or more times.
The Department of Agriculture, as part of its new food stamp program regulations this year, established national uniform income and resource eligibility standards for the program. While these new standards increased the allowable maximum income that individuals or couples can earn each month in most States, it lowered the maximum income allowed in 12 States. One of those States happened to be Minnesota. The other States included California, New York, Massachusetts, Michigan, New Hampshire, New Jersey, South Dakota, Vermont, Washington, and Wisconsin.
Unless there was action such as the action we have taken here today, a substantial number of elderly who are participating in this program in those 12 States would have their allowances adversely affected.

The Department also took action under the new regulations to increase the minimum purchase requirements for individuals and couples and to reduce the amount or value of the bonus stamps individuals and couples can receive under the program.

Under last year's food stamp program, an elderly couple earning between $150 and $245 were required to spend $8 of their income in order to receive an additional $20 worth of food stamps as a bonus. Under the new regulations issued by the Department of Agriculture, couples earning between $210 and $222 will be required to spend $44 and will get only $6 in bonus stamps. It should be noted again here that the maximum monthly income allowed for participation in this case has dropped from $245 to $220.

The amendment makes sure that the people in the States mentioned where there are programs operative would not be adversely affected by the regulations which were tightened to raise the allowance in 38 States, and that it would automatically apply to the 12 States to have the allowances they now have.
The PRESIDENT pro tempore. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.
The legislation clerk called the roll.
Mr. BYRD of West Virginia. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Indiana (Mr. BAYH), the Senator from Oklahoma (Mr. HARKIN), the Senator from Arizona (Mr. McCLURE), the Senator from Wyoming (Mr. MCGEE), and the Senator from Mississippi (Mr. STEWART) are necessarily absent.
Mr. GRISHAM of Utah, the Senator from South Dakota (Mr. MUNDT) are absent because of illness.
The Senator from Illinois (Mr. PIRCY) and the Senator from Maine (Mrs. SMITH) are necessarily absent.
The Senator from Arizona (Mr. GOLDWATER) is detailed on official business.
If present and voting, the Senator from Illinois (Mr. PIRCY) and the Senator from Maine (Mrs. SMITH) would each vote "yes."
The result was announced—yeas 88, nays 1, as follows:

[No. 448 Leg.]

YEAS—88

Aiken
Allen
Allen
Baker
Bell
Bentsen
Boggs
Brock
Brooke
Buckley
Burton
Byrd, Va.
Byrd, W. Va.
Cannon
Case
Chiles
Chu
Church
Cook
Cooper
Cotton
Crandon
Curtis
Dole
Dominick
Eagleton
Eastland
Ellender
Ervin

Montoya
Moss
Mukasey
Nelson
Packwood
Pearson
Pell
Proxmire
Randolph
Ribicoff
Ribicoff
Schweiker
Scott
Spong
Stafford
Stevens
Stevenson
Symington
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—1

Taft

NOT VOTING—11

Anderson
Bayh
Bennett
Goldwater

Harris
McClellan
McCoy

Smith
Stennis

SO the bill (S. 1874) was passed, as follows:

S. 1874

An act to provide for the establishment of projects for dental health of children to increase the number of dental auxiliaries, to increase the availability of dental care through efficient use of dental personnel, and for other purposes.

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 "Children's Dental Health Act of 1971".

Sec. 2. The Public Health Service Act is amended by adding at the end thereof the following new title:

"TITLE XI—DENTAL HEALTH PROJECTS

"GRANTS FOR PROJECTS FOR DENTAL CARE FOR CHILDREN"

"Sec. 1101. (a) There is authorized to be appropriated $8,000,000 for the fiscal year ending June 30, 1972; $15,000,000 for the fiscal year ending June 30, 1973; $18,000,000 for the fiscal year ending June 30, 1974; which shall be used by the Secretary to make grants to the health agency of any State (or political subdivision thereof) or to any other public or nonprofit private agency, organization, or institution to pay for part of the cost of the carrying out (on a planned and systematic basis) by such agency, organization, or institution, of one or more comprehensive dental health projects for dental care for children of preschool and school age.

"Such project shall include such comprehensive corrective and preventive services (including dental health education), and treatment as may be required under regulations of the Secretary.

"(b) Funds under this section may be utilized to provide or pay for dental care and services for children under such circumstances as are determined by regulations of the Secretary to be (A) from low-income families, or (B) unable, for other reasons, beyond their control, to obtain such care and services.

(c) Grants under this section may be utilized for the conduct of research, demonstration, and experimental projects in cooperation with a view of developing new methods for (A) the prevention, diagnosis, or treatment of dental problems, (B) the payment of dental care and services, or (C) the utilization of dental health personnel with various levels of training, except that not more than 10 per cent of any grant under this section shall be so utilized.

(d) In making grants under this section, the Secretary shall accord priority to projects designed to provide dental care and preventive services for children of preschool age and school age children who are in the first five grades of school.

"GRANTS FOR WATER TREATMENT PROGRAMS"

"Sec. 1102. (a) There is authorized to be appropriated $2,000,000 for the fiscal year ending June 30, 1972; $3,000,000 for the fiscal year ending June 30, 1973; and $4,000,000 for the fiscal year ending June 30, 1974; which shall be used by the Secretary to make grants to States, political subdivisions of States, and other public or nonprofit private agencies, organizations, and institutions to assist them in initiating, in communities or in public elementary or secondary schools, water treatment programs designed to reduce the incidence of oral diseases or dental defects among residents of such communities or the students in such schools (as the case may be).

"(a) Grants under this section may be utilized for but are not limited to the purchase and installation of water treatment equipment.

"(b) Grants under this section shall not exceed

"(1) 80 per centum of the cost of the treatment program with respect to which such grant is made under this section, in the case of any grant under subsection (a);

"(2) 66 2/3 per centum of the cost of the treatment program with respect to which such grant is made under this section, in the case of any grant under subsection (b)."
"GRANTS TO TRAIN AUXILIARY DENTAL PERSONNEL

"Sec. 1103. There are hereby authorized to be appropriated $6,000,000 for the fiscal year ending June 30, 1972; $10,000,000 for the fiscal year ending June 30, 1973; and $10,000,000 for the fiscal year ending June 30, 1974, which shall be used by the Secretary to make grants to and enter into contracts with (without regard to section 964 of the Revised Statutes, 31 U.S.C. 539) under subsection (c), to make grants to dental schools, and to other public and nonprofit private agencies and organizations, and to enter into contracts (without regard to section 964 of the Revised Statutes, 31 U.S.C. 539) with individuals, agencies, organizations, and institutions, for projects described in subsection (b).

"(b) Grants and contracts under this section may be made or entered into for projects for:

"(1) planning, establishing, demonstrating, or supporting programs to teach dental students and dentists the efficient and effective utilization of dental health services and the management and supervision of total dental health teams (including, but not limited to, teaching dental students and dentists how to function as auxiliary dental personnel who are trained in carrying out expanded functions or procedures which do not require the knowledge and skill of the dentist), with special emphasis on the employment and utilization of veterans of the armed forces who have received experience and training in dental auxiliary functions;

"(2) demonstration and experimentation of ways to marry health and dental health services to achieve maximum effectiveness in the use of auxiliary dental personnel, which projects take one or more of the factors into consideration: need, acceptance, quality of care, and cost of services; and

"(3) planning, establishing, demonstrating, or supporting field training programs for dental students and auxiliary dental personnel in which dental care and preventive services are provided by such persons under professional supervision in areas characterized by low family incomes or shortage of and need for dental services.

"(c) The Secretary is authorized to utilize sums appropriated pursuant to subsection (a) to make grants to dental schools and to other public and nonprofit private agencies, organizations, and institutions, and to enter into contracts with individuals, agencies, organizations, and institutions for special projects related to investigation and demonstration of ways of providing incentives for developing or establishing dental facilities and services in areas or communities in a State determined by the appropriate State health authorities in such State to have a shortage of and need for dental services.

"DENTAL ADVISORY COMMITTEE

"Sec. 1105. (a) The President shall appoint a Dental Advisory Committee consisting of such members as the President shall select from the dental profession and three from the general public. Members shall be appointed for a term of six years, which term shall be renewable at the discretion of the Committee. The Secretary shall be an ex officio member of the Committee.

"(b) The members shall be appointed for six-year terms, except that of the members first appointed three shall be appointed for two years, two shall be appointed for four years, and one shall be appointed for a term of six years as designated by the President at the time of appointment. The members shall serve until their successors shall have been appointed.

"(2) Any member appointed to fill a vacancy occurring prior to the expiration of the term for which such member was appointed shall serve only for the remainder of such term. Members shall be eligible for reappointment and may serve after the expiration of their terms until their successors have taken office.

"(3) The Dental Advisory Committee shall be advisory in character. The committee shall be composed of individuals who have received experience and training in dental auxiliary functions; there shall be represented on the committee dentists and other individuals who have received experience and training in dental auxiliary functions; and it shall be advisory in character.

"(4) The committee shall submit reports covering the status of the administration of this act to the Congress of the United States every six months during the period of its existence.

"(5) The Secretary shall make available to the Dental Advisory Committee such staff, information, and other services as may be required to carry out this title.

"(6) The Secretary, after consultation with the Dental Advisory Committee, shall promulgate such rules and regulations as are necessary to carry out the purposes of this title.

"REPORT

"Sec. 1106. (a) The Secretary shall submit a report to the Congress not later than January 1, 1972 of the implementation and administration of the programs established under this title.

"(b) The Secretary shall submit to the Congress a report containing his recommendations concerning the need and feasibility of a comprehensive national dental health program for children within sixty days before the end of the fiscal year ending June 30, 1974.

"Sec. 3. Section 1902(a)(10) of title XIX of the Social Security Act is amended by adding at the end thereof the following: "and the amount to be paid in paragraph (10) or section 1905(a) is available to individuals or groups of individuals under age eighteen without making available to such individuals, in any amount, the benefits, services, and care for which such individuals are eligible under section 1116 of this Act for any other age group.

"DENTAL ADVISORY COMMITTEE

"Sec. 4. (a) Section 1 of the Public Health Service Act is amended to read as follows: "Section 1. Title I to XI, inclusive, of this Act, or any part of the same, may be cited as the "Public Health Service Act."

"(b) The Act of July 1, 1944 (65 Stat. 682), as amended, is further amended by renumbering title XI (as in effect prior to the enactment of this Act) as title XII, and by renumbering sections 1101 through 1114 (as in effect prior to the enactment of this Act), as sections 1201 through 1214, respectively.

"SEC. 5. Section 602 of the Federal Food, Drug, and Cosmetic Act is amended by adding at the end thereof the following new subsection:

"(f) If it is a dentifrice and (A) because of its nature, composition, or packaging it involves a potential risk to consumers including but not limited to its potential effectiveness as a toothpaste or for any other effect or (B) because of any foreseeable handling, storage, or use by individuals it presents such a potential risk, the Secretary shall require adequate cautionary labeling (such labeling shall be conspicuous and shall include a warning that it should not be used by children). Whenever the Secretary finds any dentifrice or class of dentifrices to be subject to this subsection and in his judgment a declaration to that effect is necessary in the public interest to protect the public health or to protect the consumer, he may by regulation declare such dentifrice or class thereof to be subject to such provision and may in such regulation specify the content of such cautionary information, the appropriate type size to be used for such warning, its placement on labels and in pursuing some or all of the objective of this subsection require the submission of the questionnaire of scratches of such dentifrice or class thereof by the manufacturers of such dentifrice.

"(2) If it is a dentifrice and its labeling fails to conform with this subsection, it may be declared to be, as the case may be, a misbranded or a dangerous drug, and a civil or criminal action may be brought, in the manner prescribed in clause (1) of this subsection.

"Sec. 102 of the Federal Food, Drug, and Cosmetic Act is amended by adding at the end thereof the following new subsection:

"(c) A term 'dentifrice' means any cosmetic, drug, or other article recommended, suggested, or indicated for use by humans in preventing, treating or abating diseases or preventing of diseases of the teeth or for cleaning or beautifying teeth.

"Sec. 7. Title V of the Lead-Based Paint Poisoning Prevention Act is amended by adding at the end thereof the following new section:

""AUTHORITY TO MAKE GRANTS TO STATE AGENCIES IN CERTAIN CASES

"Sec. 504. Notwithstanding any other provision of this Act, grants under sections 101 and 251 may be made to an agency of State government in any State which makes grants directly or otherwise provides services to citizens in local communities or where units of general local government are prevented by State law from implementing or receiving such grants or from expending such grants in accordance with the intent and purposes of this Act.

"AMENDMENTS TO THE FOOD STAMP ACT OF 1964

Sec. 8. (a) Section 5(b) of the Food Stamp Act of 1964 is amended by inserting after the first sentence thereof the following: "Notwithstanding the foregoing, the standards of eligibility under any State plan of operation shall not make ineligible any household or individual under age eighteen unless the State plan of operation is in effect prior to January 1, 1971 which was approved January 11, 1971."

"(b) The first sentence of section 7(b) of the Food Stamp Act of 1964 shall be read as follows: "Any State participating in the food stamp program under this Act shall be paid, in addition to the amount otherwise provided, the amount for food stamps for the first month of the fiscal year in each fiscal year for which a State has been certified to be in fiscal difficulty (or more than would have been charged for a coupon allotment of similar face value prior to the enactment of Public Law 89-701 which was enacted January 11, 1971)."

"Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the bill was passed."
Mr. MANSFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, with the provision I retain the floor.

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

The legislative clerk proceeded to call the roll.

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

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

EXECUTIVE SESSION—NICE AGREEMENT, AS REVISED, CONCERNING THE INTERNATIONAL CLASSIFICATION OF GOODS AND SERVICES TO WHICH TRADEMARKS ARE APPLIED; RATIFICATION OF THE LOCARNO AGREEMENT ESTABLISHING AN INTERNATIONAL CLASSIFICATION FOR INDUSTRIAL DESIGNS; PROTOCOL TO AMEND INTERNATIONAL CIVIL AVIATION CONVENTION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider Executive M, 91st Congress, 2d Session, Nice Agreement, as revised, concerning the international classification of goods and services to which trademarks are applied; Executive I, 92d Congress, 1st Session, ratification of the Locarno Agreement establishing an international classification for industrial designs; and Executive K, 92d Congress, 1st Session, protocol to amend International Civil Aviation Convention; that they be considered as having passed through the various parliamentary stages, up to and including the presentation of the report on ratification; that I be permitted to incorporate at appropriate points in the Recons explanations and other data connected with these treaties, which were reported unanimously by the Committee on Foreign Relations.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider Executive M, 91st Congress, 2d Session; Executive I, 92d Congress, 1st Session; and Executive K, 92d Congress, 1st Session, which were read the second time as follows:

EXECUTIVE M

NICE AGREEMENT CONCERNING THE INTERNATIONAL CLASSIFICATION OF GOODS AND SERVICES TO WHICH TRADEMARKS ARE APPLIED

Of March 12, 1897

ARTICLE 1

(1) The countries to which this Agreement applies form a Special Union.

(2) They adopt, for the purpose of the registration, mark[s], a single classification of goods and services.

(3) This classification consists of:

(a) An alphabetical list of goods and services with an indication of the classes into which they fall.

(b) The list of classes and the alphabetical list of goods are those which were published in 1885 by the International Bureau for the Protection of Industrial Property.

(c) The list of classes and the alphabetical list of goods and services may be modified or supplemented by the Committee of Experts, in accordance with the procedure laid down in that Article.

(4) The above classification shall be established in the French language and, at the request of any contracting country, an official translation shall be published by the International Bureau in agreement with the national Administration concerned. Each translation shall be in list of goods and services shall mention against each of the goods or services, in addition to its number according to the alphabetical listing in the language concerned, the number which it bears in the list established in the French language.

ARTICLE 2

(1) Subject to the requirements prescribed by this Agreement, the effect of the international classification shall be that attributed to it by each contracting country. In particular, the classification shall not bind the contracting countries in respect of either the evaluation of the extent of the protection to be enjoyed by a mark, or the recognition of service marks.

(2) Each of the contracting countries reserves the right to publish a classification of goods and services as a principal or as a subsidiary system.

(3) The Administrations of the contracting countries shall include in the official documents and publications concerning the registrations of marks the numbers of the classes to which the goods or services for which the mark is registered belong.

(4) The classification system is included in the alphabetical list of goods and services in no way affects any rights which might exist in such a term.

ARTICLE 3

(1) A Committee of Experts charged with deciding all modifications and additions to be made in the international classification of goods and services shall be set up at the International Bureau. Each of the contracting countries shall be represented on the Committee. The Committee shall be organized according to Regulations adopted by a majority of the countries represented.

(2) Proposals for modification or addition shall be addressed to the Administrations of the contracting countries to the International Bureau, which shall transmit them to the members of the Committee of Experts not later than two months before that session of the Committee at which the said proposals are to be considered.

(3) Decisions of the Committee concerning modifications in the classification shall be made with the unanimous consent of the contracting countries, as well as any transfer of goods from one class to another or the creation of any new classes entailing such transfer.

(4) Decisions of the Committee concerning additions to the classification shall be made by a simple majority of the contracting countries.

(5) Each expert shall have the right to submit his opinion in writing or to delegate his powers to the expert of another country.

(6) The Committee does not appoint an expert to represent it, or if the expert appointed does not submit his opinion, within a period to be prescribed by the Regulations, the contracting country concerned is entitled to have accepted the decision of the Committee.

ARTICLE 4

(1) Every modification and addition decided by the Committee of Experts shall be notified to each of the contracting countries by the International Bureau. The decisions shall come into force, in so far as additions are concerned, as soon as the notice of the decision has been published in the Federal Register. As far as modifications are concerned, within a period of six months to be reckoned from the date of the dispatch of the modification.

(2) The International Bureau, as the depository of the classification of goods and services, shall incorporate with the modifications and additions which have entered into force. Announcements of these modifications and additions shall be published in the two periodicals La Propriété industrielle and Les Marques internationales.

ARTICLE 5

(1) The expenses which the International Bureau incurs in carrying out this Agreement shall be borne in common by the contracting countries in accordance with the contributions, articles 8 and 10 of the Paris Convention for the Protection of Industrial Property. Until a further decision is made, these expenses shall be paid in the amount of 40,000 gold francs per annum.

(2) The expenses referred to in paragraph (1) of Article 5 shall not include expenses relating to the work of conferences, or those due to special work or publications carried out in accordance with the decisions of the Contracting Bureau, or the annual total of which may not exceed 10,000 gold francs, shall be borne in common by the contracting countries as provided by the terms of paragraph (1) above.

(3) The totals of the expenses provided for in paragraphs (1) and (2) above may, if necessary, be adjusted by a majority of the contracting countries of one of the conventions referred to in Article 8, such decisions shall be deemed valid if they are supported by four-fifths of the contracting countries.

ARTICLE 6

(1) This Agreement shall be ratified and the instruments of ratification deposited at Paris not later than December 31, 1967. These instruments of ratification shall be deposited with the Government of the French Republic to be transmitted to the governments of the other contracting countries.

(2) The countries of the Union for the Protection of Industrial Property which have not acceded to this Agreement, and which have in force with Article 11(2) shall be allowed to accede to it, at their request, in accordance with the provisions of the Paris Convention for the Protection of Industrial Property.

(3) The countries which have not deposited an instrument of ratification within the period prescribed by paragraph (1) of this Article shall be allowed to accede to it, at their request, in accordance with the provisions of the Paris Convention for the Protection of Industrial Property.

ARTICLE 7

This Agreement shall come into force between those countries which have ratified or acceded to it from one month from the date on which the instruments of ratification have been deposited or the accessions notified by not less than ten countries. The Agreement shall have the same force and duration as the States Parties hereto of the Paris Convention for the Protection of Industrial Property.

ARTICLE 8

(1) This Agreement shall be submitted to periodical revisions with a view to the introduction of desired modifications.

(2) Every revision shall be considered at a conference which shall be held in one of...
the contracting countries, between the delegates of the said countries.

(3) The Administration of the country in which the conference is to be held shall prepare the work of the conference, with the assistance of the International Bureau.

(4) The Director-General of the International Bureau shall attend the meetings of the conferences and take part in the discussions, but without the right to vote.

(5) Each contracting country shall be entitled to denote this Agreement by means of a written notification addressed to the Government of the Swiss Confederation.

(6) This notification, which shall be communicated by the Government of the Swiss Confederation to all other contracting countries, shall have effect only in respect of the denouncing country and only twelve months after receipt of the notification addressed to the Government of the Swiss Confederation, the Agreement remaining in force for the other contracting countries.

ARTICLE 10

The provisions of Article 16bis of the Paris Convention for the Protection of Industrial Property shall apply to this Agreement.

ARTICLE 11

(1) This Agreement shall be signed in a single copy, which shall be deposited in the archives of the Ministry of Foreign Affairs of the French Republic. A certified copy shall be transmitted through diplomatic channels to each of the Governments of the contracting countries.

(2) This Agreement shall remain open for signature by the member countries of the Union for the Protection of Industrial Property until December 31, 1958, or until it comes into force, whichever date is the earlier.

In witness whereof the undersigned Plenipotentiaries have signed this Agreement.

Done at Nice in a single copy of June 15, 1957.

For the Federal Republic of Germany:
Heinrich Kühnemann
For Austria:
For Switzerland:
Gotthard Thaler
For Belgium:
L. Hersmans
For Brazil:
For the People's Republic of Bulgaria:
For Canada:
For Ceylon:
For France:
For Denmark:
Julie Olsen
For the Dominican Republic:
For Egypt:
For Spain:
N. Juristo Valerde
V. L. Apraacho
For the United States of America:
For Finland:
For France:
Marc Praisant
For the United Kingdom of Great Britain and Northern Ireland:
R. G. Atkinson
For Greece:
For the Hungarian People's Republic:
For Italy:
R. A. Pardo
Talamo
For Japan:
For Lebanon:
Payard
A. Sotyi
For the Principality of Liechtenstein:
Hans Moser

For Luxembourg:
J. P. Hoffmann
For Morocco:
Dr. Kriemfli
For Mexico:
For Monaco:
G. Scutti
For Norway:
Roald Roed
For New Zealand:
For the Netherlands:
C. J. de Haan
For the Polish People's Republic:
Z. Murzynski
For Portugal, including the Azores and Madeira:
For Romania:
M. Balanescu 31.12.1958
For Sweden:
Claes Ugga
For Switzerland:
Hans Meyer
Leon Egger
For Syria:
For the Czechoslovak Republic:
For Tunisia:
Salah Ebine El-Goulili
For the Republic of Turkey:
Faruk C. Erkin 31.12.1958
For the Union of South Africa:
For Viet-Nam:
For Yugoslavia:
Milenko Jakovljevic
A certificate of the original on deposit in the Archives of the Ministry of Foreign Affairs, Paris, June 20, 1969.
(Signed) Laloy
J. Laloy,
Minister Plenipotentiary,
Director of Diplomatic Archives.

[Stamp of the Ministry of Foreign Affairs
of the French Republic.]

[Translation]

NICE AGREEMENT CONCLUDING THE INTERNATIONAL CLASSIFICATION OF GOODS AND SERVICES FOR THE PURPOSES OF THE REGISTRATION OF MARKS

of June 15, 1957, as Revised at Stockholm on July 14, 1967

ARTICLE 1

[Establishment of a Special Union; Adoption of an International Classification; Definition of International Classification; Languages]

(1) The countries to which this Agreement applies constitute a Special Union.

(2) They adopt, for the purposes of the registration of marks, a single classification of goods and services.

(3) This classification consists of:
(a) a list of classes;
(b) an alphabetical list of goods and services with an indication of the classes into which they fall;
(c) the list of classes and the alphabetical list of goods are those which were published in 1925 by the International Bureau for the Protection of Industrial Property;
(d) the list of classes and the alphabetical list of goods and services may be amended or supplemented by the Committee of Experts set up under Article 3 of this Agreement, in accordance with the procedure laid down in that Article.

(4) The classification shall be established in the French language and, at the request of any contracting country, an official translation into the language of that country may be published by the International Bureau of

1 This is a provisional English translation prepared by BIPRT.

2 Articles have been given titles to facilitate their identification. There are no titles in the signed, French text.

3 Intellectual Property (hereinafter designated as “the International Bureau”) referred to in the Convention establishing the World Intellectual Property Organization (hereinafter designated as “the Organization”) is, in agreement with the national Office concerned, empowered by translation of the list of goods and services shall mention that each of the goods or services, in addition to its number according to the alphabetical listing in the language concerned, will be given the number which it bears in the list established in the French language.

ARTICLE 2

[Legal Scope and Use of the International Classification]

(1) Subject to the requirements prescribed by this Agreement, the effect of the international classification shall be that attributed to it by each contracting country. In particular, the international classification shall not bind the contracting countries in respect of either the evaluation of the extent of the protection afforded to any given mark or the recognition of service marks.

(2) Each of the contracting countries reserves the right to use the international classification of goods and services as a principal or as a subsidiary system.

(3) The Offices of the contracting countries shall include in the official documents and publications concerning the registrations of marks the numbers of the classes of the international classification or the goods or services for which the mark is registered.

(4) The fact that a term is included in the alphabetical list of goods and services in no way affects any rights which might subsist in such a term.

ARTICLE 3

[Amendments and Additions to the International Classification; Committee of Experts]

(1) A Committee of Experts charged with deciding all amendments and additions to be made in the international classification of goods and services shall be set up at the International Bureau. Each of the contracting countries shall be represented on the Committee of Experts, which shall be organized according to Regulations adopted by a majority of the countries represented.

(2) Proposals for amendments or additions shall be addressed by the Offices of the contracting countries to the International Bureau, which shall transmit them to the members of the Committee of Experts not later than two months before that session of the Committee in which the said proposals are to be considered.

(3) Decisions of the Committee concerning amendments to the classification shall require the unanimous consent of the contracting countries. “Unanimity” shall mean any transfer of goods from one class to another or the creation of any new class entailing such transfer.

(4) Decisions of the Committee concerning additions to the classification shall require a simple majority of the votes of the contracting countries.

(5) Each expert shall have the right to submit his opinion in writing or to delegate his powers to the expert of another country.

(6) A country does not appoint an expert to represent it, or if the expert appointed does not submit his opinion within a period to be specified by the regulations, that country concerned shall be considered to have accepted the decision of the Committee.

ARTICLE 4

[Notification, Entry into Force, and Publication of Amendments and Additions]

(1) Every amendment and addition decided by the Committee of Experts shall be notified to the Offices of the contracting
countries by the International Bureau. The decisions shall come into force, in so far as additions are concerned, as soon as the Secretary-General informs the two periodicals, La Propriété industrielle and Les Marques internationales.

ARTICLE 5
(Assembly of the Special Union)

(1) (a) The Special Union shall have an Assembly consisting of those countries which have ratified or acceded to this Act.

(b) The Government of each country shall be represented by one delegate, who may be assisted by alternate delegates, advisors, and experts.

(c) The expenses of each delegation shall be borne by the Government which has appointed it.

(d) Subject to the provisions of Articles 3 and 4, the Assembly shall:

(i) deal with all matters concerning the making, the execution, and the amendment of the Special Union and the implementation of this Agreement;

(ii) give directions to the International Bureau concerning the preparation for conferences of revision, due account being taken of any comments made by those countries of the Special Union which have not ratified or acceded to this Act;

(iii) review and approve the reports and activities of the International Bureau and the Special Union and the implementation of this Agreement;

(iv) determine the program and adopt the triennial budget of the Special Union, and approve its final accounts;

(v) adopt the financial regulations of the Special Union;

(vi) establish, in addition to the Committee of Experts referred to in Article 3, such other committees of experts and working groups of experts as may be necessary to achieve the objectives of the Special Union;

(vii) determine which countries are members of the Special Union and which are parties to the Agreement and whether the conditions necessary to achieve the objectives of the Special Union;

(viii) adopt amendments to Articles 5 to 8;

(ix) take any other appropriate action designed to further the objectives of the Special Union;

(x) perform such other functions as are proper under this Agreement.

(2) With respect to matters which are of interest also to other Unions administered by the Organization, the Assembly shall maintain cooperation and what matters are necessary to achieve the objectives of the Special Union.

(3) (a) Each country member of the Assembly shall constitute a quorum.

(b) One-half of the countries members of the Assembly shall constitute a quorum.

(c) Notwithstanding the provisions of subparagraph (b), if in any session, the number of countries represented is less than one-half but equal to or more than one-third of the countries members of the Assembly, the Assembly may make decisions but, with the exception of decisions concerning its own procedures, such decisions shall take effect only if the conditions set forth hereinafter are fulfilled. The International Bureau shall constitute the special conference to the Assembly and all countries members of the Assembly which were not represented and shall invite them to express in writing their vote or abstention within a period of 45 days from the closing of the special conference or from the date of the communication. If, at the expiration of this period, the number of countries having thus expressed their vote or abstention attains the number of countries which was lacking for attaining the quorum in the session itself, such decisions shall take effect on the day at the same time as the required majority still obtains.

(d) Subject to the provisions of Article 8, the Assembly shall require two-thirds of the votes cast.

(e) Abstentions shall not be considered as votes.

(f) A delegate may represent, and vote in the name of, one country only.

(g) Countries of the Special Union not members of the Assembly shall be admitted to the meetings of the latter as observers.

(h) The Assembly shall meet once in every third calendar year in ordinary session upon convocation by the Director General and, in the absence of exceptional circumstances, during the same period and at the same place as the General Assembly of the Organization.

(i) The Assembly shall be notified of extraordinary sessions by the Director General, at the request of one-fourth of the countries members of the Assembly.

(j) The agenda of the Assembly shall be prepared by the Director General.

(k) The Assembly shall adopt its own rules of procedure.

ARTICLE 6
(International Bureau)

(1) (a) Administrative tasks concerning the Special Union shall be performed by the International Bureau.

(b) In particular, the International Bureau shall prepare the meetings and provide the secretariat of the Assembly, the Committee of Experts, and such other committees of experts and working groups as may be established by the Assembly or the Committee of Experts.

(c) The Director General shall be the chief executive of the Special Union and shall represent the Special Union.

(2) The Director General and any staff member designated by him shall participate, without the right to vote, in all meetings of the Assembly, the Committee of Experts, and such other committees of experts or working groups as may be established by the Assembly or the Committee of Experts. The Director General, or a staff member designated by him, shall be ex officio secretary of those bodies.

(3) (a) The International Bureau shall, in accordance with the directions of the Assembly, make the preparations for the conferences of revision of the provisions of the Agreement other than Articles 5 to 8.

(b) The International Bureau may consult with inter-governmental and international non-governmental organizations concerning preparations for conferences of revision.

(4) The International Bureau shall carry out any other tasks assigned to it.

ARTICLE 7
(Finances)

(1) (a) The Special Union shall have a budget.

(b) The budget of the Special Union shall include the income and expenses proper to the Special Union, its contributions to the budget of the Organization, and, where applicable, the sum made available to the budget of the Conference of the Organization.

(2) The budget of the Special Union shall be financed from the following sources:

(i) contributions of the countries of the Special Union;

(ii) fees and charges due for services rendered by the International Bureau in relation to the Special Union;

(iii) sale of, or royalties on, the publication of the International Bureau concerning the Special Union;

(iv) gifts, bequests, and subventions;

(v) rents, interests, and other miscellaneous income.

(3) For the purpose of establishing its contribution referred to in paragraph (2) (i), each country of the Special Union shall be required to contribute to the Special Union for the Protection of Industrial Property, and shall pay its annual contributions on the basis of the same number of units as is fixed for that class in that Union.

(b) The annual contribution of each country of the Special Union shall be an amount in the same proportion to the total sum to be contributed to the budget of the Special Union as the number of its units is to the total of the units of all contributing countries.

(c) Contributions shall become due on the 1st of January of each year.

(d) A country which is in arrears in the payment of its contributions may not exercise its right to vote in any organ of the Special Union if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years. However, any organ of the Special Union may allow such a country to continue to exercise its right to vote in any organ if, and as long as it, is satisfied that the delay in payment is due to exceptional and unavoidable circumstances.

(e) The budget as adopted before the beginning of a new financial period, shall be at the same level as the budget of the preceding year, as provided in the financial regulations.

(5) The amount of the fees and charges due for services rendered by the International Bureau in relation to the Special Union shall be established, and shall be reported to the Assembly, by the Director General.

(6) The Special Union shall have a working capital fund which shall be constituted by a single payment made by each country of the Special Union. If the fund becomes insufficient, the Assembly shall decide to increase it.

(7) The amount of the initial payment of each country to the said fund or of its participation in the increase thereof shall be a proportion of the contribution of that country for the year in which the fund was established or the decision to increase it was made.

(8) The proportion and the terms of payment shall be fixed by the Assembly on the proposal of the Director General and after it has heard the advice of the Coordination Committee of the Organization.

(9) In the headquarters agreement concluded with the country on the territory of which the Organization has its headquarters, it shall be provided that, whenever the working capital fund is insufficient, such country shall grant advances. The amount of such advances shall be determined on the basis of the contributions on which they are granted shall be the subject.
of separate agreements, in each case, between such country and the Organization.

(b) The country referred to in subparagraph (a) of this paragraph is the Organization, shall each have the right to denote the obligation to grant advances, by written notification. Denunciations shall be made in the Assembly on the third of the year in which it has been notified.

(8) The auditors of the accounts shall be elected by one or more of the countries of the Special Union or by external auditors, as provided in the financial regulations. They shall be nominated, with their agreement, by the Assembly.

ARTICLE 8
[Amendment of Articles 5 to 10]
(1) Proposals for the amendment of Articles 5, 6, 7, and the present Article, may be initiated by any country member of the Assembly, or by the Director General. Such proposals shall be communicated by the Director General to the member countries of the Assembly at least six months in advance of their consideration by the Assembly.

(2) Amendments to the Articles referred to in paragraph (1) shall be adopted by the Assembly. Adoption shall require three-fourths of the votes and provided that any amendment to Article 5, and to the present paragraph, shall require four-fifths of the votes of the members.

(3) Any amendment to the Articles referred to in paragraph (1) shall enter into force thirty months after written notification of acceptance, effected in accordance with their respective constitutional processes, have been received by the Director General from three-fourths of the countries members of the Assembly at the time it adopted the amendment. Any amendment to the said Articles thus accepted shall affect all the countries which are members of the Assembly at the time the amendment enters into force, or which become members thereafter, if the date on which such amendment increasing the financial obligations of countries of the Special Union shall bind only those countries, and no written notice of acceptance of such amendment.

ARTICLE 9
[Ratification and Accession; Entry Into Force; Effect; Accession to the Original Act]
(1) Any country of the Special Union which has signed this Act may ratify it, and, if it ratifies, may accede to it.

(2) Any country outside the Special Union which is party to the Paris Convention for the Protection of Industrial Property may accede to this Act and thereby become a member of the Special Union.

(3) Instruments of ratification and accession shall be deposited with the Director General.

(4) (a) With respect to the first five countries which have deposited their instruments of ratification or accession, this Act shall enter into force three months after the deposit of the last instrument.

(b) With respect to any other country, this Act shall enter into force three months after the date on which its ratification or accession has been notified by the Director General, unless a subsequent date has been indicated in the instrument of ratification or accession shall be last to enter into force with respect to that country on the date thus indicated.

(5) Denunciation shall automatically entail acceptance of all the clauses and admission to all the advantages of this Act.

(6) After the entry into force of this Act, a country may accede to the original Act of June 18, 1967, of this Agreement only in conjunction with ratification of, or accession to, this Act.

ARTICLE 10
[Force and Duration]
This Agreement shall have the same force and duration as the Paris Convention for the Protection of Industrial Property.

ARTICLE 11
[Revision]
(1) This Agreement shall be submitted to revisions with a view to the introduction of desired improvements.

(2) Every revision shall be considered at a conference which shall be held between the delegates of the countries of the Special Union.

ARTICLE 12
[Application of the Various Acts]
(1) (a) This Act shall, as regards the relations between the countries of the Special Union by which it has been ratified or acceded to, replace the original Act of June 15, 1957.

(b) However, any country of the Special Union which has ratified or acceded to this Act shall be bound by the original Act of June 15, 1957.

(2) Countries outside the Special Union which become party to this Act shall apply it with respect to any country of the Special Union in the same manner as the Special Union.

(3) Countries outside the Special Union which become party to this Act shall apply it with respect to any country of the Special Union in the same manner as the Special Union.

ARTICLE 13
[Denunciation]
(1) Any country may denounce this Act by notification addressed to the Director General. Such denunciation shall constitute also denunciation of the original Act of June 18, 1957, of this Agreement, and shall affect only the country making it, the Agreement remaining in full force and effect as regards the other countries of the Special Union.

(2) Denunciation shall take effect one year after the day on which the Director General has received the notification.
Page 17, under the signature "Valentin Tremonger," the following date: "13 January 1968."

Page 18, over the signature "Jens Ewensen," the following words: "subject to ratification."

Page 19, under the signature "M. Kaajer," the following additional words: "subject to the international cli-
signs," if they are officially published, in the publications in question, the numbers of the classes and subsections of the Interna-
tional Classification into which the goods in-
corporating the designs belong.

In selecting terms for inclusion in the alphabetical list of goods, the Committee of Experts shall exercise reasonable care to avoid using terms in which exclusive rights have been or may be set up by law or, in the alphabetical index, however, is not an ex-
pression of opinion of the Committee of Ex-
erts on whether or not it is subject to ex-
clusive rights.

ARTICLE 3
Committee of Experts

(1) A Committee of Experts shall be estab-
lised with the task referred to in Article 1(4), 1(5) and 1(6). Each country of the Special Union shall be represented on it by one delegate, who may be assisted by altern-
ate delegates, advisory committees, the Interna-
tional Bureau and the Organization. The expenses of each delegation shall be borne by the Government which has ap-
pointed it.

(2) Subject to the provisions of Article 3, the Assembly shall:

(i) deal with all matters concerning the mainenance and development of the Special Union and the implementation of this Agreement;

(ii) give directions to the International Bureau concerning the preparation for con-
ferences of revision;

(iii) adopt, in accordance with Articles 5 and 6, the programme and budget for the Se-
rial Union and approve the final accounts;

(iv) determine the financial regulations of the Special Union;

(v) decide on the establishment of official texts of the international classification in lan-
guages other than English and French;

(vi) establish, in addition to the Com-
mittee of Experts set up under Article 3, a sup-
porting committee to examine the opinions of the Common Committee of Experts and to ap-
prove the triennial budget of the Special Union, and which inter-
governmental and international non-governmental organisa-
tions shall be admitted to its meetings as observers;

(vii) adopt amendments to Articles 5 to 8;

(viii) take any other appropriate action de-
cided upon by the other objectives of the Special
Union.

The Assembly shall have one vote.

(b) One-half of the countries members of the Assembly shall constitute a quorum, and the vote of the Assembly shall be taken by a show of hands or by secret ballot. The Assembly shall decide by a show of hands or by secret ballot. The necessary quorum shall be considered as the number of countries represented at the meeting, and a decision shall be taken by a show of hands or by secret ballot, according to the discretion of the Committee of Experts.

(c) The Committee of Experts shall decide by a show of hands or by secret ballot, according to the discretion of the Committee of Experts.

(d) Subject to the provisions of Article

ARTICLE 4
Notification and Publication of the Classifi-
cation and of its Amendments and Addi-
tions Thenceforth

(1) The Committee of Experts shall adopt the alphabetical list of goods and the ex-
planatory notes adopted by the Committee of Experts, as well as any amendment or addi-
tion to the international classification decided by the Committee, shall be communi-
cated to the countries of the Special Union by the International Bureau. The decisions of the Committee of Experts shall enter into force as soon as the commu-
nication is received. Nevertheless, if such decisions entail the setting up of a new class or the transfer of goods from one class to another, they shall enter into force within a period of two months from the date of said commu-
nication.

(2) The International Bureau, as de-
potary of the international classification, shall announce the amendments and additions which have entered into force. Announcements of the amendments and ad-
ditions shall be published in the periodicals to be designated by the Assembly. The Assembly of the Special Union

(1) (a) The Special Union shall have an Assembly consisting of the countries of the Special

Union.

(2) The Government of each country of the Special Union shall be represented by one delegate, who may be assisted by alter-

ATELIER.

(c) The Committee of Experts shall have the authority to appoint such committee of experts as may be necessary to assist in the work of the Assembly.

(d) Subject to the provisions of Article
ARTICLE 6
International Bureau

(a) Administrative tasks concerning the Special Union shall be performed by the International Bureau of the International Union.

(b) The International Bureau shall prepare the meetings and provide the secretariat of the Assembly, the Committee of Experts, and other committees of experts or working groups as may have been established by the Assembly or the Committee of Experts.

(c) The General Director shall be the chief executive of the Special Union and shall represent the Special Union.

(d) The General Director and any staff member designated by him shall participate, without the right to vote, in all meetings of the Assembly, the Committee of Experts, and such other committees of experts or working groups as may have been established by the Assembly or the Committee of Experts, at the request of the General Director, or a staff member designated by him, shall be ex officio secretary of those bodies.

(e) The International Bureau shall, in accordance with the directions of the Assembly, make the preparations for the conferences of the organization.

(f) The International Bureau shall act as treasurer of the organization.

(g) The International Bureau shall carry out any other tasks assigned to it.

ARTICLE 7
Finances

(a) The Special Union shall have a budget.

(b) The budget of the Special Union shall include the income and expenses proper to the Special Union, its contribution to the budget of expenses common to the Unions, and, where applicable, such sums as may be necessary to finance the budget of the Conference of the Organization.

(c) Expenditures attributable exclusively to the Special Union but also to one or more other Unions shall be paid out of the budget of the Special Union, but only after the approval of the Board of Directors of the Organization and the payment of such expenses as may be necessary to finance the budget of the Conference of the Organization.

(d) The budget of the Special Union shall be established with due regard to the requirements of coordination with the budgets of the other Unions administered by the Organization.

(e) The budget of the Special Union shall be the subject of the report of the organization to the International Bureau.

(f) The auditing of the accounts shall be the responsibility of the Secretary General, in his capacity as the representative of the organization, and the audit of the accounts shall be conducted by the organization's external auditors, as provided in the by-laws of the Special Union.
remaining in full force and effect as regards the other countries of the Special Union.
(2) Denunciation shall take effect one year after the day on which the Director General has received the notification.
(3) The right of denunciation provided by this Article shall not be exercised by any country before the expiration of five years from the date upon which it becomes a member of the Special Union.

**ARTICLE 13**

**Territories**

The provisions of Article 24 of the Paris Convention for the Protection of Industrial Property shall apply to this Agreement.

**ARTICLE 14**

**Signature, Languages, Notifications**

(1) (a) This Agreement shall be signed in a single copy in the English and French languages, both texts being equally authentic, and shall be deposited with the Government of Switzerland.

(b) This Agreement shall remain open for signature at Bern until June 30, 1966.

(2) Official texts shall be established by the Director General, after consultation with the interested Governments, in such other languages as the Assembly may designate.

(3) The Director General shall transmit two copies, certified by the Government of Switzerland of the signed text of this Agreement to the Governments of the countries that have signed it and, on request, to the Government of any other country.

(4) The Director General shall register this Agreement with the Secretariat of the United Nations.

(5) The Director General shall notify the Governments of all countries of the Special Union of the date of entry into force of this Agreement, signatures, deposits of instruments of ratification or accession, acceptances of amendments to this Agreement and dates on which such amendments enter into force, and notifications of denunciation.

**ARTICLE 15**

**Transitional Provision**

Until the first Director General assumes office, the provisions in this Agreement to the International Bureau of the Organization or to the Director General shall be deemed to be references to the United International Bureaux for the Protection of Industrial Property (BIIRPI) or its Director, respectively.

In witness whereof, the undersigned, being duly authorized thereto, have signed this Agreement.

Done at Locarno, on October 6, 1966.

For South Africa:

For Argentina:

For Australia:

For Austria: THEL

For Belgium: A. SCHUMANS

For Brazil:

For Bulgaria:

For Cameroon:

For Canada:

For Ceylon:

For Cyprus:

For the Congo (Brasaville):

For the Ivory Coast:

For Cuba:

For Dahomey:

For Denmark: ERIK TUXEN

For Spain: J. L. XIPRA

A. F. - MAGARRIBROS

J. ESCUREDO

For the United States of America: GERALD D. O'BRIEN

HARVEY J. WINTER

For Finland: ESNIK TUULI

For France: G. BONNEAU

For Gabon:

For Greece:

For Haiti:

For the Upper Volta:

For Hungary: EMIL TASNADI

For Indonesia:

For Iran: M. N. NARAGHI

For Ireland:

For Iceland:

For Israel:

For Italy: GIUSEPPE RANZ

For Japan:

For Kenya: D. J. COWARD

For Laos:

For Lebanon:

For Liechtenstein: DR. MARIANNE MARKER

For Luxembourg: J. P. HOFFMAN

For Madagascar:

For Malawi:

For Malta:

For Morocco:

For Mauritania:

For Mexico:

For Monaco: J. M. NOTARI

For Niger:

For Nigeria:

For Norway: ROALD RØDEN

For New Zealand:

For Uganda:

For the Netherlands: PIAP

E. VAN WEEF

For the Philippines:

For Poland:

For Portugal:

For the Syrian Arab Republic:

For the United Arab Republic:

For the Central African Republic:

For the Dominican Republic:

For the Federal Republic of Germany: VON KELLER

GERSCH SCHNACKER

For the Republic of Viet-Nam:

For Romania:

For the United Kingdom of Great Britain and Northern Ireland:

For San Marino:

For the Holy See: F. BERNI DE RIEDMATTEN

For Senegal:

For Sweden: BENGT HOLMQUIST

For Switzerland: JOSPEH VOTAME

W. STRAND

For Tanzania:

For Chad:

For Czechoslovakia: PROF. FRIEDRICH KREZIK

For Togo:

For Trinidad and Tobago:

For Tunisia:

For Turkey:

For the Union of Soviet Socialist Republics: Z. MRONOV

For Uruguay:

For Yugoslavia: ZOLTAN BIR

For Zambia: 

Côte certifiée conforme à l'original déposé auprès du Conseil Fédéral Suisse pour le Département de l'Ensemble. [SEAL]

BERNE, le 15 juillet 1969.

**ANNEX**

**LIST OF CLASSES AND SUBCLASSES OF THE INTERNATIONAL CLASSIFICATION**

**CLASS 1—FOODSTUFFS, INCLUDING DIETETIC FOODS**

01. Bakers' products, biscuits, pastry, macarons, etc.
02. Chocolate, confectionery, ices
03. Cheese, butter and other dairy produce and substitutes
04. Butchers' meat (including pork products)
05. Animal foodstuffs
06. Miscellaneous

**CLASS 2—ARTICLES OF CLOTHING, INCLUDING FOOTWEAR**

01. Garments
02. Undergarments, lingerie, corsets, brassieres
03. Headwear
04. Footwear (including boots, shoes and slippers)
05. Socks and stockings
06. Neckties, scarves and neckerchiefs
07. Gloves
08. Haberdashery
09. Miscellaneous

**CLASS 3—TRAVEL GOODS AND PERSONAL BELONGINGS, NOT ELSEWHERE SPECIFIED**

01. Trunks, suitcases and briefcases
Having noted that it is the general desire of contracting States to enlarge the membership of the Convention,

Having considered it proper to provide for three seats in the Council additional to the six seats which were provided for by the amendment adopted on the twenty-first day of June 1961 to the Convention on International Civil Aviation (Chicago, 1944), and accordingly, has increased the membership of the Council to thirty,

And having considered it necessary to amend for this purpose, it is hereby provided that the Convention on International Civil Aviation done at Chicago on the seventh day of December 1944,

Approved, on the twelfth day of March 1971, in accordance with the provisions of paragraph a) of Article 94 of the Convention aforesaid, the following proposed amendment to the said Convention:

In paragraph a) of Article 50 of the Convention, the second sentence shall be deleted and replaced by: "It shall be composed of forty contracting States elected by the Assembly."

Specified, pursuant to the provisions of paragraph a) of Article 94 of the said Convention, eight members of the Contracting States upon whose ratification the proposed amendment aforesaid shall come into force, and

Resolved that the Secretary General of the International Civil Aviation Organization draw up a Protocol in the English, French and Spanish languages, the text of which shall be of equal authenticity, embodying the proposed amendment above mentioned and the matters hereinafter appearing,

Consequently, pursuant to the aforesaid action of the Assembly,

This Protocol has been drawn up by the Secretary General of the Organization;

This Protocol shall be open to ratification by any State which has not acceded or adhered to the said Convention on International Civil Aviation;

The instruments of ratification shall be deposited with the International Civil Aviation Organization;

This Protocol shall come into force, in respect of the States which have ratified it, on the date on which the eightieth instrument of ratification is so deposited;

And

The Contracting Parties shall immediately notify the International Civil Aviation Organization of any ratification of this Protocol;

The Secretary General shall immediately notify all Contracting Parties to the said Convention of the date on which this Protocol comes into force;

With respect to any contracting State ratifying this Protocol after the date aforesaid, the Protocol shall come into force upon deposit of its instrument of ratification with the International Civil Aviation Organization.

In witness whereof, the President and the Secretary General of the aforesaid Extraordinary Session of the Assembly of the International Civil Aviation Organization, believe, signed hereto by the Assembly, sign this Protocol.

Done at New York on the twelfth day of March of the year one thousand nine hundred and seventy-one, in a single document in the English, French and Spanish languages, each of which shall be of equal authenticity. This Protocol shall be deposited in the archives of the International Civil Aviation Organization, and certified copies thereof shall be transmitted by the Secretary General of the Organization to all States parties to the Convention on International Civil Aviation done at Chicago on the seventh day of December 1944.

WALTER BINACCHI, President of the Assembly. ASHAD KOTAIYE, Secretary General of the Assembly.

Certified to be a true and complete copy.

GERALD F. FITZGERALD, Legal Bureau, ICAO.

Without objection, the excerpts from the reports were ordered to be printed in the Record, as follows:

THE NICE AND LOCAÑO AGREEMENTS

Purpose

The express purpose of this Agreement is to establish an international agreement which will establish an international classification of goods and services to which trademarks are applied. The Department of State feels that it is important from the standpoint of effective government administration of its trademark functions that the United States accede to the Agreements so that it may participate as a member in this organization.

Background

U.S. exporters generally regard foreign trademark protection as necessary to the development of foreign markets. A trademark provides important identification for a firm's products and services and aids the foreign consumer in identifying which firm can develop its advertising and sales promotion campaigns. The mark symbolizes to the public the goodwill and reputation inherent in its product and services.

The United States adheres to several treaties under which exporters and other businessmen are entitled to receive (in approximately 100 countries) the same treatment under trademark laws as is accorded to their nationals. They must, however, proceed under the laws of each such country in order to obtain these rights. The United States is not a party to any agreement whereby a U.S. trademark registration is automatically recognized and protected in a foreign country. Consequently, an international trademark classification system is useful to American trademark owners, because it facilitates the determination of proper classification for multicity filing programs. Such a system, also, makes it easier to monitor publications which may reveal possible trademark infringements may be detected.

The most widely-used international trademark classification system is that developed under the Nice Agreement, as Revised, Concerning the International Classification of Goods and Services to Which Trademarks Are Applied, in Paris, April 15, 1967. It consists of 34 product and 8 service classes. Over sixty nations use this classification either as a primary or a subsidiary system.

The United States does not use the Nice classification as its primary system. The U.S. system contains 80 products and 8 service classes and one "collective membership" class. The United States did, however, officially sign the Agreement 2 years prior to the expiration of the term of the Agreement. It is planned that a revised version of that agreement was assigned on July 14, 1967. On July 1, 1969, under the authority of the Federal Trademark Act (15 U.S.C. 1119), the U.S. Patent Commissioner adopted the Nice system as a subsidiary system. Senate advice and consent of 1969 now necessary for the self of the full benefits of the agreement, including membership on the Committee of Experts and participation on the Assembly. The agreement was put into force by the following resolution, September 24, 1970.

PROVISIONS OF THE AGREEMENT

The revised version of this treaty contains 16 articles. A summary of its major provisions is set forth below.

EXECUTIVE PROTOCOL

RELATING TO AN AMENDMENT TO THE CONVENTION ON INTERNATIONAL CIVIL AVIATION

(Signed at New York, on March 12, 1971)

THE ASSEMBLY OF THE INTERNATIONAL CIVIL AVIATION ORGANIZATION

Having met in an Extraordinary Session, at New York, on the eleventh day of March 1971,
Article I states that all countries party to the 1897 agreement, as well as those added by the 1967 revision, are constituted as a Special Union under the Paris Union established by the Paris Convention for the Protection of Industrial Property. This provision establishes, for the purposes of the registration of trademarks, a single classification of goods and services.

Article 2, a key provision, provides that "such a registration shall not bind the contracting parties in respect of their evaluation of the extent of the protection afforded to a mark or their recognition of service marks." This provision is necessary to apply the international classification of goods and services as a principal or subsidiary system.

Article 3 establishes a Committee of Experts which has the responsibility of modifying existing alphanumeric classification. Each contracting party is represented on the Committee and decisions of the Committee concerning amendments to the classification shall require the unanimous consent of the contracting countries. Decisions concerning additions to the classification shall require only a simple majority. For the purposes of this agreement, "committee" is defined as "any transfer of goods from one class to another of the list or to any new class containing such transfer." Article 4 sets forth the requirements for national registration as a prerequisite to being considered for admission to the international classification. This article designates the International Bureau as the depositary of the classification.

Article 5 establishes an Assembly of the Special Union which will consist of all contracting parties and will meet in ordinary session every three years. The Assembly shall take any appropriate action designed to further the objectives of the Special Union. Decisions of the Assembly shall require two-thirds of the votes cast. Those actions amending Articles 6 through 8 of this agreement or requiring four-fifths of the votes cast (Article 9).

Article 6 states that the administration tasks of the Special Union which has signed this agreement may be performed by the International Bureau. This Bureau also serves as the secretariat for the Paris and Berne Unions and all other Special Unions.

Article 7 provides, for the purpose of determining contributions, each country will be considered as a separate Union. This will involve a financial obligation of approximately $2,000 a year for the United States.

Other articles of the agreement deal largely with administrative matters.

DATE OF ENTRY INTO FORCE

Pursuant to the provisions of Article 9, any country of the Special Union which has signed this agreement may ratify it, and, if it has not signed it, may accede to it. Any country not a member of the Special Union which has signed this agreement may accede thereto. The agreement will enter into force three months after a country's ratification has been notified to, or if it has not signed it, accession to, the Director General of the Special Union. Any country may denounce the agreements by giving one year's notice to the Director General (Article 12).

III. COMMITTEE ACTION

The Committee in its meeting of August 7, 1971, held a public hearing on the Nice and Berne Agreements. The committee reported that the Nice Agreement for the Protection of Industrial Property which has signed this agreement may ratify it, and, if it has not signed it, may accede thereto. The agreement will enter into force three months after a country's ratification has been notified to, or if it has not signed it, accession to, the Director General of the Special Union. Any country may denounce the agreement by giving one year's notice to the Director General (Article 12).

The proposed version of the Agreement consists of 16 articles followed by an annex containing 31 main classes and approximately 900 subclassifications. A summary of its major provisions is set forth below.

Article 1 establishes an international classification for industrial designs similar to that used in the Special Union. This article designates the International Bureau as the depositary of the classification. Under Article 2, the contracting parties reserve the right to use the international classification as a principal or a subsidiary system. The international classification shall not bind the countries as regards the nature and scope of the protection afforded to design in those countries. In the United States, the Patent Office has been applying, as a subsidiary system, the International Design Classification since its issuance in 1961.

Article 3 creates a Committee of Experts to which the contracting party shall adopt the alphabetical list of goods in which industrial designs are incorporated and their explanatory notes. The Committee also may, by amending and making additions to the list of classes and subclasses annexed to the Agreement.

Article 4 sets forth the requirements regarding the notification, entry into force, and implementation of all amendments and additions to the international classification. This article designates the International Bureau as the depository of the classification.

Article 5 establishes an Assembly consisting of all the countries of the Special Union. The Assembly shall take any appropriate action designed to implement the objectives of the Special Union. Decisions of the Assembly shall require two-thirds of the votes cast. However, amendments of Articles 6 through 8 of this agreement or requiring four-fifths of the votes cast (Article 9).

Under Article 6, the secretariat for the Special Union is the International Bureau, which shall be the secretariat for all other Special Unions under the Paris Union and for the Berne Union established by the Berne Convention.

Other articles of the agreement deal largely with administrative matters.

STATEMENT OF ADVICE

Mr. Chairman, I am pleased to appear before the Senate Committee on the subject of the amendment to the Agreement of June 2, 1960, establishing the International Classification of Goods and Services to which Trademarks are Applied.

The Agreement was negotiated at a diplomatic conference in October 1960 in which the United States was represented. The Agreement includes all modifications of the London Agreement concerning the International Classification of Goods and Services to which Trademarks are Applied. The Agreement has as its purpose the establishment of a single international classification for industrial designs. The establishment of the classification will ensure that the high standards of the alphabetical lists of industrial designs in the various industrial property offices operating in field of industrial designs can be applied to any new, original and ornamental design for an article of manufacture, as for example, the styling or design—other than utilitarian features—of furniture, office machinery, containers, or automobiles. Such designs are capable of protection by the securing of "design patents" in the United States.

Essentially the Agreement provides for an international classification comprising a list of classes of industrial designs, an alphabetical list of articles of manufacture in which industrial designs are incorporated. The Agreement provides that each Contracting State shall adopt the alphabetical list of articles of manufacture in which industrial designs are incorporated. The Agreement provides that each Contracting State shall adopt the alphabetical list of articles of manufacture in which industrial designs are incorporated. The Agreement provides that each Contracting State shall adopt the alphabetical list of articles of manufacture in which industrial designs are incorporated. The Agreement provides that each Contracting State shall adopt the alphabetical list of articles of manufacture in which industrial designs are incorporated. The Agreement provides that each Contracting State shall adopt the alphabetical list of articles of manufacture in which industrial designs are incorporated.
December 10, 1971
CONGRESSIONAL RECORD — SENATE

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Congressional Record — Senate classification where necessary the use of new devices in this field. The U.S. Patent Office has considerable expertise in this field as the U.S. is one of the countries in which decisions are made to design and examination. The list of classes and subclasses and the alphabetical list of goods were adopted on September 17, 1971 by the Commissioner of Patents.

An Assembly of all the contracting parties will meet every three years to deal with various administrative and financial matters concerning the Agreement.

The member States of the Locarno Agreement, set up by the Paris Convention for the Protection of Industrial Property in 1883 and revised at Stockholm in 1897, have been a party to the Paris Convention since 1883 and the Senate approved the Stockholm revision of that Convention in 1976. The secretariat for the Special Union of the Locarno Agreement, as well as for the Paris Union, is the International Bureau of Industrial Property, which also serves as the secretariat for other Unions under the Paris Union.

Both the 1957 and 1969 Agreements Concerning the International Classification of Goods and Services to which Trademarks Are Applied, which entered into force in April 1961, and the 1967 Agreement, which entered into force in May 1969, make use of the International classification of goods and services to which trademarks are applied. Twenty-five countries are parties to the 1957 and 1967 texts of the Agreement.

The Agreement provides for a classification of goods and services, to which are applied, for the purpose of registering trademarks and service marks. The classification is used in international registration of trademarks under the multilateral Agreement Concerning the International Classification of Goods and Services to which Trademarks Are Applied, signed June 15, 1957, together with an English translation thereof, and a certified copy of that Agreement as revised at Stockholm July 14, 1967, together with an English translation thereof (Ex. M, 91-2).

The Patent Commissioner has authority under existing law to adopt a classification system and he has adopted the international classification for goods and services since July 1, 1969. It is highly desirable that the United States become a party to the Agreement so that, as a member in the Committees of Experts and in the Administrative Assembly, it may influence the decisions of those bodies. It is particularly important that the United States have a voice in influencing the development of the international classification in view of the importance of classification to American trademark owners because it facilitates identification of genuine trademarks from false and counterfeit marks.

From an administrative standpoint, adoption of the international classification of Goods and Services to which Trademark are Applied fulfills three basic needs: 1. The need for a Trademark Classification Manual which can be used by Trademark Examiners as well as Trademark Attorneys.

2. The need for the modernization and re-classification of our domestic system which is now 50 years old and has been modernized since 1949 at which time only a few classes were reclassified.

3. At the international level, the need for uniformity of classification to facilitate the filing and examination of U.S. applications abroad.

These three needs are fulfilled by the adoption of the International classification of goods and services to which trademarks are applied.

States parties to the 1957 Agreement, as well as the 1967 revision, comprise a Special Union, known as the Locarno Union, which is also under the Paris Union of the Paris Industrial Property Convention. The secretariat for the Locarno Union is also the International Bureau of Intellectual Property.


Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the accession to the Nice Agreement Concerning the International Classification of Goods and Services to which Trademarks Are Applied, signed June 15, 1957, together with an English translation thereof, and a certified copy of that Agreement as revised at Stockholm July 14, 1967, together with an English translation thereof (Ex. M, 91-2).

PROTOCOL TO AMEND INTERNATIONAL CIVIL AVIATION CONVENTION

Purpose

The purpose of this Protocol is to increase the membership of the Council of the International Civil Aviation Organization from 27 to 30 representatives.

BACKGROUND

The Convention establishing the International Civil Aviation Organization (ICAO) entered into force in 1947. The main objective of the organization is to develop principles and techniques of international air navigation and to foster planning and development of international transport in order to secure the safe and orderly growth of international civil aviation worldwide. The organization carries on its activities through an assembly on which every national civil aviation administration is represented. The Assembly meets annually, except in cases when it is deemed necessary to convene extraordinary sessions, and the proceedings are governed by the representatives to the Council of the organization. The composition and election of the Council when it is at full strength is limited to 36 members, of which 30 are elected by the Assembly and 6 are appointed by the ICAO Council. The representation of States in the Council is adjusted in accordance with their contributions to the ICAO budget, which may be raised from time to time by the Assembly. In the event of a vacuum created by the permanent resignation of a permanent seat, or through the death of the holder of a seat, a temporary member shall be appointed until the next meeting of the Assembly.

Among other things, the Council submits annual reports to the Assembly, administers the finances of the organization, and requests, collects, examines and publishes information relating to the advancement of air navigation and the operation of international air services.

REASON FOR INCREASE IN COUNCIL MEMBERSHIP

When the International Civil Aviation Organization came into force on April 4, 1947, the representation from member countries in the Assembly and 21 representatives on the Council. The membership expanded to 86 countries by 1961, at which time the size of the Council was increased to 27 members. During 1970 the number of member countries increased to 120 (including the Soviet Union) and instruments of adherence have been deposited by two other countries this year. In view of this increase in membership, an extraordinary session of the Assembly was held at New York last in 1970 for the purpose of considering a proposal to enlarge the number of representatives serving on the Council from 27 to 30. Although the Assembly voted in favor of the proposal that there was no need to increase the size of the Council, because of the general support in the Assembly for the proposal, the United States joined in the unanimous adoption of an amendment to Article 3(a) to accomplish this purpose.

DATE OF ENTRY INTO FORCE

The proposed amendment will enter into force in respect of states which have ratified it at the date on which the 90th instrument of ratification is deposited.
COMMITTEE ACTION

The Committee on Foreign Relations held a hearing on the pending protocol on November 19, 1971, at which time testimony in favor of the protocol was received from Mr. John S. Meadows, Director, Office of Aviation, Department of State. His prepared statement is reprinted below. Later the same day, the Committee met in executive session and, after reviewing the protocol reported favorably to the Senate.

The Committee is not aware of any opposition to the protocol in either the press or in the Senate, and it is the firm opinion of the Committee that the Senate give its advice and consent to ratification thereof.

The PRESIDING OFFICER, Without objection, the protocols will be considered as having passed through the various parliamentary stages and, including the presentation of the resolutions of ratification, will be read for the information of the Senate.

The assistant legislative clerk read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the accession to the Nice Agreement Establishing an International Classification of Goods and Services to Which Trademarks Are Applied, signed June 15, 1970, in the French, German, English, translation thereof, and a certified copy of that Agreement as revised at Stockholm July 14, 1971, and printed with an English translation thereof (Ex. M, 91-1).

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Locarno Agreement Establishing an International Classification for Industrial Designs, signed October 8, 1960 (Ex. I, 92-1).

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of a Protocol dated New York, March 11, 1971, relating to an Amendment to the Convention on International Civil Aviation (Ex. K, 92-1).

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the votes on these three treaties occur tomorrow, beginning at 10:30 a.m.; and I ask unanimous consent that it be in order to ask for a quorum at this time.

The PRESIDING OFFICER. A vote on all three treaties at the same time?

Mr. MANSFIELD. On all three treaties, consecutively—three separate votes.

The PRESIDING OFFICER. Without objection.

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

The yeas and nays were ordered.

LEGISLATIVE SESSION

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

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

SENATOR JACKSON SPEAKS OUT

Mr. MAGNUSON. Mr. President, over the years, our colleague, Senator Henry Jackson, has shown that a statesman of international stature can also be a man of plain talk. He speaks out frankly and clearly on the tough problems of the day. Those who hear him have no doubt about where he stands.

When Senator Jackson says that a just and peaceful international environment are vital to each other and that a prudent defense policy depends on any list of priorities, people know what he means. He has made clear that:

We are concerned in the tasks of government only by marshaling the efforts of our people in behalf of justice at home and responsible participation abroad. These tasks are inseparable.

Senator Jackson has been sharing this perspective with people all across America and his commonsense approach has touched a responsive chord. With his special brand of forthrightness, he is making an important contribution to public discussion of major issues in our society.

Mr. President, in the belief that Senator Jackson's views deserve a wider audience, I ask unanimous consent that brief excerpts from some of his statements on the challenge to America at home and abroad be printed in the RECORD.

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

NATIONAL SECURITY AND FOREIGN POLICY

NATIONAL SECURITY

In the world today, what is it that America is working for?

The world we want is one in which each people will be free to develop its national life in its own way, with its own institutions, in the enjoyment of full respect for the rights of others to live their lives in their own ways. This is the kind of world in which we want to live—one in which our free institutions can survive and flourish, can gain strength and become more responsive to the needs and interests of the American people. But we do not ask more for ourselves than we gladly and freely accord to others.

This is the kind of world described in the opening articles of the Charter of the United Nations. It is a noble cause. But a cause must be carried. We may have it, but it may be in being counted among them.—From speech to Commonwealth Club of California, March 6, 1971.

In the current discussion of our national priorities there is a tendency to draw a sharp distinction between the one hand, and domestic needs on the other. I reject this view. The term "domestic" when applied to our priorities is misleading for nothing could be more "domestic" than the survival of our people or the freedom of this nation to choose its way of life free from outside interference.

The issue of our priorities is not an either/or proposition. We must maintain peace by deterring nuclear war, but we must promote a just and healthy society as well. Success in one of these goals will not help us survive if the other does not. From speech to Los Angeles World Affairs Council, May 21, 1971.

Our deterrent force is only as persuasive as its ability to survive a first strike in sufficient numbers. But the total and effective capacity of our strategic forces to survive is now coming into question. The relentless advances in strategic and naval build-up pose a serious threat not just to one but to all three of the elements of our strategic deterrent.

If current trends continue the Soviets will achieve a preponderance of strategic power that will leave our security impaired by doubt and uncertainty and our friends and allies confused and disheartened.

Looking ahead, it is difficult to escape the conclusion that our interests and those of our friends and allies would suffer in a bipolar environment in which the American power position was widely questioned, even though the Soviet Union may not have a clear-cut strategy for a new balance which we might expect Soviet intrusiveness in negotiations, and efforts at blackmail and intimidation continue. Our challenge is to deal with a consequent rise in the incidence of dangerous situations.

One fact is that we shall not be pushed into a new build-up of strategic offensive weapons until we must give our most urgent attention to two priorities:

1. The protection of our deterrent forces, and

2. The achievement of an arms control agreement on offensive and defensive nuclear systems that will stabilize the strategic balance and not upset it further in Moscow's favor.—From speech to the American Society of Newspaper Editors, Washington, D.C., April 15, 1971.

We must not lose sight of the fact that all over the world there are men and women whose lives and freedoms depend in the last analysis on the United States to lead the common defense effort of the free world. Our leadership—our ability to bring together those independent states which value their independence and security, and the most powerful nation as the best guarantee of security for the American people.—From Senate floor speech, May 10, 1971.

When it comes to the security of our country, I am not some kind of hybrid of shifting allegiances. I am not a "hawk" or a "dove" or an ostrich. And I don't want to be called a pigeon.—From Columbus Day Dinner speech, Weirton, West Virginia, October 8, 1971.

My people came from Norway, it is a beautiful country. It enjoyed a thousand years of freedom. It was one of the first nations in Europe to achieve national health care and unemployment compensation and national pension plans. Along with a high measure of economic justice. Norway has clean land and water and air—a splendid environment. But what good did all of that do when the people lost their country to the invaders in 1940 and a thousand years of freedom came to an end?

There is a lesson in that, and I will never forget it. The lesson is that while justice survive together or perish together.—From remarks on acceptance of the Four Freedoms Award from the United-Italian American Labor Council, December 4, 1971.

ARMS CONTROL

I believe that discussions among nations for a sound and safe system for the control and limitation of armaments should be continuous. The statesmen of the free world must never give up in their search for a security system which rests on more than the threat of mutual destruction.—From Senate floor speech, May 27, 1957.
more attractive to them than continued dis-
agreements—as in the case of the Austrian
Peace Treaty and the limited nuclear test-
ban—would be real. 

It is this point of view that I have
favored efforts to limit the spread of nuclear
weapons and the use of the nuclear weapons
major concessions in the treaty negotiations
without any compensating changes of policy
on the Soviet side.—From speech to Hoover
Institution, Stanford University, October 11, 1967

To those who say we must take risks for
peace by smashing the Western deter-
ment, I say: you are not proposing risks for
peace, but rather would impose upon the Soviet
forces a threat that would heighten the risk of confrontation or war.
You are risking loss of security or freedom
for Americans and our friends throughout
the world.—From Senate floor speech, May
13, 1971

The pace of events may overtake our ef-
forts to conclude a SALT agreement cover-
ing the whole range of systems under con-
sideration.

I have come to the conclusion that we
ought to consider a partial, interim agree-
ment that would avoid the worst dangers
and would have the effect of slowing the strategic arms competition and adding to the immediate
security balance. Such a measure would be
simple and immediate: simple so as to obviate complex negotiation and immediate so as to speed the decline in the security of our deterrent.

Such an agreement would focus on the
principal source of the mounting instability in
the strategic balance: the increasing offen-
sive potential of the Soviet forces.

Specifically, I propose a mutual U.S.-Soviet
agreement for a period of one year providing
the following:

(1) The United States would immediately
halt the deployment of Minuteman III mis-
siles with their MBY warheads.

(2) The Soviet Union would immediately
halt the deployment of new ICBM launchers
and missiles including those now under con-
struction.

(3) Both countries would retain the free-
dom to assure the survivability of their stra-
ger land-based forces so long as they did
not add to their offensive potential.

(4) The Soviet Union would deploy a popula-
tion defending ABM.

I would hope that the United States would
not immediately propose to strengthen its own
offensive capability after the test ban. The stability of the strategic balance and the prospects for a
comprehensive SALT agreement would be
greatly increased if each side were to cease

From Senate floor speech, March 29, 1971.

It is essential that we spare no effort to
obtain agreement with the Soviet Union to
limit both offensive and defensive strategic
weapons. I am persuaded that our persistence in
endearing to limit Soviet offenses while
discussing limitations on defensive systems is
related to a traditional security posture. It is
my conviction that an agreement limiting only our defenses while leaving the
Soviets free to expand their offenses would
be both unnecessary and unwise. I am con-
fident that the American people will con-
tinue to support American insistence on an
overall improved posture to press, Washing-

EUROPE

The hopes of the world for peace with free-
don continue to depend chiefly on a strong
and confident Atlantic community. The
Nordic Community, the détente, and the require-
ments of the NATO deterrent deserve a very high priority.

I do not think the true business of the
Atlantic Alliance is to reach a genuine, stable
European settlement with the Soviet
Union—to create conditions in which peo-
ple can speak meaningfully of Europe in
the context of the Western world—but to help
build a Europe which will strengthen the
prospects for world peace and contribute to
peaceful progress in Asia, Africa, and Latin
America.

We and our allies should not cut our
com-
back forces in Europe. The corresponding
concessions from the Soviet Union, without
a quid pro quo—especially so when the con-
cessions we ask are but contributions to
peaceful co-existence for all of Europe, East
and West. We could look safely forward to
the reduction and redeployment of U.S. and
allied NATO combat forces if the Soviets and
the other Warsaw Pact countries make effec-
tive military and political arrangements for
an, stable, cooperative settlement with, for
their forces.—From Senate floor speech, Sep-
tember 1, 1966

Since 1966 resolutions have been intro-
duced which in effect call for a substan-
tial reduction of U.S. forces stationed in
Europe. I believe such a resolution has the
Senate passage of such a resolution in
1968—at the very moment when Soviet
forces invaded Czechoslovakia. There was
some sudden back-peddling, and a change in
tone, and talk that “the time is obviously
not propitious for a substantial reduction of
U.S. forces in Europe.”

The time is no more propitious today.
The United States is deeply engaged in
crises in Europe, and the arms control con-
trol at SALT. The situation in the Middle
East is highly explosive, as the Soviets ex-
pect expansion of those forces and in pursuit
of their interests—interests of our NATO
allies to join us in a strengthening
of our common defensive capabilities in
the region; and we should take immediate
steps to increase the strength and effectiveness of the U.S. 6th
Fleet.—From Senator Henry M. Jackson’s re-
port to the Senate Armed Services Committee
on “The Middle East and American Security

I do not need to speak at length of the
cruel mistreatment of the Soviet Union’s
Jewish minority. It has been revealed to us
what we have seen. There are reports of the
massacres. And, perhaps most convincing of
all, the mass exodus of young women and men
who have spoken out in letters to the West
and signed petitions and even participated in open demonstrations.

We cannot stand idly by. We must
press our NATO allies to join with us in a strengthening
of our common defensive capabilities in
the region; and we should take immediate
steps to increase the strength and effectiveness of the U.S. 6th
Fleet.—From Senator Henry M. Jackson’s re-
port to the Senate Armed Services Committee
on “The Middle East and American Security

I am convinced that at this moment the
single most important step this country can
take to bring about a measure of stability to
the troubled Middle East is to make plain our determination that we will not prejudge
Israel’s capacity to defend itself by further denying her the aircraft she needs to prevent an
invasion across the Suez Canal or a renewal
of the war of attrition against her defensive
positions in the Sinai peninsula.

Our most urgent immediate task in the
Middle East is to acknowledge that the un-
usual flow of new pressures from Egypt to
the Soviet Union has jeopardized the balance of power in a most dangerous
way. We must keep the Middle East at
Egyptian dictator Nasser has the full back-
ing of the men in the Kremlin. He must be
seen as a potential American ally rather
than as an obstacle to European con-
cessions and indecisions—such as those
which have characterized our handling of
the Suez crisis.—From article by Senator
Bentley, “New York Post—Intelligence, Septem-
ber 27, 1956.

This country and Israel, whose security
is threatened by the current crisis in that
region, are bound together by shared values,
comradeship, a shared history, and religious
heritage. Unlike some countries of the
Middle East, Israel is a stable democracy, and
a profoundly egalitarian and spirited
people. This country has a unique responsibility to defend the interests of many Americans, who feel something like
a sense of personal involvement in the des-
tiny of Israel. Today, Israel is serving as the
front line of Western defense in the Middle
East.

The peace and stability of the Middle
East is now threatened by the aggressive ambition of the Soviet Union, which transends the
tragic conflict between Arabs and Israelis.

The policy of Russia to manipulate the con-
flict in the region for its own advantage is
the key reality upon which American Middle
East policy must be based.

These are my [main] recommendations:

We should assume that, for the foreseeable future, the balance of power in the
Middle East will be restored rather than supported by Soviet policy.

We should recognize that the best prospect for peace in the Middle East lies in discourag-
ing radical Arab hopes for the eventual mili-
tary defeat of Israel.

We should recognize, and make clear our
determination to resist, the Soviet threat to our friends and allies in the Middle East. To
make this clear we should actively encourage our
NATO allies to join with us in a strengthening
of our common defensive capabilities in the
region; and we should take immediate
steps to explore measures to increase the
strength and effectiveness of the U.S. 6th
Fleet.—From Senator Henry M. Jackson’s re-
port to the Senate Armed Services Committee
on “The Middle East and American Security
today threatened by the narrow margin of Israel's air defense capability. I am proposing that we extend the credits necessary to permit a brave ally to purchase the means with which to defend itself while we look to a better day in a more peaceful world. True, extended credits may no longer be needed.—From Senate speech introducing his amendment appropriating $500 million credit aid for Israel, November 29, 1971.

CHINA

I believe it would contribute to peace and stability in the Western Pacific if Communist China, comprising over seven hundred million people, could begin to re-enter the international community and place its international relations on a more normal, stable plane. As far as United States policy toward Mainland China is concerned I believe we should get it on a less-rigid, more-sensible footing. We should renew the invitation to the Peking regime to join in the 26-nation arms control meetings in Geneva. We should press Peking for the reopening of the bilateral U.S.- Chinese commercial relations and be prepared to make constructive suggestions for discussion and negotiation. These suggestions should be based on a series of mutual U.S.- Chinese exchanges of scholars, scientists, and cultural performers; the improvement of communications between the U.S. and Mainland China, including the mutual reduction of barriers to trade; the subject of Mainland China's participation in the United Nations and other international bodies on terms that would not exclude the Republic of China from the Security Council.

It is time that both the Americans and the Mainland Chinese recognized that they have a mutual interest in, and a mutual responsibility for, the stability in the Western Pacific area.—From speech to Seattle Rotary Club, November 5, 1969.

It is generally agreed that by one formula or another the way will be opened to Peking to be admitted to the United Nations, if not this fall, then in the fall of 1972. Rather than concentrate U.S. efforts on how we can best delay such entry we should be thinking more as to how we may utilize the presence of the Mainland Chinese in the UN and of a delegation of Chinese experts to work to improve our relationships with Peking.

It is obvious that sometime, somehow, the Mainland Chinese regime will have to join in the arms control process. China, in the meantime, arms control agreement with a loophole as large as China could survive Chinese acquisition of the whole gamut of modern weapons. Our treaty obligations for the defense and security of Taiwan will continue whatever the formula whereby Mainland China enters the UN. We have a long record of alliance and friendship with Taiwan. We will continue this close association, and I do not believe it would constitute a block to the movement toward more normal relations between the U.S. and Mainland China.—From speech to Commonwealth Club of California, March 5, 1971.

A year and a half ago I proposed that this country should get its policy toward Mainland China on a less-rigid, more sensible footing. We should press ahead and accomplish more, and move relations with Peking. The resumption of the bilateral talks in Warsaw, the implementation of a variety of exchange programs, and a renewal of trade could be steps in the direction of normalizing our bilateral relations. Such progress in opportunities might well form a basis for a restoration of diplomatic relations between the United States and mainland China.—From speech to Boston World Affairs Council, April 22, 1971.

CONGRESSIONAL RECORD—SENATE

December 10, 1971

VIETNAM

Contrary to the notion of some critics our basic problem in Vietnam has not been an arrogance of power. Rather, our basic problem has been a reasonable and respectable compromise with an adversary who has not wished to compromise.

High on the list of any talks should be a mutual cease-fire—a stop to the fighting on both sides, to end the killing and the bloodshed.—From remarks at Naval Air Station, Seattle, April 6, 1968.

The question at issue in the debate over Vietnam is not whether to end the Vietnam war. Everyone I know wants to do that. The question is how to do it.

As I see it, American disengagement from Vietnam must be phased and orderly, or our foreign policy problems will become more difficult and more unmanageable than ever.—From speech to Seattle Rotary Club, November 5, 1969.

We believe the United States should take a new political initiative by offering at Paris a comprehensive proposal for an internationally supervised, standstill cease-fire throughout Vietnam.

It seems apparent that a cease-fire is necessary before a political solution can be achieved. Indeed, negotiating a cease-fire may be a more achievable goal, since it is a more limited one than negotiating a total political solution prior to cessation of fighting. At the same time, working out the on-the-ground arrangements for a cease-fire could lead to compromises on some of the more difficult political problems.

While we are undertaking to turn the burden of the war on Hanoi, we should at the same time make this effort to achieve a cease-fire and an end to all the killing in Vietnam, and not simply an end to American involvement in it.—From letter to President Nixon initiated by Senators Jackson and Dodd, and signed by 28 other Senators, September 1, 1970.

The Christmas-New Year and Tet truces already announced by the other side give us a unique opportunity to follow through, on the ground and with intensified diplomatic efforts, on President Nixon's October 7 proposal for a standstill cease-fire.—From speech by Secretary of State Rogers, December 10, 1970.

A non-election [in South Vietnam] plays into the hands of those who wish to see the future of Vietnam settled by an armed struggle. The renewed talk of a coup, the polarization of the Vietnamese people, the increased activity of the Vietcong and encourage violence, rather than a political solution.

The real American administration should stop pretending to be helpless, saying there is nothing more to be done. The United States still has sufficient authority to make it clear that a pointless referendum is transformed into a meaningful political contest.

The United States has been to the people of South Vietnam—to "give the South Vietnamese people a chance to determine their own future" as four Presidents from Eisenhower to Nixon have pledged—and not to President Thieu or to any other particular politician.—From Senator Morse speech, September 10, 1971.

I want to get all of our troops out of South Vietnam. I said earlier in the year that all of our armed combat forces must be out by the end of this year. I believe that that was an achievable goal. It's now, however, set for next year. I want to have the last of our forces out, but I would leave to the President, at this point in time, to see how well he does in these negotiations and discussions that are coming up both in Peking and in Moscow. That is not to be discounted, and in Moscow so that his hands will not be tied. I wouldn't want to deny to the President all of the help he needs. I want him to have that remaining option in his endeavor to get our prisoners of war out, and if that does not prove feasible, we will cross the next bridge when we get to it.—From press conference, Washington, D.C., November 19, 1971.

I disagree with Johnson when he got involved in the idea of a war of attrition. I took the position that we either ought to bring this war to an early conclusion or get the monition of our forces out as rapidly as possible, right after Tet, to get a quarter of a million more troops out there. I opposed it, because I said we must start to wind this thing down, and the result was, as you know, they've completely reversed their policy. It's a bit of history that has never been discussed at any great length. They were not committee meetings. We had discussions on it, and we opposed it.—Sen. Russell, Sen. Stennis, Clark Clifford. And I think if there's a lesson of Vietnam, it's that a great power like the United States simply can't get involved in a war of attrition; what the circumstances might be, that's going to involve a long, drawn out, protracted war of attrition.—From luncheon discussion with group of editors and reporters of the Washington Post, published November 21, 1971.

MUTUAL ASSISTANCE

Foreign aid can be a powerful tool for accomplishing our national purposes. The Marshall Plan, for example, was not only an economic aid package, but at a cost, for it enabled Western Europe to recover its strength. Without the Marshall Plan Europe in its present form could not have been restored. It is, for example, I think in a sense that the commissar hands—with the result that the task of defending the United States would today be much more costly and much more difficult. Because of freedom might have been set back for generations.

But looking ahead, with the limited funds that will be available, we shall have to be increasingly skillful in devising economic aid policies that:

First: Concentrate our assistance in the most promising countries and in ways that contribute to our national purposes as well as to the interests of the recipient countries.

Second: Explicitly use assistance to stimulate "self-help"—connecting assistance to policy reforms by the recipient countries, and to maximum use of their own resources for development.—Remarks to American Association of University Women, Seattle, Washington, October 1968

The long-held grievances against the foreign aid program are real. On all too many occasions, foreign aid assistance has proved wasteful, inefficient, and self-defeating. I understand the arguments. There is, I think, it is that it has fostered a mood of dependency among some of our allies—to the point where where the undertakings are no longer burdens they are capable of carrying themselves.

At the same time, I cannot agree with the
Chairman of the Senate Foreign Relations Committee when he dismisses the foreign assistance program as "imperialistic" and an improper attempt on our part to "dominate" others. Nor can I agree with those who see all foreign aid as nothing but a "great give-away from which we receive no new benefits." Prudent foreign assistance programs have served—and can continue to serve—the best interests of the United States. —Chairman, Senate, Washington, D.C., November 2, 1971

LATIN AMERICA

In the past few years multinational institutions such as the World Bank, Inter-American Development Bank and the European Development Fund have become the major international aid institutions to developing nations. As other advanced nations join the United States in making capital available to developing countries, there is an obvious need for the creditors to coordinate their assistance programs. Indeed, it may be desirable in an increasing number of cases for the United States or a multinational organization to assume some of the burden in the interest of coordinating aid with the goals of the borrower and with the goals of the government providing the aid. The Multilateral Development Bank, the United Nations, the International Monetary Fund and the World Bank have all made arrangements to coordinate their programs. 

Most Latin American countries recognize that private investment may play an important role in the economic development process, and they have made it easier in several ways for foreign investors to participate in the region. These countries have been careful to coordinate their assistance programs with the goals of the borrowers and the goals of the lending organizations. The United States has been a leader in this regard and has worked closely with the other lending organizations to ensure that they work together. This coordination is essential if we are to achieve the best possible results from our assistance efforts.

CURRENT NATIONAL ISSUES

THE ECONOMY

If the economic system that proved itself in the 1960's—with the most vigorous and sustained growth in our history—cannot move forward to meet the needs of the American people in the 1970's, our faith in the dynamism of our marketplace and enterprise system will be seriously impaired. Today we are falling far short of meeting the legitimate expectations of many Americans. We are not able to provide the quality of life that our citizens demand. We are not able to provide the quality of health care that our citizens deserve. Our cities and states are in crisis and our countryside is in crisis. The urban-renewal programs in those areas where most Americans live are steadily declining. The resources generated by vigorous economic growth have not been able to deal with problems of this scope. But even the Administration's own growth projections do not provide the kind of increase in Federal revenues to enable us to do what needs to be done. Indeed, with the rates of growth currently projected, we cannot do what we need to do. The growth must be faster, and the resources available must be greater. The Nation's needs must be catalogued, and the alternatives must be evaluated in a systematic manner. The Administration and Congress must be sure that our economic policies are designed to meet the needs of all Americans. 

THE URBAN CRISIS

There is no simple answer to the current financial plight of state and local governments. Clearly, the first priority is to restore a vigorous rate of economic growth— the kind of growth that creates new jobs and provides ample revenues for vital public services. Pending more basic reforms, I would favor an interim, emergency aid program for high-cost local services. I am thinking here of education, sanitation and health services. Such aid could be distributed not simply on a per capita basis but on a comprehensive basis, providing an income help to cities with the highest concentration of poor people and public need.
AGRICULTURE

American farmers are growing more and more embattled. Threatened by low farm prices, the growth of corporate giants in agriculture and a national administration which neglected to develop a constructive food policy.

There is nothing in the background or philosophy of Earl Butz to suggest that his department is not dedicated to serve the farmers' interests. They have already experienced in him a new government and perhaps a national administration.

Mr. Butz has shown little concern for the independent farmers working outside the realms of the corporate food producers with whom he has been so closely associated.

In any event, the fact that farmers lack real confidence in Mr. Butz forecloses any chance for reformation this Administration's farm program. If there is broad support in the farm belt, Mr. Butz cannot build a consensus ranging from progressive farm policies. Under present circumstances, the effort could be forgotten.

The New York Times in an editorial of Monday's vote in the Senate Agriculture Committee, the President should withdraw it. From statement released November 24, 1971.

But even as fewer and fewer farmers were producing more and more on less acreage, the return on their time and labor and investment remains far less than what it should be. The fact is that farmers are still not getting a fair share of the consumer's dollar. Prices received by farmers in 1970 were only 8 percent of the those received during the 1947-1949 base period. The farmer's share of the retail food dollar was 47 cents in 1950 and 20 cents last year.

As you well know, the heart of the farmer's problems lies in the marketing area. Congress recognized this when it passed the Agricultural Fair Practices Act five years ago ....

The Fair Practices Act was an important step, but experience has shown that it has still not achieved a proper balance between the economic power of the buyers and the farmers. There is a need for much more in the way of marketing controls.

The advantage of contracting are obvious. The buyer has an assured supply at a known cost. The farmer has an assured market at a definite price. Our goal must be to see that it is also a fair price.

In my view, finding sensible ways to stimulate the farmer's position at the bargaining table is a priority item on the Congressional agenda — From remarks to Florida Farm Bureau Federation, October 29, 1971.

EDUCATION

The modest increases in Congress for higher education programs and excellence in many school districts throughout the country. For some students, these extra funds mean the difference between a first-rate college education or none at all ....

The Administration argues that the larger appropriations voted by Congress are inflationary. Congress is no longer willing to bear the costs of inflation. Our schools and the students in our colleges should not be the victims of the Administration's failure to come to grips with inflation.

The fact is that our schools need more, not less, help from Washington. They have suffered, and we are the losers. The impact of high interest rates — the highest since the Civil War — has severely restricted school construction and modernization. In many cases, school enrollment has jumped about 10 percent a year — and average spending per pupil is only estimated to have doubled since 1954 only a few years ago. But more than half of public school revenues are still being provided by local taxes, and local property taxes have risen more than 140 percent in the last decade.

There is a limit to the burden that can be imposed on the average taxpayer, and the demands on the local tax dollar and the broader reach of the Federal taxing power, the Federal government is not as the federal government falls short. The Federal government, receiving two-thirds of all tax revenues, must foot a larger share of the education bill. — From remarks on Aid to Education, September 11, 1970.

I oppose massive busing of children solely for the purpose of satisfying some arbitrary mixture of students on the basis of race or religion or heritage. That's not the issue. The issue is how to assure a quality education for every child in America, and that has been the circumstances into which he or she is born.

Unquestionably, some students must be bused to school so that they are to reach school at a time that is acceptable for all students, and that is not forgetting that a bus ride to a poor school is a bus ride to nowhere. It's time we moved beyond the illusion of equality in the challenge of educational quality.

The problem facing the country is that poor neighborhoods generally have poor schools. It is not fair to a six-year-old child — black, white or brown — to condemn that child to an inferior education simply because his or her parents are poor. And it is also not fair for a child to be bused from a good school to an inferior school. I want to express the hope of the direction of the California State Superior Court decision which says, in effect, that the wealth of a school district should not be permitted to determine the quality of education. If that decision were implemented at the state and federal levels, then no child could be bused to an inferior school or be forced to attend an inferior school.

What we desperately need is not massive busing, but a commitment of talent and resources to achieve equality of education opportunity. — From statement issued November 3, 1971.

PUBLIC HEALTH

What this Administration has done in the health field speaks far louder than what it has said. And what it has done is little or nothing to improve the quality, cost or accessibility of health care for those Americans who need it most ....

An essential first step towards that end is a drastic reorganization of the way we manage Federal health programs in Washington. D.C. At a minimum, we should divide the H.E.W. budget into two segments, one for the education functions and retaining in one department the closely related health-welfare programs.

Along with reorganization must go a mandate for action which expands the scope of public health far beyond the limits of its traditional concerns. This new mandate must cope with the high cost of health care, the widespread drug abuse and alcoholism, and the waste of resources in the health field. — From remarks to the Conference of National Retired Teachers Association-National Association of Retired Persons, November 11, 1971.

We need to act now. We must help the countless older people who have no room in the anxious. A nation of wealth and compassion cannot tolerate old people, with unassisted abilities, living in poverty, sickness, believing they have been forgotten. This is what we must work to correct. — From remarks to Brevard County Florida Senior Citizens, November 27, 1971.

LAW AND JUSTICE

If we are serious about the security of people in America, if we really believe that every citizen — old or young, rich or poor, black or white — has the right to be secure in his person and property, then we ought to analyze our national crime problem as it relates to the mythmakers would have us believe.

At the heart of the crime problem is the
breakdown in our system of criminal justice. Our courts are clogged with untried criminal cases. Months, often years, lapse between the day of arrest and the time of trial. Defendants are either put back on the streets or sent to jail because they cannot pay bail.

The fact is we are paying a high price for overloading our criminal courts. And I think there is a public commitment to revive our system of criminal justice—starting with the goal of making our courts more effective.

By insisting on prompt trial of criminal cases, we can force an overhaul of our courts and criminal justice procedures. The requirement of a speedy trial can be an action-forcing device that will make states and cities take a fresh look at what's wrong with their justice systems. It should be a challenge to courts at all levels, to more grand juries or better court administration. It may be a need for public debate, it may be the need for new approaches to handle some of the routine cases—like prostitution and drunkenness—that burden our courts.

I believe that the states should be required to submit detailed programs for achieving trial of criminal cases within sixty to ninety days. These programs must be designed to show how new resources, either from Federal funds or from existing funds, will be made available to make these programs work. A state that is not making honest efforts towards the prompt trial of cases should not be allowed to draw on Federal funds.

Until the states are ready to take responsibility for their own affairs, the Federal government had better take the necessary measures to force them into compliance with the laws of the land. We must not only talk the law, we must live it.

The alternative seems clear: a steady decline in the effectiveness of law as a balancing force in our society. From speech to Wayne State University Law School, April 17, 1971.

**QUORUM CALL**

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

The PRESIDING OFFICER. The clerk will call the roll.

Mr. ELLENBERGER. Mr. President, I ask unanimous consent that the quorum call be extended.

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

**SUPPLEMENTAL APPROPRIATIONS BILL, 1972—CONFERENCE REPORT**

Mr. ELLENBERGER. Mr. President, under the previous order, I submit a report of the committee of conference on the disapproving votes of the two Houses on the amendments of the Senate to the bill (H.R. 11955) making supplemental appropriations for fiscal years ending June 30, 1972, and for other purposes.

The Senate proceeded to consider the report.

The conference report is printed in the House proceedings of the Congressional Record of December 9, 1971, at pages 45877–45880.

Mr. ELLENBERGER. Mr. President, the supplemental appropriations bill, 1972, is now before the Senate. It was passed by the House on December 2. It passed the Senate on December 3, with 75 amendments. The conference were in session all day on December 7 and met again, and completed acrimonious negotiations on December 9. The conference report is available to all Members.

The bill as it passed the Senate approved appropriations in the amount of $3,929,965,771. The increase in the bill over the House of Representatives amounted to $3,211,762,717. There is a good reason for the large increase which was made by the conference in this bill. It related to the Office of Economic Opportunity appropriations which were not considered by the House because the authorizing bill had not progressed sufficiently far in the House to authorize the supplemental appropriations bill.

Some of the large increases over the House bill enacted by the Senate were: $817,997,000 for "Manpower training services"; $707,157,000 for "Health manpower"; $265 million for "School assistance in federally affected areas"; $376,817,000 for Project Headstart; and $780,400,000 for the Office of Economic Opportunity.

The amount of the bill as finally agreed to in conference is $3,406,385,371. This is an increase of $2,620,102,717 over the House bill and it is a decrease under the Senate-passed bill of $581,660,000.

The Senate rejected a number of House amendments, particularly those which were amendments to the amendments to the amendments, and there were 75 amendments in disagreement and it was necessary to compromise all of our differences.

One of the largest single increases the Senate passed and rejected was $817,597,000 recommended for "Manpower training services." In conference, the conference agreed to recommend an appropriation of $776,300,000.

The conference version of this program is contained in the proposed amendments to the Office of Economic Opportunity Act; and in view of the fact that at the time of the conference, there was some discussion that this bill, which had been sent to the President, might be vetoed, the proviso making the appropriation contingent upon enactment into law of the authorizing legislation was deleted by the conference. The OEO authorizing bill was later vetoed.

The Senate bill contained $385,000,000 for "School assistance in federally affected areas." This amendment consumed a great deal of time during the discussions, and it was not possible for us to prevail and to secure any portion of this appropriation.

Another large line item approved by the Senate was for "Health manpower." Under Senate amendment number 28, an appropriation of $707,157,000 was approved. In the House version of this item, which consumed a great deal of time in the conference. As a matter of fact, it had to be passed over and placed at the end of the discussions because it was so highly controversial with the House conferees. However, we were finally able to agree to an appropriation for this item of $492,380,000.

For the Office of Economic Opportunity, the Senate bill contained $780,400,000. In conference, the figure of $741,380,000 was agreed upon. As the bill passed the Senate, the language for this appropriation read: "making the appropriation contingent upon enactment of the authorizing legislation. In view of the discussions concerning a possible veto of the OEO authorizing bill, the conference deleted the language of the authorizing legislation." The House, of course, agreed to all of the Senate amendments relating to the Senate. Again this year, the House was at standstill, and the Senate receded, on the proposal to restore the Old Senate Chamber and the Old Supreme Court Chamber in the Capitol.

The Senate bill contained the sum of $817,997,000 for "Construction, Corps of Engineers," and the House agreed to this entire amount.

The Senate bill also contained authority to utilize not to exceed $20,183,000 of the previously appropriated funds for the "Economic stability and community revitalization" program enacted by the Senate recently by the President, and the House conference agreed to go along with the Senate amendment.

The conference report contains many questions which any Members may have with respect to the bill. In addition, the chairman of the various subcommittees are available to answer the questions in the discussions.

Mr. President, I yield to the Senator from North Dakota.
Mr. LONG. Mr. President, I associate myself with the views expressed by the distinguished leader of the committee. There was a wide range of subjects dealt with in this bill. Most of them have to do with health, education, and welfare.

I think a very reasonable compromise was reached with their legislation. The comprehensive authorization for health manpower which we passed on July 14, 1971, and was enacted into law as Public Law 92-157. And, of course, a few items were deleted that the House very strongly objected to.

I believe that as a whole it is a bill that the Senate will approve.

Mr. YOUNG. Mr. President, I yield 5 minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized for 5 minutes.

Mr. JAVITS. Mr. President, the action which was taken with respect to these supplemental appropriations really is in only one respect a cause for any satisfaction. In many other respects it is a very high dismaying fact, and, as we will be going at these things again in other supplemental hearings, I will not engage my colleagues in extended debate on the acceptability or rejection of the fiscal year 1972 supplemental appropriations contained in this report. I think it is important to make the record clear as to manpower training, health manpower programs, Neighborhood Youth Corps, and so forth.

There was some approval, in regard to manpower training, on account of $100,000 which was added by amendment in the Senate. Having met with the House in conference on these matters myself before, I think that result is by no means anything to cheer about. It is certainly far more of an accomplishment than many other items in this bill. I know that as I have been with the Senator from Louisiana (Mr. Ellender), the Senator from North Dakota (Mr. Young), the Senator from New Hampshire (Mr. Cotton) and the Senator from Virginia (Mr. Magnuson), at these conferences that they do try to sustain the Senate's position. I realize this and thank them for the utilization of their prestige and for their position, and also to gain what they did gain on this item. I am very grateful to them, and hundreds of thousands of youngsters will be as well. So, let us emphasize the affirmative before we get into any other part of this bill. I wish to express that unequivocally, and standing all by itself.

Where we would suffer, in my judgment, dismaying, is in respect of a number of items which relate, presented by the Senator from North Dakota (Mr. Young), to Health, Education, and Welfare, which are critically important to our people. First, we took a terrible beating in respect to health manpower in the fact of a really dire emergency. Mr. President, in that regard I would like to point out that what was done was just about what the administration sought in its budget request, notwithstanding the very grave danger of the closing of medical and dental schools, and the fantastic shortages of doctors, dentists, nurses, and other health personnel.

I strongly supported the Senate allowance for health manpower and believed it would make great strides forward toward realizing the comprehensive authorization for health manpower which we passed on July 14, 1971, and was enacted into law as Public Law 92-157, and, of course, a few items were deleted that the House very strongly objected to. I believe that as a whole it is a bill that the Senate will approve.

Mr. President, to show how sharply these cuts took place, I would refer to the following:

I: Capital grants for institutional support

A. $200,000,000 authorized for medical, dental and osteopathy schools.
B. $160,000,000 required by Administration.
C. $130,000,000 provided by Conference.
B. $30,000,000 reduction.

II: Student Assistance, loans, and scholarships

A. $75,000,000 authorized for loans, for students attending schools ($51,000,000 previously appropriated).
B. $111,700,000 provided by Conference. $14,000,000 reduction.

Nothing—supplemental Administration request.

III: Dental schools

A. $162,000,000 authorized for supply of educational materials to dental schools.
B. $162,000,000 provided by Conference.
C. $142,000,000 provided as supplemental appropriation by Conference. $40,000,000 reduction.

B. $35,000,000 authorized for nursing schools.
C. $5,000,000 provided by Senate Appropriations Committee.
D. $55,000,000 provided by Conference, a $55,000 reduction.

Thus, in capitation grant institutional support for medical, dental, and osteopathy schools we have improved over the administration by $10,000,000 or 55 percent, but are substantially down from the Senate amendment 80 percent level of support. My deepest regret and I know shared by all is nursing schools capitation grants institutional support. I am at 40 percent—where the administration had zero—but down from the Senate amendment 83 percent level support.

In addition, the conference report eliminates other items, namely, $85 million under Public Law 874, the impacted aid program, for initial funding of the low-income housing provision, category "e" children, so-called, were added to the program by Public Law 91-230 last year. These payments, some 22 percent of the entitlement, would have covered 1.2 million school-children in local districts throughout the Nation. It is regretted that funds were not furnished for this effort which, I might add, I had authorized in cooperation with the distinguished Senator from New York (Mr. Javits). Finally, in the education area, there was omitted $200 million under Public Law 815 to provide some 5,000 classrooms for about 125,000 children in impacted areas institutional support at 40 percent.

Mr. President, rather than crying about spilled milk, let us turn our thinking here today is to call attention to what I consider to be the floating of a very important provision of law. We provided, Mr. President, in the Health Training Improvement Act, Public Law 91-519, for a report by the Secretary of the Department of Health, Education, and Welfare on the need for emergency financial assistance for medical and dental schools. Congress called for a report on or before June 30, 1971, with a determination as to what was really needed. I understand, Mr. President, that report is "done" but not "officially" available. We have demanded its release. Indeed, I ask unanimous consent to have printed in the Record my letter to the Secretary of Health, Education, and Welfare on this subject. Before me, ranking Republican member of the Labor and Public Welfare Committee, by the Senator from Pennsylvania (Mr. Schuettger), the ranking minority member of our Health Subcommittee, by the Senator from New Jersey (Mr. Williams), the chairman of the Labor and Public Welfare Committee, and the Senator from Massachusetts (Mr. Kennedy), chairman of our Health Subcommittee, dated December 1, demanding this report, which request has not been complied with, although I understand that the report is completed.

There being no objection, the letter
December 10, 1971

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was ordered to be printed in the Record, as follows:

December 1, 1971.

HON. ELIOT RICHARDSON, Secretary of Health, Education, and Welfare, Washington, D.C.

Dear Mr. Secretary: As you know, the Health Training Assistance Act of 1970 (P.L. 91-519) contains a provision authorized by Senator Javits which sets forth the Congress's desire that all public, nonprofit agencies who provide health training assistance to low income individuals and groups should be eligible for federal grants.

I realize all the problems of the Committee on Appropriations but I believe these points needs to be made.

I thank you, colleagues for yielding and for their cooperation to the extent I have specifically asked it out.

Mr. YOUNG. Mr. President, I yield 6 minutes to the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. COTTON. Mr. President, I wish to comment for just 2 minutes on the matters that have been up before the distinguished Senator from New York.

In my opinion the health manpower appropriation was by far the most important part of the supplemental appropriations bill. It if were left to me alone I would have economized elsewhere in order to furnish more money for the training of doctors, nurses, and technicians in all fields of medicine. However, on this bill the jurisdiction of the HEW Subcommittee was limited to our own items and it was not possible for me to secure the policy that I feel must eventually be recognized.

In this area of the health, education, and welfare section of the bill the Senate appropriation ran some $356 million over the budget estimate and consequentely by the same amount over the House appropriation, as the House was not able to consider these items at the time they marked up the bill. The House, on the other hand, the Senator from New York is familiar with the situation, were absolutely adamant in their demands, so the most difficult part of the entire conference was making these matters that are so vital to the training of those who are needed to fill the national need for better health services.

The best the House would offer would be to leave in $75 million out of the $356 million that the Senate increased the House figure. That we would not take and we refused to take.

The matter went overnight into the next day and we were unable to get even a 50-50 split, and we had to accept 40 percent of the amount that the Senate appropriation exceeded the House appropriation. This meant we lost some $214 million but saved $142 million of the House.

I want to say that I was very pleased.

I shall do my best to use every means available to me, including the possibility that we may be unable to act on measures that may be brought forward by virtue of this denial, which I consider to be unjustified and uncalled for.

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

Mr. COTTON. At least 1 minute to the Senator from New York.

Mr. JAVITS. Mr. President, my purpose in rising was to emphasize that point. I cannot understand why we have been denied.

Mr. COTTON. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, my purpose in rising was to emphasize that point. I cannot understand why we have been denied.

Finally, I wish also to invite the attention of the Senate to denila of anything in impacted area funds for the public housing aspect of this situation. This has been neglected a long time. We must continue the fight in the hope of getting some resources.

I realize all the problems of the Committee on Appropriations but I believe these points needs to be made in this matter.

I thank you, colleagues for yielding and for their cooperation to the extent I have specifically asked it out.

Mr. YOUNG. Mr. President, I yield 2 minutes to the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. COTTON. Mr. President, I wish to comment for just 2 minutes on the matters that have been up before the distinguished Senator from New York.

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I want to say that I was very pleased.

I shall do my best to use every means available to me, including the possibility that we may be unable to act on measures that may be brought forward by virtue of this denial, which I consider to be unjustified and uncalled for.
in the substructure under any conditions. I believe that by having a single contractor to construct the whole building, a better contract would be obtained by the Government.

Mr. GRiffin. I thank the chairman for his comments.

MR. YOUNG. Mr. President, the distinguished chairman of the committee has clearly stated the House opposition on this matter.

The Senator from Michigan had asked for the full amount. If the Senator from Michigan had not been so economically minded and asked for the full cost he might have gotten his building approved, but I believe putting in the substructure as the federal government had not added to the cost, in fact it could well have saved money.

Representative Steed thought we should not do this piecemeal but the project the Senator from Michigan had not been so economically minded and asked for the full cost.

Mr. GRIFFIN, I thank the chairman and the ranking Republican member for their statements. I hope the senator from Michigan (Mr. HART) and I will be able to see the building next year and I hope the increased cost caused by the delay will not be more than the savings presented in the Steed amendment.

Mr. HART. Mr. President, I would be remiss if I did not bring up the subject of the Patrick McNamara Federal Office Building during the discussion of the supplemental appropriations bill. For several years, members of Michigan's congressional delegation have been seeking funds to construct this building, which has been authorized since 1966. The building in downtown Detroit has been vacant for a number of years.

This year some progress was made toward securing funds for the appropriations committee and the Senate added $12 million to this supplemental appropriations bill which would have financed construction of the building's substructure. As usual, I want to thank Senator Monoyo, chairman of the Senate Appropriations Subcommittee on Treasury, Post Office, and General Government, for the leadership he gave in getting this amendment through the Senate.

Unfortunately, the House conference refused to yield, and the amendment was dropped in conference.

It is my understanding that Representative Steed, the able chairman of the House Appropriations Subcommittee on Treasury, Post Office, and General Government, opposed not the project but the potential cost of the project. Let me say at this point that when Senator Griffin and I testified before Mr. Steed's subcommittee, we found him most responsive.

In my wisdom, if Steed's subcommittee was not approves, I believe, by the statement he made on the House floor yesterday concerning the McNamara building.

Mr. STEED was speaking, of course, of projects funded by the General Services Administration.

Certainly, the many persons in Detroit and Michigan interested in this project welcome Mr. Steed's support. And needless to say, we can see that the entire $48 million needed to cover the estimated construction cost is included in next year's budget.

Our chances for success would be greatly improved if the Administration requests the funds when it sends its budget to Congress next year.

Absent such a request, we will again seek to have the money added by Congress. I again thank Senator Monoyo for his strong support in this matter.

The PRESIDING OFFICER. Who yields time?

Mr. ELLENDEER, Mr. President, I yield 5 minutes to the Senator from California.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. CRANSTON. Mr. President, it is with a considerable sense of disappointment that I rise to discuss the conference report on H.R. 11555, the supplemental appropriations bill for fiscal year 1972. The greatest source of my disappointment is the level of overall funding of health manpower institutional support, construction programs, and student scholarships and loans.

I know that my sense of disappointment is shared by the Senate conference. This bill was brought forth from the Appropriations Committee a bill which was responsive to the initiatives which the Congress so recently set forth in the Comprehensive Health Manpower Training Act of 1971 (Public Law 92-187) and the Nurse Training Act of 1971 (Public Law 92-158).

I know that the leaders of the Appropriations Committees on both sides of the Senate, and especially the distinguished Senator from Louisiana (Mr. ELLENDEER), chairman of the full Appropriations Committee, and the Senator from Washington (Mr. MAGNUSON), who is the chairman of the Labor-HEW Appropriations Subcommittee, did all they could to convince the House conference of the need for the level of appropriations in the Senate-passed bill.

But the fact is, Mr. President, that they were not fully successful in this task and that 60 percent of the amount by which the Senate bill increased the President's budget request has been deleted in the conference report.

Particularly regrettable are: The reduction from 80 percent of the authorized level of capitation for the medical, nursing, and hospital schools, and from 85 percent in the Senate-passed bill to 40 percent in the conference report—a cut of more than 50 percent; the reduction in construction grant funding from $190 million to $125 million for health professions, and from $85 million to $19.5 million for nursing schools; and the total elimination of all funding above the limited amount previously appropriated for fiscal year 1972 for nursing and health professions student assistance.

Mr. President, these lower levels of support are basically inconsistent with commitments made in the two new public laws referred to earlier for an increased Federal responsibility in the training and education of health professionals and nurses to meet the health needs of the American people. In my State of California, with such a great many schools of health professions and of nursing, these cuts will work a great hardship. And I know that the distinguished Senator from Washington is well aware of this fact by reason of his generous response on the floor on December 3 to the amendment which I cosponsored with my distinguished colleague from California which added funds to the health professions construction grant appropriations item. As I pointed out on the floor on that occasion, in the testimony to Senator Magnuson's subcommittee which I attended in Sacramento, my State of California has three vital necessity health professions construction grant applications which are approved and ready to go to contract, totalling $14 million. If California has some $85 million in approved construction grants which will be ready to go to contract in the very near future for health professions schools.

Now, Mr. President, as I stated at the outset, I am well aware of the great pressures and difficulties under which the Senate conference labored in this conference. I know that there is something that was humbly possible to vindicate the Senate position. And I do not propose at this point to suggest that the Senate should move to reject the conference report. I view the brief time remaining in this first session of the 92d Congress and in view of the fact that this supplemental appropriations bill is the life blood for the poverty program.

I would, however, like to address a few questions to the distinguished Senator from Washington to clarify several points with respect to the conference report on health manpower funding.

First, I ask the Senator from Washington to direct his attention to page 37 of the conference report (No. 92-549) on the supplemental appropriations bill in which the committee states, after noting the inequitable nature of the Administration's recommendation of total funding for schools and colleges of optometry when compared against the recommendations for the other six health professions.

Therefore, the committee directs that the total amounts granted schools and colleges of optometry under special project and financial distress programs be greater than those grants funded under the special projects and financial distress programs in fiscal year 1971.

My question for the Senator from Washington is: Does this direction of the Appropriations Committee continue to operate under the funding provisions for schools and colleges of optometry in the conference report?

Mr. MAGNUSON. The answer to the
question of the Senator from California is yes, because there was an increase in the appropriations agreed to in conference, and the Senate report language, of course, is the only prevailing language, and I assume the Department will follow very closely what we have suggested. That is on page 27 of the Senate committee report, the second paragraph.

Mr. CRANSTON. I thank the Senator very much for his very important and very helpful response.

The PRESIDING OFFICER. The 5 minutes of the Senator have expired.

Mr. CRANSTON. May I have 2 minutes?

Mr. MAGNUSON. Mr. President, I yield 2 minutes to the Senator.

Mr. CRANSTON. In my State of California there are two fine schools of optometry with 15 percent of all the optometry students in the Nation, and, therefore, the administration’s desire to decrease the full-time commitment to optometry is of particular concern to me.

I ask unanimous consent to have printed in the Record at this point several, I guess, 20 letters that we received from schools of optometry in California.

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

UNIVERSITY OF CALIFORNIA, BERKELEY.


HON. ALAN CRANSTON,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR CRANSTON: I would appreciate it very much if you would contact your colleagues in your Appropriations Subcommittee on Labor/HEW requesting them to give full funding to the VOPP professions capitulation grants provided in the Comprehensive Health Manpower Training Act of 1971.

Since Federal assistance has been granted to the U.C. School of Optometry here at Berkeley we have expanded our enrollment and teaching program to meet the needs of the health manpower needs in optometry. In 1965 we received Federal aid and we had a total enrollment of 110 professional degree students and a faculty equivalent to 14.7 person-years. In the fall of 1971 because of Federal aid, we have expanded our enrollment to 211 students and a faculty equivalent to 25.9 person-years.

While the program has expanded the quality of the educational program has also advanced, thanks to Federal funding. ($112,000 Institutional Grant and $298,000 Special Project Grants in 1971-72.)

Our present enrollment is within one or two per cent of about 200 capacity. Since the building grant application cannot be funded this coming year because of lack of California matching funds we are requesting no further commitment to exempt from a further increase in enrollment. Thus we cannot look forward to bonus capitation grants for some time.

We ask you to extend the same commitment to presently enrolled students. If there is a cutback in our Federal funding we will be forced to cut back the program. If we do this, however, we will need to continue with our presently enrolled students with fewer faculty and reduced supplies and expenses. Undoubtedly this will result in a lowering of academic quality.

In my opinion unless the capitation grants are continued, at least 70% of our students will be in serious difficulty in 1972-73. To make any advances at all, we will need full funding.

Any help you can give us will be deeply appreciated. It should be understood that the opinions expressed above are my own and not necessarily those of the University.

Sincerely,

Meredith W. Morgan,
Dean.

LOS ANGELES COLLEGE OF OPTOMETRY.

Los Angeles, Calif., December 2, 1971.

HON. ALAN CRANSTON,
U.S. Senate,
Senate Office Building,
Washington, D.C.

DEAR SENATOR CRANSTON: As an administrator in one of the health professions schools whose students you have concerned about the Administration’s statement of distribution of funds under the Health Professions Educational Assistance Act.

A review of this distribution indicates that all health professions with the exception of optometry, received substantial increases in support for education.

California has two fine schools of optometry, the only state in which this situation exists. Each of these schools has incurred considerable expense in recent years in an attempt to meet the health manpower needs of the State. Both schools have increased its output of graduates considerably. Without a fair share of federal funding, the hardships imposed on these two schools and all other schools of optometry in the United States will be immeasurable.

I ask your support in rectifying this situation and in supporting the vision care and optometry and its educational programs, specifically, receive more equitable treatment in the distribution of these funds.

Respectfully yours,

Charles A. Abel, O.D.,
Dean.

Mr. CRANSTON. Mr. President, the other point of clarification I would like to pursue with the Senator from Washington is of a more far-reaching nature. I have already expressed my sense of disappointment with the general funding level in the conference report which I know the Senator shares fully, given his great record of achievement in appropriating funds to meet our Nation’s health care needs. I would hope, I say to the Senator from Washington, that when it comes time for the second supplemental appropriation bill, hopefully reasonably early in the next session, the Senator would give very serious consideration to asking for increased appropriations for more institutional, construction and student assistance support in the health professions and in the nursing profession, providing we can at that time—as I am sure we will be able—provide strong indications of the great unmet needs which will continue after the funds contained in this appropriations act at the conference report level are used by the country to health manpower institutions.

Would the Senator from Washington give serious consideration to such recommendations for the second supplemental?

Mr. MAGNUSON. I agree with the Senator from California.

The PRESIDING OFFICER. The 2 minutes of the Senator have expired.

Mr. CRANSTON. Mr. President. I yield myself such time as I may need.

The amount we finally arrived at in conference was 40 percent or $143 million of the Senate increase. It is not sufficient, in my opinion, but there is some point to another supplemental coming along. Of course, we will give serious consideration to all the matters mentioned in the Senator’s question. All of us are hopeful that it will do much better, although we did fairly well when we consider that the budget was zero on some of these items, and that we had to operate between zero and the Senate figures.

I think we came out with a larger amount than we had hoped for when we consider that the House had not held hearings or looked into the subject at the fault of the House, because the budget request was transmitted too late.

I am hopeful that, in the regular appropriation bill as well as the next supplemental bill, we can move toward some of the objectives mentioned by the Senator from California, because, after all, we passed the Comprehensive Health Manpower and Nurse Training Acts to provide, not a crash program particularly, but to have a forward thrust and put more emphasis on health manpower.

The Senator from California and I thinks the Senator fully understands that in health in this country, it is not in the research field, because we have the finest research anywhere, bar none. It is in the field of necessary health care, and that means manpower. In order to provide it, we have to provide for construction of facilities to train people. Otherwise, we will continue on a treadmill and we are not going to be able to do what we must do to meet the health needs of this country.

I think we can make some progress with the amounts that we arrived at in conference.

The new legislative authorities were just signed by the President 3 weeks ago, of course. We were meeting and working hurriedly, although the Senator from California and I held some lengthy hearings on the matter, and the House did not have hearings.

So I can answer the Senator from California that we will be working just as hard to increase these amounts as we move along. We need to do it or we are never going to get adequate delivery of health care in this country.

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

Mr. ELLENBERGER. I yield.

Mr. MANSFIELD. Are all the items in the supplemental appropriation bill now before the Senate included in this measure?

Mr. ELLENBERGER. No. However, what we have done has the effect of both authorizing and appropriating funds for the items in the bill relating to the Economic Opportunity Act, as amended which the President vetoed. We had in the bill that passed the Senate language making the availability of the funds contingent upon an authorization bill being enacted into law, but this language was stricken out in conference. The language that was stricken out reads as follows: Provided further, That this appropriation shall be available only upon the enactment of S. 2607 or other
authorizing legislation by the 92d Congress."

That language appeared in four places in the appropriation bill with regard to OEO activities. That was stricken from the bill in each instance. The effect, then, is an authorization and an appropriation for the items stipulated in the supplemental appropriation bill.

Mr. MANSFELD. What item is that?

Mr. ELLENDER. We have four items: Under the Labor Department, the Man-

power Administration, $25,307,000 for supplementary training; and manpower training services, $776,717,000; under HEW, for child development or the Headstart program, $376,317,000; and the Office of Economic Opportunity, $741,-

389,000.

Mr. MANSFELD. None authorized?

Mr. ELLENDER. None authorized.

Mr. MANSFELD. In other words, over $1.8 billion in the bill is not authorized?

Mr. ELLENDER. About $1.8 billion.

Mr. MANSFELD. Could the distin-

guished chairman of the committee give us an idea on how the Senate Appropriations Committee can operate in this manner, appropriating funds for agencies for which authorizations have already been rejected?

Mr. ELLENDER. When the conferees struck out the contingency language, the effect of this was the appropriation funds for these items under the author-

ization. The bill in full was a bill to legislation that had continued to be funded by the continuing resolution and will not be based upon the new pro-

posed legislation vetoed by the President. These funds are available for these programs as stipulated in the bill under the old law.

Mr. MAGNUSON. May I say to the Senator from Montana that we did, in the bill, a little authorizing ourselves, to the extent that the OEO funds will be under the Act of 1964, and that includes substantially many of the matters we are talking about except those with ref-

erence to child care, which was the reason for the veto.

Mr. MANSFELD. I would express the hope that no more appropriation bills will come before the Senate unless all items in them are fully authorized, because I think it violates the institutional integrity of the Senate to operate in that fashion. In effect such an action renders meaningless the function and alleged au-

tority of 16 out of 17 of the Senate's standing committees.

Mr. ELLENDER. The Senator knows how I feel about that.

Mr. MANSFELD. I hope this bill will be the last bill which will come in with items that have not been fully authorized. I shall watch the bills with that in mind. I know that the distinguished chairman will co-

operate in that endeavor.

Mr. MAGNUSON. We did not expect the veto, but, of course, we are appropri-

ating for these programs spelled out in the existing section 324 of the Economic Opportunity Act of 1964, as amended, the old legis-

lation. These are programs now being carried on, and that is under the old law.

Mr. PRESIDING OFFICER. Who yields time?

Mr. YOUNG. I yield 5 minutes on the bill to the Senator from Maryland (Mr. BEALL).

Mr. BEALL. Mr. President, I thank the Senator from North Dakota.

Mr. President, I think it is appropriate, prior to casting a vote on this supple-

mental appropriation, that I register my strong dissatisfaction with that section of the bill which appropriates $65 million for medical manpower generally, and specifically with that section dealing with the funding of the "physician shortage scholarship program."

One of the most serious health prob-
blems we have in the United States today is in the health care delivery system, and in that system we have a serious man-

agement of doctors. A big chal-

lenge facing Congress and the country is how to encourage young men and women to go into physician shortage areas. Many suburban areas have an adequate supply of doctors, but in many rural and inner city areas, there is a dire need for physicians. For example in Baltimore a 1970 study identified 16 community tracks with 174,000 citizens totally lacking in primary care by a physician. A 1970 American Medical Association study found 134 counties in the Nation with-

out a single physician.

Earlier in the year, I introduced a bill, S. 760, providing for a physician shortage area scholarship program, in response to this problem. This bill provides scholar-

ships to young men or women who agreed to practice for two years for each year of the scholarship in these physician shortage areas. The measure was co-

sponsored by 23 additional Members of this body.

I was extremely pleased when the legislation was adopted as an amend-

ment to the Health Manpower Act by the Health Subcommittee of the Com-

mittee on Labor and Public Welfare, and when the House agreed to the bill by the Senate. Subsequently, the House-

Senate conference agreed the program was needed, and it was included in the final bill. I was delighted when the Sen-

ate agreed to the appropriation of $1 million for this program in the supplemental appropriation bill.

These funds would have provided at least 200 scholarships to young men and women interested in serving in physi-

ician-shortage areas in the coming year. I am naturally disappointed that our House colleagues did not agree to that appro-

priation. I believe such action was a serious misstep and, I regret that those who are supposedly listening downtown did not have their antennas out and get the message from Capitol Hill and the people of America, that there is concern about this problem. I hope they will put their antennas out and provide, in the budget about to be sent up for the next fiscal year, sub-

stantial funds for these physician-shortage area scholarships. This program provides the opportunity to tap the idealism of our young men and women for service in their home areas, a unique priority system, based on the premise that individuals from a shortage area are not only more likely to return, but remain there, is established. Priority is also given to low-income individuals.

I would further point out, if those young people who take advantage of these scholarships, if they are in the shortage areas as agreed, the scholar-

ship reverts to a loan, so that it would not cost us any additional money. In other words, if the program works, com-

pensation for the education of doctors will be aided; if it does not work, the Government will lose not a cent. It is difficult for me to understand why this program was not fully funded, let alone the fail-

ure fund the House provided.

So, although I am disappointed that the appropriation was not approved by the House conferences this year, I hope that when the next appropriation comes up, we will have a significant appropri-

ation to help provide health care in the areas where it is so desperately needed.

Mr. MAGNUSON. Mr. President, I will say to the Senator from Maryland that he wrote us a letter about this matter, and we put it in the Senate bill, but the House conferences insisted on our giving it up to make up some of the differences which they were yielding on.

What we are running into with the House of Representatives, every time we have a conference, both on the education appropriation bill and on the health appropriation bill, is that they have a complete blockade over there about scholarships. I do not know why, but the members of that committee seem to have this thing about scholarships. They want to shift it, or cut it down, as far as possible, into what they call loans. We have had this argument over and over with them, and in this case, in order to get the bill, we had to do this.

But scholarships are the key to some of these problems, because we want to pick up people who really cannot afford the education, who have talent, down in the low-income groups who would not have the opportunity, if they went to a bank, to get a loan.

Many of the banks—and I have said this over and over again—want the parents to sign a guarantee. In some cases they require an account in the bank. Some of these people do not have that; they cannot sign a note, and we are losing a lot of talent. The scholarship program was only one facet of this effort. There are a lot of people who want to enter into the medical and health professions who just cannot get a loan, or, in many cases, as far as that is concerned, do not even know how to go about it.

With scholarships, you pick up some talented personnel from the lower in-

come groups. But the Senator from North Dakota will agree with me that we have had an awful time when we mention scholar-

ships to the House conferences. Their the-

ory seems to be that scholarships should place that and that should turn to loans.

Mr. BEALL. Mr. President, I appreciate the remarks of the distinguished Sen-

ator from Washington.

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

Mr. BEALL. I yield.

Mr. YOUNG. No one could better un-

derstand nor be more sympathetic with the position of my friend from Maryland
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than the Senator from North Dakota. In
my home county in my State, we have
two hospitals but not a single doctor in
the entire county. Years ago they had 15
or 20.
Many of the doctors we get in North
Dakota now are Canadian doctors, or
doctors from other countries. There is
something wrong when we have such a
shortage of doctors that we have the
problem with which we have threatened
docors in the House of Representatives understand the merits of
this program. As I said, if the student
receiving such a scholarship carries out his
pledge to serve in a physician-shortage
area, the program is well worth the cost.
If the student fails to carry out his com-
mitment, the scholarship is in effect
converted to a loan, which must be rep-
paid. This is a further incentive for the
administration would carefully study
this unique approach, which I believe has
the greatest potential of helping to solve
the physician maldistribution problem.
Mr. BEALL. Mr. President, will the
Senator yield?
Mr. YOUNG. I yield.
Mr. COOK. I might say to the Sena-
tor from North Dakota, and also the
Senator from Maine and the Senator
from Iowa, that maybe we in the Senate
should send over to our colleagues in
the House of Representatives all of the
requests we so frequently get from hospi-
tals and health centers in States, seeking
to keep doctors there who have come
from other countries, and whose reten-
tion is being requested by the boards of
health and the hospitals because they are
absolutely necessary, and they do not
have others to replace them. Maybe we
had better send those requests over to
the House committee members, so they
will be aware of the problem in many
States. We all have hospitals and med-
care centers in foreign countries, and find
out, when their time is up, that they have
got to go back, and then they plead with
us to see if we cannot intercede with the
State Department of Health and ask the
departments in foreign countries to keep them there because of
the necessity for their services.
Mr. BEALL. Mr. President, will the
Senator from North Dakota yield to me
so that I may make a unanimous-con-
senus request?
The PRESIDING OFFICER. The Sen-
ator has 3 minutes remaining.
Mr. YOUNG. I yield.
Mr. BEALL. Mr. President, I ask
unanimous consent to have printed in
the Record my floor statement of July
14 on when I discussed the physician
shortage program and its rationale, the
provisions of the program as the lan-
guage contained in Public Law 92-157,
and excerpts from the report of the Com-
mittee on Labor and Public Welfare dis-
cussing my program. Again, I repeat the
deletion of funds was a tragic mistake
and I hope to work to get both the Appropriations Committee and the admin-
istration in correcting this error early
next year.
There being no objection, the materia-
was ordered to be printed in the Recor-
d, as follows:

EXCERPTS FROM SENATOR BEALL’S REMARKS OF JUNE 14 ON HEALTH PROFESSIONS
EDUCATION ASSISTANCE AMENDMENTS DE-
ALING WITH PHYSICIAN SHORTAGE SCHOLAR-
SHIP PROGRAM
S. 780 was introduced by me on February
17 of this year and was cosponsored by Sen-
ator Dominick and approximately one-quar-
ter of the Senate membership. As incor-
porated into S. 934, the physician short-
age scholarship program provides that the
scholarship is payable at the same rate as
the original bill with the major ex-
ception being the deletion of the fellowship
program. As a result of the committee’s recom-
menent that at the conclusion of my remarks the text of the
physician shortage area scholarship program be printed in the
Record, as follows:
Under this program, 3,500 scholarships, up
to $5,000 each, are authorized over a 5-year
period to young men and women who agree
to serve in physician-shortage areas. Five
hundred such scholarships will be available
in the first year, increasing to 900 by the
third year. This area may be rural Appa-
ladesh, in an urban poverty area, or among
migrant farmworkers. For each year of the
scholarship service in a shortage area is
required. A student is eligible to continue in
the scholarship program, who subsequently
does all of his postgraduate work in a med-
ical school. The service is relieved of 1 year of his
service obligation.
If a scholarship recipient fails to honor his com-
mitment, his scholarship is in effect
converted to a loan and the individual is re-
quired to repay to the Government the value of
the scholarship plus interest at the com-
mmercial market rate. If the scholarship
works, we will have taken important action in help-
ing to solve the maldistribution problem; if
it does not, the Government will not lose a cent.
The physician maldistribution problem is one
in the South to which one is the most
difficult to solve. That is why I believe that
this program, which is specifically designed
to respond to this problem, is so important.
For the many doctor-shortage areas of the
Nation, I believe it imperative that this
be an attack on this problem. As I
discussed this bill before, we need 50,000 doctors in
the United States today. This gross national
shortage is due to the overcrowding of the
greater part of our rural and urban areas of this country. A 1970 AMERICAN MEDICAL ASSOCIATION study of the distribution of physicians indi-
cated that there were too many in this
country lacking a single physician. While no
Maryland county was on that list, there are
many Maryland counties which are in dire
need of additional physicians.
Obviously there are many more commu-
nities than counties in the country without a
single physician or without an adequate
number of doctors. Although there is not a
great deal of information on indi-
vidual communities lacking doctors, research
that is available indicates that a great need
eXists. For example, a 1969 survey of over
1,000 counties across the Nation. North and
South Dakota, South Dakota and Montana iden-
tified 1,000 towns as not having a single physi-
ian, and an additional 224 towns with only
one physician.
One physician counties or communities are
likely to be found in mountainous towns or
un-
ties unless action is taken. This is true be-
cause the age of physicians in these rural
communities tends to be higher. For ex-
ample, in rural Appalachia 65 percent of the
physicians are over 50 years of age. In West
Virginia over the last 10 years approximately
20% of the rural communities less than
10,000 have been left without a doctor as
rural practitioners retire and younger doctors
are not found to replace them. Thus, there is
a need for providing incentives for young
physicians to go into these communities.
Just as this program is direly needed by all
Americans, it is critical to the rural country.
A 1970 study of the metropolitan area of Baltimore identified 10
census tracks in the inner city which were totally
without primary care physicians. These census tracks served approximately 174,000 people,
most of whom were economically dis-
advantaged. With these statistics incorporated into S. 934, will effectively re-

The program establishes a unique priority
system for selecting students for the scholar-
ship program.

REASONS FOR SCHOLARSHIPS
The first priority is granted to individuals
from lower income families who live in a
physician-shortage area and who agree to
return and practice in such area.
The second priority is granted to individu-
als from lower income families who, al-
though residing in an area where there is not a
physician, agree to return and practice in any
physician-shortage area.

Mr. President, the purposes for the system of priorities for select-
ing eligible students for scholarships under

The evidence supports, what commonsense tells us, the hypothesis that physicians from physician-shortage areas are more likely to return to and remain in such areas and practice medicine.

The results of an American Medical As-
sociation’s survey published in 1970, eval-
uating physicians on the factors that in-
fluence their decision to practice in a cer-
tain area gives support to the bill’s priorities. This survey found that over 45 percent of physicians indicated that they were practicing
in or around the town in which they were
raised. The survey also revealed that 49
percent of the physicians raised in small
towns were practicing in communities of
2,500 or less. An equally significant propor-
tion, 25,000 or more were practicing in cities of
that size. The AMA survey confirmed previ-
ous research which had indicated:
Physicians who practice in small towns are
more likely to have a rural than urban back-
grounds.

The ATTACH study concluded that:
Physicians recruitment for rural areas
would be enhanced if more young men with
rural backgrounds were encouraged to enter
the medical profession.

Continuing, the report had this to say
about the influence of a doctor’s original or
his place of practice:
Physicians who practice in small towns are
more likely to have a rural than urban back-
grounds . . . rural physicians have pre-
dominantly rural backgrounds and metro-

physicians generally had urban loca-
tions during their youth.

If we can persuade young men and women
to practice in physician-shortage areas, the
rationale for the program is to some extent
main. The AMERICAN MEDICAL ASSOCIATION study on this point states that:
"These data establish a practice he is not likely to move."

This survey found:
At least 63% of the physicians had not moved from their original practice location in
the last 2 years.

This percentage was consistent regardless of the community size. A more detailed breakdown
of the area showed that about one-
fourth of the physicians in non-metropolitan areas had practiced twenty years or more in a given area.

This measure is then drafted to give priorities to lower income and other individuals from physician-shortage areas because it is felt that such individuals are most likely to return and remain in the areas in which they were reared.

The second advantage of the priorities established by the bill would be that it would have the effect of attracting and making it possible to retain, in these areas, other individuals, including physicians, to go to medical school. Across the country there has been a concern over the poor representation of the minority group in medical schools. Only 2 percent of the University of Maryland took steps to enlarge their minority representation among its medical students.

Another important feature of the legislation is that it would encourage students to pursue careers in family medicine. In 1991, three out of four of the Nation’s doctors were engaged in family practice. In 1967 only one out of four was engaged in general practice. In Baltimore City, only 9 percent of the practicing physicians are in family practice. Indications are that this trend in specialization and away from general practice is continuing. The Mille report found only 18 percent of the medical school graduates planning to enter general practice.

Steps taken in recent years show some promising trends toward general practice. For example, the American Board of Family Practice has been created. In addition, there is included in this bill provisions to encourage family medicine. I believe that these actions will be a further incentive for medical students to specialize in family medicine. The committee should encourage medical schools to focus anew on the family physician.

My proposal has been written regarding the idealism of today’s young men and women. The medical student is no exception. We are told that the new breed of medical students want the opportunity to serve their fellow citizen. My program would provide them with this opportunity. In addition, the program will not only give them an opportunity to serve but it will provide them with the chance to serve and maintain healthy relationships with their friends and neighbors in the physician shortage area wherein they grew up.

I know the Appalachian area of my State well. It is my home area. I know the young men and women who live there and, I believe, they feel similarly motivated. Students from other areas of my State and the Nation, will confirm my faith in them by making this program work.

I am convinced that this proposal is the most important provision in the legislation to be enacted with the Nation’s maldistribution problem. By granting priorities to individuals from the shortage areas to accept the responsibilities of their medical school, they make a commitment to serve in such areas. I am convinced that the probability of its success is great.

Mr. President, to solve the health care crisis we must expand our medical manpower and encourage doctors to locate in shortage areas. For if we fail to solve this problem, our goal of quality health care to all Americans, wherever they live, and at a price they can afford, will elude us. As Dr. Egeberg has warned, “I don’t care what Congress does with medical manpower programs, nothing is going to improve the country’s medical system until we get more doctors.”

In summary, I believe my proposal will significantly respond to some of our medical manpower problems. It will encourage primary care, including family medicine. It responds to the maldistribution problem. It will make it possible for more lower income minority individuals to enter our medical schools.

PHYSICIAN SHORTAGE SCHOLARSHIP PROGRAM

TITLES I—AMENDMENTS TO TITLE VII OF THE PUBLIC HEALTH SERVICE ACT

SUBPART III—PHYSICIAN SHORTAGE AREA SCHOLARSHIPS

SECTION 786. (a) In order to promote the more adequate provision of medical care for persons who:

(1) reside in a physician shortage area; or
(2) are migratory agricultural workers or members of the families of such workers;

the Secretary, in accordance with the provisions of this subpart, shall make scholarship grants to individuals who are medical students and who agree to engage in the practice of primary care after completion of their professional training (A) in a physician shortage area, or (B) at such place or places, such facilities, and such manner as the Secretary, in pursuance of the national objectives of this section, may determine, as may be necessary to assure that, of the patients receiving medical care in such primary care area who are patients of persons referred to in clause (2), for purposes of this subparagraph (A), the Secretary is not referred to in clause (2). For purposes of this subparagraph (A), the Secretary shall, in the affirmative answer to the question of whether such a student or such individuals may enter such a program, and (3) the term ‘primary care’ has the meaning given to it by the Secretary under section 768 (c) (8) (B).

(b) (1) Scholarship grants under this subpart shall be made with respect to academic years.

(2) The amount of any scholarship grant under this subpart to any individual for any full academic year shall not exceed the amount of any other scholarship grant to such individual for such year, or the amounts of any scholarship grants to such an individual for each of the preceding three academic years.

(3) The Secretary shall, in awarding scholarship grants under this subpart, accord priority to individuals as follows:

(A) first, to any applicant who (i) is from a low-income background (as determined under regulations of the Secretary), in a physician shortage area (as defined in this subsection); or (ii) is a student with a financial need who is accepted for such professional training by the Secretary under section 768 (c) (8) (B).

(B) second, to any applicant who meets all the criteria set forth in subparagraph (A) except that prescribed in clause (1);

(C) third, to any applicant who meets the criteria set forth in clause (1) and (II) has been a medical student at an institution of higher education full time for at least one year;

(D) forth, to any applicant who (i) is a student with a financial need who is accepted for such professional training by the Secretary under section 768 (c) (8) (B) or (ii) is a student with a financial need who is an employee of a hospital or a public health service who is registered as a candidate for the scholarship grant.

(3) The Secretary shall, in awarding scholarship grants under this subpart, accord priority to individuals as follows:

(A) first, to any applicant who (i) is from a low-income background (as determined under regulations of the Secretary), in a physician shortage area (as defined in this subsection); or (ii) is a student with a financial need who is accepted for such professional training by the Secretary under section 768 (c) (8) (B).

(B) second, to any applicant who meets all the criteria set forth in subparagraph (A) except that prescribed in clause (1);

(C) third, to any applicant who meets the criteria set forth in clause (1) and (II) has been a medical student at an institution of higher education full time for at least one year;

(D) forth, to any applicant who (i) is a student with a financial need who is accepted for such professional training by the Secretary under section 768 (c) (8) (B) or (ii) is a student with a financial need who is an employee of a hospital or a public health service who is registered as a candidate for the scholarship grant.

TITLES X—PHYSICIAN SHORTAGE AREA SCHOLARSHIP PROGRAM

The bill includes a new demonstration scholarship program to offer stronger incentives to physicians to practice in shortage areas, to encourage more young doctors to enter primary care in order to remEDIATE the problem of maldistribution of physicians, and to increase the number of doctors of minority young people entering medical school.

The Secretary of HEW would be authorized to make scholarship grants to medical students who agree in advance to engage in the practice of primary care in (1) a physician shortage area or (2) any practice, a substantial portion of which serves migratory agricultural workers or their families. A “physician shortage area” is defined by the bill, which limits all of his internship or residency in a hospital in a physician shortage area or a hospital serving a large number of migratory agricultural workers and their families and if, while so serving, he receives training or experience designed to enable him to engage in the practice of primary care.

If a scholarship recipient fails to comply with the agreement, the Federal Government would be entitled to recover proportion of the scholarship grant.
tionate amounts, with interests, as though the student aid had been a loan, payable within five years.

The statement establishes priorities for selection of students for the scholarship program. First priority is given to individuals from low-income families residing in a physical shortage area who agree to return and practice in such areas. Second priority is given to individuals who reside in a physical shortage area and who agree to return and practice there. Third priority is given to individuals from low-income families who, although not residing in a physical shortage area where there are physician shortages, agree to practice in any physician shortage area. Fourth, to any other applicant.

Mr. COOK. Mr. President, will the Senator from Washington yield for a question?

Mr. MAGNUSON, I yield.

Mr. COOK. So that we can get it into the Record, there is no mistake or misunderstanding that title I funds will be funded at the 1971 level; that we will not find, for example, the situation in my State, where we will be denied some $2 million, that was available to us in the 1971 level, and that they will be available to us under the supplemental appropriation.

Mr. MAGNUSON. That is the amendment, and we title I funds of the Elementary and Secondary Education Act in the amount of $325.5 million. The conference accepted our amendment on that, which I think will receive less than the fiscal year 1971 level.

Mr. COOK. I thank the Senator.

Mr. MAGNUSON. I think that involves quite a few States.

Mr. BOYD. That involves some States.

Mr. MAGNUSON. We put a list of the States into the Record. The House conference accepted that amendment. It was a little difficult at first, but they finally did accept it.

Mr. HARTKE. Mr. President, the conference report to H.R. 11955 for supplemental appropriations for fiscal year 1972 will be very, very difficult. I am most disturbed, however, that the conference deleted most of the additional funds for veterans which the Senate Appropriations Committee had recommended. The deletion is due, I believe, to heavy lobbying pressure by representatives of the administration. That the modest $25 million in funds that the Senate voted for veteran unemployment has been slashed to $8 million, is further evidence that the administration prizes form above content. eloquent statements and plans are more to its liking, but solemnities are heard, but seldom is there money to implement them. I am further concerned that information which administration operates supplied to some of the conference was, I believe, drafted on misleading. This information noted that the unemployment rate for veterans aged 20 to 29 was at 7 percent for October, down from the 8 percent range where it has remained for most of the year. Of course, it created the impression that the situation was getting better and that additional funds were not needed. What these operatives conveniently chose to ignore was that the current unemployment rate for veterans was back up to 8.2 percent. These figures were released by the Bureau of Labor Statistics several days before the conference ever met and is a full 1.2 percent greater than for nonveterans of the same age group. Indeed, for the entire year of 1971 the veteran unemployment rate has been persistently higher than that for comparable nonveterans.

The President last June announced his firm intention to do something to aid veteran unemployment. Included in his six-point plan was a mandatory listing with the employment service system of all job openings and implementation of contracts. Qualified veterans were to be accorded priority in referral to these jobs by the employment service. I welcomed that move by the President which would result in listings this year from 6.5 million to over 11 million. But it was obvious that if these job listings were to be processed, additional funds for personnel were needed. Indeed, if it is desired to place more veterans were to be referred, additional funds for personnel would be required. And, I believe it was obvious that if the veteran placement rate by the local employment agencies were to be improved, additional funds, personnel, and supervision were needed. Last year less than 13 percent of all veteran applicants were placed in a job for 3 days or more duration.

Indeed, all this was obvious to the Department of Labor who submitted a proposal of $30 million to the Office of Management and Budget, which authorized a submission of only $4.5 million. Based on hearings on veteran unemployment held by the Committee on Veterans' Affairs, which I am privileged to chair, I believed that additional funds were necessary. Accordingly, I took my case to the Appropriations Subcommittee of Labor-HEW and other related agencies.

I ask unanimous consent that my testimony before the subcommittee be included in the Record at the conclusion of my remarks. The response of the subcommittee was, in particular from its distinguished chairman, Mr. MAGNUSON (from the ranking Republican, Mr. COTTON), Equally receptive was the distinguished chairmen of the full committee (Mr. ELLERMAN) and the ranking Republican (Mr. YOUNG). The full committee recommended to this body that it appropriate $25 million of the $80 million I recommended.

The $25 million that the Senate passed to aid veteran unemployment has now been reduced further as pressure from the administration, including several letters, was made to cut the bill to $8 million, and this would be 6 percent of the 1971 level. The 1971 level. The 1971 level. The full committee recommended to this body that it appropriate $25 million of the $80 million I recommended.

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Budget. OMB, in the name of economy, approved a congressional submission of only $4.5 million. And as late as September 28, Assistant Secretary Lovell of the Department of Labor admitted to me in hearings that he did not believe the $4.5 million was sufficient and that it would take the full $30 million to do the job. And the Department of Labor’s official position has been that it could get along with the $4.5 million. However, Mr. Chair, I note that these statements are not dictated by the convictions of the officials of the Department of Labor but are statements from a series of memos of the Office of Management and Budget. As I have said before, I do not believe we can economize at the expense of our youth.

If the Department of Labor through large efforts is able to supply the necessary services to our youth, it is only fair that it can only be done at the expense of other programs. As Chairman of the Committee on Veterans’ Affairs, I am vitally concerned that our returning veterans get an even break. I do not believe, however, and I do not think that any member of this Committee nor adequate services to veterans should be purchased at the expense of programs for the disadvantaged and nonveterans. This is wrong and will happen if we do not provide adequate funding.

Finally, included in my request is a modest proposal for increasing the Veterans’ Employment Service by 79 positions. These positions will be used to monitor the effectiveness of the programs and to provide for adequate services to veterans. I believe last year’s statistics and the continuing statistics of this year indicate a degree of concern and oversight by those who are assigned exclusively to monitoring veterans’ functions. However, I think it is significant that the Department of Labor, there has been a tendency in the past not to closely monitor state employees assigned to veterans’ functions. I believe one of the reasons the Department of Labor has treated veterans with less respect on the part of state employees, is in the fact that veterans are not specifically given a job which is one which is of three days duration. How many of these placements were for temporary employment or „dead-end” type jobs is not revealed by the figures. And the Department of Labor has informed me they do not keep any statistics in this regard. Regulations defining eligibility for manpower programs unfairly and I believe they may also tend to exclude the young veteran. That is to say, veterans who would otherwise be classified as „disadvantaged” for certain manpower training programs have been excluded by simple virtue of their compulsory service in the Armed Forces. Even more shocking to me is the fact that as those veterans who were placed in the category of „disadvantaged”, proportionately fewer of them are in manpower training programs than their disadvantaged nonveteran counterparts.

The proposal I submitted as well as the accompanying testimony of Mr. Lovell, and it is my conviction that there has been a lack of candor disclosure to the committee of the employment problems facing the returning veterans, the needs that must be taken. The Committee on Veterans’ Affairs, which I am privileged to chair, has been conducting a 1188 investigation into the employment problems confronting the returning veterans and what services the government is and is not providing. The Committee held hearings on this subject on April 26, 28; May 10; September 28, 29; and October 8.

The complete picture that emerges is one of continuing need for the States Training Employment Service. The Veterans Employment Service within the Department of Labor, which has veteran employment as its prime responsibility, is drastically understaffed and has been unable to effectively monitor the state employment services.

One immediate indication of the problem is the uncoordinated nature of the unemployment rate among Vietnam-era veterans. The unemployment rate among the 20- to 29-year-old age group has increased in the past year from 5.9 percent to 8.4 percent. By comparison, nonveterans of the same age group are currently experiencing an unemployment rate of 6 percent. It is interesting to note that since June 11, when the President called for an “effective mobilization” of the veterans’ manpower, the gap between veteran and non-veteran unemployment rates has widened from 2 percent to 1.7 percent. When one examines the ages of the Vietnam-era unemployed veterans in the 20- to 24-year-old age group, the figures increase even more dramatically; and if the veteran happens to be black, he can experience an unemployment rate as high as 29 percent.

Even more pertinent is the ESARS data (Employment Service Automatic Reporting System) obtained by the committee staff for the last fiscal year. Despite a congressional mandate to those who served in Vietnam and the legal requirement that each of the 2400 local employment offices have a veterans’ counselor, the record indicates that far from getting priority, the returning veteran is getting less service than the non-veteran. Last year veterans constituted 25.1 percent of all state employment service applicants. Yet ESARS data shows that the comparable employment service offices serve only 17.9 percent of those counselled, 14.1 percent of those tested; and 14.7 percent of those enrolled in manpower training programs. Proportionately fewer veterans were referred to health, rehabilitative, welfare, or remedial services. Only 11.3 percent of those enrolled in orientation out of the nearly 2.7 million veteran applications at the employment service offices last year, less than 13 percent resulted in placement in any sort of job. Again, this was a lesser placement percentage than for nonveterans. It is important to note in this connection that the employment service offices have a regular job as one which is of three days duration. How many of these placements were for temporary employment or „dead-end” type jobs is not revealed by the figures. And the Department of Labor has informed me they do not keep any statistics in this regard. Regulations defining eligibility for manpower programs unfairly and I believe they may also tend to exclude the young veteran. That is to say, veterans who would otherwise be classified as „disadvantaged” for certain manpower training programs have been excluded by simple virtue of their compulsory service in the Armed Forces. Even more shocking to me is the fact that as those veterans who were placed in the category of „disadvantaged,” proportionately fewer of them are in manpower training programs than their disadvantaged nonveteran counterparts.

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tricts impacted by public housing is one of the most meritorious aspects of the whole impacted aid program and it most certainly is the one related most directly to the objectives of the bill.

ELDERLY—SUPPLEMENTAL APPROPRIATIONS

Mr. KENNEDY, Mr. President, I want to commend the conferences for keeping in the supplemental appropriations bill the full level of funding for older Americans programs provided by my amendment last year.

The amendment increased the title III community programs for the aging and the foster grandparents and retired senior volunteer program by $45.76 million. It also increased the training and research programs by $9.5 million. This raises the overall level of funding this year to $100 million.

As the chairman of the aging subcommittee which originally passed the Older American Act Amendments of 1969 which established the authorization of $62 million for fiscal years 1970, $65 million for fiscal year 1971, and $105 million for 1972. Now for the first time, we have brought the level of funding close to the level of need that we found 3 years ago.

The Johnson administration originally requested only 47 percent of the authorized level in fiscal year 1970, $1 million less than the Johnson administration had requested; 36 percent of the authorization in fiscal year 1971, and an utterly inadequate 28 percent of the authorized level in fiscal year 1972.

Congressional action each year in congressional action each year on the $0 to $0 approval of my amendment demonstrates the deep concern for the need of the elderly in this Nation which is beginning to receive expression in all branches of our Government.

Thus, last week, in a turnaround of some importance, the administration agreed to support my amendment to increase funding to $100 million after the President appeared to the White House Conference on Aging that such a funding level was required.

Rather than wait until next the fiscal year, additional monies should be available immediately. For that reason, I submitted the amendment and I am pleased to see that now both the Senate and the House of Representatives have approved that provision.

I hope that passage of this amendment marks a major shift in the attitude of the Nation's political leaders toward the needs of the elderly. I hope it represents a new understanding of the economic deprivation, frustration, and alienation that too often robs our elderly citizens of the dignity that they deserve in the final chapter of their lives. And I hope it represents a commitment to adequate income, decent housing, quality health care, and the opportunity to participate fully in the life of our Nation.

The President, as he pointed out at the conference on H.R. 11955 included $2,215,000 for an extension and widening of the runway at Jackson Hole Airport, Grand Teton National Park, Wyo.

In my judgment, this will permit the construction of a parallel taxiway, extension of existing parking aprons, and the installation of electronic equipment.

I am grateful to my colleagues in the Congress for their recognition of the urgent situation which exists at the Jackson Hole Airport. This facility is the major link to Grand Teton and Yellowstone National Parks. It is located entirely on National Park Service land and is within a county in which 97 percent of the land area is owned by the Federal Government.

As more and more Americans visit this majestic area, traffic has greatly increased at the Jackson Hole Airport, airliners are using more sophisticated aircraft and only limited runways have been raised. In spite of these new conditions, there was not even a taxistrip at the airport and airplanes were forced to taxi down the runway before takeoff.

The appropriation of $2,215,000 for Jackson Hole Airport will enable the Jackson Hole Airport Authority and the National Park Service to improve the airport facilities and to provide for the safety of the citizens using this airport. It would have indeed been tragic if the Congress had failed to act until disaster struck. All too often there is delay until loss of human life or property.

I am proud and pleased that Congress has not delayed and has acted to make improvements before an accident occurred at Jackson Hole Airport.

I am grateful to the members of the Committee on Appropriations for their understanding and recommendation that these funds be included in the supplemental appropriations bill. The concurrence of both Houses underscores the wisdom of this decision.

I sincerely hope that the Senate will pass the conference report.

The PRESIDING OFFICER. Who yields time?

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

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. FILENDER, Mr. President, unless any other Senator wishes to speak, I yield back the remainder of my time.

Mr. YOUNG. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

The question is on agreeing to the conference report. On this question 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 New Mexico (Mr. Anderson), the Senator from Oklahoma (Mr. Hastings), and the Senator from Wyoming (Mr. McGee) are necessarily absent.

Mr. GRIFTON, I announce that the Senator from Utah (Mr. Bennett) and the Senator from Maine (Mr. Munro) are necessarily absent.

The Senator from Illinois (Mr. Percy) and the Senator from Maine (Mrs. Sarn) are necessarily absent.

If present and voting, the Senator from Illinois (Mr. Percy) and the Senator from Maine (Mrs. Sarn) would each vote "yea."

The result was announced—yeas 84, nays 9, as follows:

[No. 449 Leg.]

YEAS—84

Allen
Alvarado
Baker
Beall
Bellmon
Bennett
Bhutto
Byrd, W. Va.
Byrd, W. Va.
Cannon
Carr
Chiles
Church
Cook
Cooper
Cotton
Cranston
Currit
Dole
Dominick
Douglas
Drake
Duren
Ervin
Ensor
Franklin
Forbes
Fuson
Gann
Gartside
Byrd, Va.

NAYS—9

Allen
Anderson
Bennett
Bicent

NOT VOTING—7

Anderson
Bennett

In lieu of the matter proposed in said amendment, insert: "$776,717,000," and delete the last proviso.

Resolved, That the House recede from its disagreement to the amendment of the Senate number 20 to the aforesaid bill, and concur therewith in an amendment, as follows:

In lieu of the matter proposed in said amendment, insert: "National Institutes of Health

[SALARIES AND EXPENSES]

For an additional amount for the Manpower Administration, $96,207,000."

Resolved, That the House recede from its disagreement to the amendment of the Senate number 21 to the aforesaid bill, and concur therewith in an amendment, as follows:

In lieu of the sum named in said amendment, insert: "$776,717,000," and delete the last proviso.

Resolved, That the House recede from its disagreement to the amendment of the Senate number 38, and concur therein with an amendment, as follows:

In lieu of the matter proposed in said amendment, insert: "$776,717,000," and delete the last proviso.

Resolved, That the House recede from its disagreement to the amendment of the Senate number 38, and concur therein with an amendment, as follows:

"SALARIES AND EXPENSES"

For an additional amount for Health Manpower, $429,000,000 of which $162,555,000 shall remain available until expended to carry out part B of title VII and part A of title VIII of the Public Health Services Act: Provided, That $90,000,000 to carry out sections 722, 733, and 774 shall remain available for obligation through September 30, 1972, and the President shall be authorized to carry out programs in the family practice of medicine, as authorized by the Family Practice of Medicine Act of 1970 (§ 3416, Ninety-first Congress).

"Loans, grants, and payments for the next succeeding fiscal year: For making, after December 31 of the current year, loans, grants, and payments under sections 300, parts C, F, and G of title VII, and parts B
and D of title VIII of the Public Health Service Act for the first quarter of the next succeeding fiscal year, such sums as may be necessary, and obligations incurred and expenditures made shall be charged to the appropriation for such purpose for such fiscal year: Provided, That such loans, grants, and payments, pursuant to this paragraph may not exceed 50 per centum of the amounts authorized in section 506, parts C and G of title VII, and in part B of title VIII for these purposes for the next succeeding fiscal year.

Resolved, That the House recoeds from its disagreement to the amendment of the Senate numbered 29 to the aforesaid bill, and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert: "$85,000,000," and delete the proviso.

Resolved, That the House recoeds from its disagreement to the amendment of the Senate numbered 34 to the aforesaid bill, and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert: "$741,800,000," and delete the last proviso.

Resolved, That the House recoeds from its disagreement to the amendment of the Senate numbered 55 to the aforesaid bill, and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert: "$83,000,000," and delete the proviso.

Resolved, That the House recoeds from its disagreement to the amendment of the Senate numbered 67 to the aforesaid bill, and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert: "$200,000,000," and delete the proviso.

Resolved, That the House recoeds from its disagreement to the amendment of the Senate numbered 68 to the aforesaid bill, and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert: "$1,670,000," and delete the proviso.

Resolved, That the House recoeds from its disagreement to the amendment of the Senate numbered 69 to the aforesaid bill, and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert: "$83,000,000," and delete the proviso.

Resolved, That the House recoeds from its disagreement to the amendment of the Senate numbered 70 to the aforesaid bill, and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert: "$83,000,000," and delete the proviso.

Resolved, That the House recoeds from its disagreement to the amendment of the Senate numbered 75 to the aforesaid bill, and concur therein with an amendment, as follows: In lieu of the section number named in said amendment, insert the following: "902"

Mr. ELLENBERGER. Mr. President, I move that the Senate concur in the amendments of the House to the amendments of the Senate numbered 20, 21, 28, 29, 31, 34, 55, 57, 60, 68, and 75.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Louisiana. The motion was agreed to.

WAIVER OF RULE REQUIRING CONFERENCE REPORT TO BE PRINTED AS A SENATE REPORT.

Mr. ELLENBERGER. Mr. President, I ask unanimous consent that the conference report be printed as a Senate report be waived, inasmuch as the rules of the House of Representatives it has been printed as a report of the House. The reports are identical.

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

Mr. ELLENBERGER. Mr. President, I have a tabulation which reflects the current bill estimates, the amounts in the House and Senate versions of the bill for each item, and the final amount agreed to in conference. I ask unanimous consent to have this tabulation printed in the Record.

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

THE SUPPLEMENTAL 1972 (H.R. 11955)

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL

<table>
<thead>
<tr>
<th>Chapter No.</th>
<th>Department or activity</th>
<th>Budget estimate*</th>
<th>Version of bill</th>
<th>Conference agreement</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>HUD-Space-Science-Veterans</td>
<td>$1,587,000</td>
<td>House</td>
<td>$1,587,000</td>
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<td></td>
<td></td>
<td></td>
<td>Senate</td>
<td>$1,587,000</td>
</tr>
<tr>
<td>2</td>
<td>Interio and Related Agencies</td>
<td>26,076,000</td>
<td>House</td>
<td>$8,170,000</td>
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<td></td>
<td></td>
<td></td>
<td>Senate</td>
<td>29,485,000</td>
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<td></td>
<td></td>
<td></td>
<td>House</td>
<td>21,302,000</td>
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<td></td>
<td></td>
<td></td>
<td>Senate</td>
<td>21,302,000</td>
</tr>
<tr>
<td></td>
<td>Appropriation to liquidate contract authority</td>
<td>(4,075,000)</td>
<td>House</td>
<td>(4,075,000)</td>
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<td></td>
<td></td>
<td></td>
<td>Senate</td>
<td>(4,075,000)</td>
</tr>
<tr>
<td>3</td>
<td>Labor and Health, Education, and Welfare</td>
<td>2,684,655,000</td>
<td>House</td>
<td>334,439,000</td>
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<td></td>
<td></td>
<td>Senate</td>
<td>3,401,567,000</td>
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<td></td>
<td></td>
<td></td>
<td>House</td>
<td>2,838,290,000</td>
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<tr>
<td></td>
<td>Transfers</td>
<td>(2,560,000)</td>
<td>House</td>
<td>(2,560,000)</td>
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<td></td>
<td></td>
<td></td>
<td>Senate</td>
<td>(2,560,000)</td>
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<tr>
<td>4</td>
<td>Legislative</td>
<td>27,719,515</td>
<td>House</td>
<td>23,549,290</td>
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<td></td>
<td>Senate</td>
<td>26,443,519</td>
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<td></td>
<td>House</td>
<td>24,922,515</td>
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<td></td>
<td></td>
<td>Senate</td>
<td>(250,000)</td>
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<td></td>
<td>Fiscal year 1971 (by transfer)</td>
<td>(250,000)</td>
<td>House</td>
<td>(250,000)</td>
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<td></td>
<td></td>
<td></td>
<td>Senate</td>
<td>(250,000)</td>
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<tr>
<td>5</td>
<td>Public Works—AEC</td>
<td>116,010,000</td>
<td>House</td>
<td>46,500,000</td>
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<td></td>
<td></td>
<td></td>
<td>Senate</td>
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<td>House</td>
<td>119,010,000</td>
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<td></td>
<td>Senate</td>
<td>(250,000)</td>
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<tr>
<td>6</td>
<td>State, Justice, Commerce, and Judiciary</td>
<td>6,471,000</td>
<td>House</td>
<td>72,094,000</td>
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<td>House</td>
<td>110,354,000</td>
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<td>7</td>
<td>Transportation</td>
<td>65,244,000</td>
<td>House</td>
<td>55,544,000</td>
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<td>Senate</td>
<td>62,994,000</td>
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<td>House</td>
<td>58,294,000</td>
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<td>Senate</td>
<td>58,294,000</td>
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<td></td>
<td>New budget (obligational) authority</td>
<td>(16,000,000)</td>
<td>House</td>
<td>(16,000,000)</td>
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<td></td>
<td></td>
<td></td>
<td>Senate</td>
<td>(16,000,000)</td>
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<tr>
<td></td>
<td>Appropriation to liquidate contract authority</td>
<td>(200,000)</td>
<td>House</td>
<td>(200,000)</td>
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<td></td>
<td></td>
<td>Senate</td>
<td>(200,000)</td>
</tr>
<tr>
<td>8</td>
<td>Treasury, Postal Service, and General Government</td>
<td>227,592,000</td>
<td>House</td>
<td>226,956,000</td>
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<td>Senate</td>
<td>222,006,000</td>
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<td></td>
<td>House</td>
<td>210,556,000</td>
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<td></td>
<td>Senate</td>
<td>(20,153,000)</td>
</tr>
</tbody>
</table>

Footnotes at end of table.
### Comparative Statement of New Budget Obligational Authority Estimates and Amounts Recommended in the Bill

#### Chapter I

**HUD-Space-Science, Veterans' Administration and Other Independent Agencies**

<table>
<thead>
<tr>
<th>Budget estimate</th>
<th>House</th>
<th>Senate</th>
<th>Conference agreement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salaries and expenses</td>
<td>$1,587,000</td>
<td>$1,587,000</td>
<td>$1,587,000</td>
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</table>

#### Chapter II

**Department of the Interior**

<table>
<thead>
<tr>
<th>Budget estimate</th>
<th>House</th>
<th>Senate</th>
<th>Conference agreement</th>
</tr>
</thead>
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#### Related Agencies

**DEPARTMENT OF AGRICULTURE**

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**DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE**

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- **The John F. Kennedy Center for the Performing Arts...**
  - **DEPARTMENT OF LABOR**
  - **Manpower Administration**
    - **Salaries and expenses**
      - **Budget estimate**
        - House: $36,207,000
        - Senate: $26,607,000
        - Conference agreement: $36,207,000
      - **Manpower training services**
        - **Budget estimate**
          - House: $17,297,000
          - Senate: $17,592,000
          - Conference agreement: $17,717,000
    - **Limitation on grants to States for unemployment insurance and employment services (trust fund)...**
      - **Budget estimate**
        - House: ($4,500,000)
        - Senate: ($4,500,000)
        - Conference agreement: ($24,640,000)
  - **DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE**
    - **Social Security Administration**
      - **Medical facilities construction...**
        - **Budget estimate**
          - House: $7,672,000
          - Senate: $1,960,000
          - Conference agreement: $7,672,000
      - **Office of Education...**
        - **Budget estimate**
          - House: $32,500,000
          - Senate: $32,500,000
          - Conference agreement: $32,500,000
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          - Senate: $265,000
          - Conference agreement: $265,000
      - **Higher education...**
        - **Budget estimate**
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          - Senate: $3,990,000
          - Conference agreement: $3,990,000
    - **Civil rights education...**
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  - **Health Services and Mental Health Administration**
    - **Medical facilities construction...**
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    - **Office of Education...**
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    - **Howard University...**
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  - **RELATED AGENCIES**
    - **Cabinet Committee on Opportunities for Spanish-Speaking People...**
      - **Budget estimate**
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        - Senate: $890,000
        - Conference agreement: $890,000
  - **DEPARTMENT OF LABOR**
    - **Office of Safety and Health Review Commission...**
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        - Conference agreement: $890,000
      - **Office of Economic Opportunity...**
        - **Budget estimate**
          - House: $780,400,000
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    - **Total, Related Agencies...**
      - **Budget estimate**
        - House: $781,290,000
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  - **CHAPTER IV**
    - **LEGISLATIVE BRANCH**
      - **Senate...**
        - **Budget estimate**
          - House: $2,838,790,000
          - Senate: $2,838,790,000
          - Conference agreement: $2,838,790,000
    - **Contingent expenses of the Senate...**
      - **Budget estimate**
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    - **Fiscal year 1971 (by transfer)...**
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    - **Total, Senate...**
      - **Budget estimate**
        - House: $994,095
        - Senate: $1,036,595
        - Conference agreement: $1,036,595

*Footnotes at end of tables.*
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**CHAPTER V**

**PUBLIC WORKS**

Department of Defense—Civil, Department of the Army, Corps of Engineers—Civil

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**CHAPTER VI**

**DEPARTMENT OF COMMERCE**

Economic Development Assistance

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<td>92-161</td>
<td>National Archives and Records Service, operating expenses...</td>
<td>$636,000</td>
<td></td>
<td></td>
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<tr>
<td>92-164</td>
<td>Federal Labor Relations Council, salaries and expenses (limitation increases)...</td>
<td>($12,000)</td>
<td>($12,000)</td>
<td>($12,000)</td>
</tr>
<tr>
<td>S. 92-43</td>
<td>Economic Stabilization Activities, salaries and expenses...</td>
<td>($12,000)</td>
<td>($12,000)</td>
<td>($12,000)</td>
</tr>
<tr>
<td></td>
<td>Total, chapter VIII—new budget Obligational authority...</td>
<td>$227,592,000</td>
<td>$220,856,000</td>
<td>$222,006,000</td>
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<tr>
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<td>Transfer</td>
<td>($12,000)</td>
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<td>Funds appropriated to the President...</td>
<td>($12,000)</td>
<td>($12,000)</td>
<td>($12,000)</td>
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<tr>
<td>92-164</td>
<td>Claims and judgments...</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>92-164</td>
<td>Grand total, New budget (Obligational) authority...</td>
<td>$3,254,974,371</td>
<td>$786,287,654</td>
<td>$3,908,045,371</td>
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<tr>
<td>S. 92-43</td>
<td>Appropriation to liquidate contract authority...</td>
<td>($30,000,000)</td>
<td>($20,000,000)</td>
<td>($20,000,000)</td>
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<tr>
<td></td>
<td>Transfers</td>
<td>($6,739,000)</td>
<td>($5,846,100)</td>
<td>($6,459,100)</td>
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<td>Fiscal year 1971 (by transfer)</td>
<td>($20,000,000)</td>
<td>($20,000,000)</td>
<td>($20,000,000)</td>
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</table>

* Estimates considered include $52,235,000 for international radio broadcasting activities and $2,540,172 for claims and judgments (S. Doc. 92-45); exclude $85,000,000 for other items transferred in S. Doc. 92-45 of Dec. 2, 1971.
* For transfer to National Parks Centennial Commission.
* For transfer to departmental operations.
* For transfer from salaries and expenses.
* Changed to $3,744,100 after enactment of Public Law 92-76.
* By transfer from National Park Service, construction.
* Does not include additional $68,350,000 considered by Senate.

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MESSAGE FROM THE HOUSE—ENROLLED BILL SIGNED

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the Speaker had affixed his signature to the enrolled bill (H.R. 10947) to provide a job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes.

The President pro tempore subsequently signed the enrolled bill.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nomination of Mr. Rehnquist to be an Associate Justice of the Supreme Court of the United States.

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

NOMINATION OF WILLIAM H. REHNQUIST

The Senate resumed the consideration of the nomination of William H. Rehnquist to be Associate Justice of the Supreme Court of the United States.
The PRESIDING OFFICER. Who yields time?

Mr. NELSON. Mr. President, would the Senator from Indiana yield me 30 minutes?

Mr. BAYH. Mr. President, I would be glad to yield 30 minutes to the Senator from Wisconsin.

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

The yeas and nays were ordered.

Mr. NELSON. Mr. President, almost a half century ago during the debate over the nomination of Justice John J. Parker for the Supreme Court, Senator George Norris of Nebraska observed:

"When we are passing on a judge, we not only ought to know whether he is a good lawyer, not only whether he is honest—and I admit that this nominee possesses both of those qualifications—but we ought to know how he approaches the great question of human liberty.

During the same debate, Senator William E. Borah of Idaho described the unique role of a Supreme Court Justice in our constitutional system:

"We are concerned here with much more than technical legal ability and personal integrity. We are concerned about the character of that institution which must deal with the most important business of the human enterprise—freedom. It will be the measure of this society as to how we honor a commitment, and how we preserve the individual liberties of our citizens."

An examination of Mr. Rehnquist's record and views leads me to conclude that he is inadequately sensitive to human rights, and misunderstands the fundamental nature of the liberties guaranteed to our citizens in the first 10 amendments to the Constitution. If a fair share of the responsibility for the preservation of freedom, equality, and human liberty under the Constitution is to be equally divided to the Supreme Court, as it is, then each Senator must make a personal judgment on how adequately the nominee will perform that responsibility.

Such judgments are difficult to make because there are no simple, clear, objective standards by which we can measure justice, freedom, and human rights or balance individual rights against the power of the state. One must concede that such judgments are a mix of subjective and objective considerations. If they are, then doubts raised about the same great issues may very well reach different conclusions about the same man.

I claim no special insights or superior qualities for judgment about the important matter before us. My conclusion is based upon a careful evaluation of what Mr. Rehnquist has said on a number of issues which, I think, are very relevant to the very heart of this Nation is all about. Reading the same document, we come to different conclusions about what it means. These differences are of such significance that I cannot support his nomination just as in other circumstances he would not be able to support mine.

As I read Mr. Rehnquist's record, and as I interpret his position, he is prepared to grant much greater authority and far broader powers to the state at the expense of the individual citizen than is consistent with a free and democratic society.

As Assistant Attorney General, Mr. Rehnquist has consistently subordinated the first 10 amendments to the Constitution to the Government's will. He has actively supported the Federal Government's power to wiretap on its own initiative and without the supervision of the Court, to preventively detain persons in jail without trial, to enter private premises without announcement, to suspend normal criminal procedures and make mass arrests, to use illegally obtained evidence against an accused, and to gather information about the public activities of persons who are in no way connected with illegal activities.

At the same time that this nominee has defended the right of the Government to disregard individual rights for the interests of the State without the oversight and protection of judicial supervision, he has also defended the right of the Government to use war powers on his own initiative and invade Cambodia without so much as a nod toward Congress or the Constitution.

These public positions go far beyond what the Founding Fathers intended when they carefully described the powers and limitations of Government in the Constitution and the Bill of Rights.

With regard to Mr. Rehnquist's commitment to racial equality, his record indicates that even as late as 1964 he was opposing a public accommodations law in his city that was far weaker than the statute which has been the law of the State of Wisconsin since 1899.

Thirteen years after the Supreme Court declared that segregated schools were illegal, Mr. Rehnquist wrote a letter to the editor in 1987, opposing a modest program to implement this law of the land in the Phoenix schools. This is not a record which indicates the kind of sensitivity to human rights or an appreciation of this Nation's quest for social justice during the last 25 years.

It is argued by some that "what the Senate should be looking for are integrity, intellectual strength and legal qualifications" alone and that a nominee's views on civil rights and individual liberties are not the prime criterion.

I am more in accord with the view which George Norris expressed in the 1930 debate:

"I believe we ought to put more humanity into the courts... We ought to know that everyone who ascends to that holy bench should have in his heart and in his mind the feeling of looking after the liberties of his fellow citizens... of discarding, if necessary, the old precedents of barbarous days... to construe the Constitution and the laws in the light of a modern day, a present civilization... Human liberty is the issue. The preservation of our government is the issue.

It would also appear that on the issue of the scope of Senate examination of a Supreme Court nominee's qualifications, Mr. Rehnquist and I would agree. In an article entitled "The Making of a Supreme Court Justice," which appeared in the Harvard Law Record of October 8, 1959, Mr. Rehnquist advocated that the Senate begin:

"Thoroughly informing itself on the judicial philosophy of a Supreme Court nominee before voting to confirm him..."

The concept of "judicial philosophy" to which Mr. Rehnquist referred was meant to encompass more than a strictly legal definition of whether written laws were interpreted narrowly or broadly. Rather, it is quite clear that he considers a full investigation of a nominee's social and political views on substantive issues the proper and necessary subject for Senate inquiry.

It is clear from any historical view of the constitutional responsibilities assigned to the Senate through the "Advise and Consent" power, that a broader review than a nominee's intellect, integrity, and legal talent is required. This should be readily apparent from an examination of the role in the birth and adoption of the Constitution and from the actual practice of the Senate in confirmation of Supreme Court justices since 1789.

The Constitution of the United States expressly gives the Senate an important role and responsibility in the selection process for Supreme Court judges. Reflecting the deliberations and decisions during the Constitutional Convention in 1787, the "Advise and Consent" role given to the Senate in article II, section 2 of the Constitution is much more than a perfunctory perusal of potential nominees for Supreme Court positions. Rather, the duty and the responsibility delegated to the Senate by this provision is to give complete and careful consideration to the qualifications of Supreme Court nominees before making an independent decision as to whether the high standards for this position have been met by a Presidential nominee.

Historically, the strong role given to the Senate in the nomination process for Supreme Court Justices can be traced back beyond James Madison's notes of the Constitutional Convention to an earlier period of America. Under British rule, the American colonies had been subjected to the capricious administr-
tion of justice. One of the express grievances of the Declaration of Independence was that King George had—

Made Judges dependent on his will alone, for the tenure of their offices and the amount and payment of their salaries.

As a result of this colonial experience, the Founding Fathers of this Nation were determined to establish an independent judiciary free from the extrications of either executive or legislative pressures.

Decisions on nominations for the Court which are made today, can actively influence the quality of our courts for forty years or more into the future. It is certainly a responsible exercise of constitutional duty, therefore, to require that the Senate closely examine a nominee's record and insist upon high standards of personal integrity, a strength of intellect, and a sensitivity to the rights and aspirations of all.

Three distinguished law professors recently expressed their view that it is now time for the Senate to examine a nominee's judicial and political philosophy, but it is—

The Senate's affirmative responsibility to examine the intellectual and political philosophy, and to confirm his nomination only if he has demonstrated a clear commitment to and understanding of our Constitution, the rule of law, the liberty of the individual, and the equality of all persons.

Mr. Rehnquist, himself, has quoted with approval the remarks of Senator William Vandenberg, Senator Vincentling during the debate on the Supreme Court nomination of John J. Parker in 1930. In commenting on the proper scope of the Senate inquiry into a Supreme Court nominee's views, Senator Borah said—

They (the Supreme Court) pass upon what we do. Therefore, it is exceedingly important that we pass upon them before they decide our cases. I do not believe that in exercising this duty, we are altering the Constitution of the country or the Constitution of the Court.

Forty-one years after Senator Borah's comments, it is particularly appropriate to call for “something more” in addition to the requisite qualities of integrity and of great learning in Supreme Court nominees. We are not just participating in a singular selection process that is the isolated replacement of a Supreme Court vacancy. We are instead asked to consider one in a series of nominations in a unique historical context which may give this President the opportunity to make an immeasurable difference in the Court during his term in office. It is, therefore, quite possible that the entire temper and character of an independent, equal branch of Government could be altered within a very short period of time.

The consequences of this alteration, however, would not be short-lived, but would affect this Nation directly for years to come.

In an article in this November's New York Law Journal entitled "The Role of the Executive and Legislative Branches in Judicial Appointments," former Attorney General and Assistant Secretary of State Nicholas de B. Katzenbach concluded—

When a President by chance is able to make several appointments, there is often the possibility of changing the institution for many years beyond the President's term is raised. Given the substantial changes in our society and in the role of the federal judiciary, such changes in the Senate's obligation to advise and consent to judicial appointments are probably inevitable. However, the Senate's role is not ceremonial, but a judgment of crucial importance to the judicial branch of government.

My particular concern with any and all nominations to the Supreme Court at this juncture of our history was succinctly expressed in the October 8, 1971, issue of Commonweal magazine written before the current two nominations were presented to the Senate for its consideration. The editorial entitled "The Senate and the Court" opened—

At a time when Constitutional processes face some of their most crucial challenges in America, when in fact the fundamental law of the land is brought into assessment as a result of challenges to the courts and the legal system, it is ironic that the Senate is voting on the future of the Court.

We must be particularly concerned that the Supreme Court, in its role as final interpreter of the Constitution, will continue to demand that document's guarantees of equal justice for all people and the free exercise of individual liberties. As the late Justice Hugo L. Black said—

I believe that our Constitution with its absolute guarantee of individual rights, is the best hope for the aspirations of freedom which men share everywhere.

The Bill of Rights was made a part of our Constitution as an express guarantee of individual freedom against the oppressive uses of power by the State. This view has prevailed not because of divine intervention, but because Justices have been able to, and have come to, determine and, accept, and expound this view.

Yet, as these guarantees have become a shining star in our system of laws because of judicial actions, so they can be eroded and lost. The future of individual rights depends on the choice will be made by those who sit on this and future Supreme Courts.

Bite by bite, many of the provisions of the Bill of Rights have been strengthened and applied to State governmental actions as well as Federal: The sixth amendment and the right of the indigent to free counsel; the fifth and sixth amendments and the right to counsel and silence during police interrogation; the amendment's guarantee of protection against self-incrimination; the sixth amendment and the right to confront witnesses; the fourth amendment protection against illegal searches and seizures; the right of habeas corpus and the prohibition against cruel and unusual punishment.

These are still controversial issues in some parts of the political spectrum, however, and the question whether the level of guarantee provided by the Bill of Rights and its application to the States through the 14th amendment are not mere technical and contextual issues in the composition of the Supreme Court is in a state of flux, those who have supported civil liberties cannot be unconcerned about maintaining these advances in jurisprudence and constitutional justice.

At the same time, new civil liberties issues are rapidly developing and coming before our courts for adjudication as to their constitutionality. Technological sophistication and electronic gadgetry have tremendously advanced the art of obtaining and storing vast quantities of information. With the proliferation of integrated and governmental organizations the opportunity to impinge upon the actions and expressions of individual citizens is greatly enhanced.

The never ending struggle to define the relationship between the individual and the State will require continuing evaluation of issues such as wiretapping, electronic surveillance, "no knock" entry, preventive detention, the rights of the accused, freedom of speech, and the extent of the use of Executive privilege to withhold information from Congress and the public.

We must exercise vigilance before the power of government is expanded and new authorities are delegated which infringe upon and undermine the freedom of individuals. Further, the constitutional form will never make up for the loss of constitutional substance. And once the expansion of governmental power at the expense of individual liberty has been eroded, the task of securing the lost remnant of liberty is made all the more difficult.

In seeking to insure that the Bill of Rights will be diligently protected by the courts in the future, it should be clearly stated that this is not an issue that pits the “rights of society” against the rights of criminal defendants, or pornographers and of demonstrators, as stated in Mr. Rehnquist's letter to the Washington Post. A more accurate presentation of the issue was expressed editorially by the New York Times on October 25.

The balance that must be maintained is not, as Mr. Nixon would have it, primarily between the rights of society and those of the criminal. Rather, it is a balance of the latter's rights was indeed an accomplishment of the Warren Court that was undertaken under the guise of "law and order." The more important balance, however, is between individual liberties and the powers of the Government. It is a delicate balance precisely because the Government's power is naturally so great that, without protection by sympathetic courts, the individual soon becomes powerless and ultimately oppressed.

In my study and reading of the public statements and printed hearing record of the nomination I have tried to assess where the nominee would place his weight in the balance and reason in questions involving conflict between individual liberties and the powers of Government. In making this assessment, it is necessary to ask more than whether a nominee can merely "see both sides of the difficult questions in this area" as the majority report of the Judiciary Committee requires. Recognizing both sides of an issue is a task of defining issues which any first-year law student could quickly master.

In addition to recognition of issues in-
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volving individual liberties and equal justice, it is necessary to probe further and inquire whether there is an understanding and proper sensitivity to the importance which constitutionally guaranteed rights and liberties play in our democratic society and form of government. Finally, it is necessary to inquire whether recognition, understanding, and sensitization for the limits of governmental power will be aggressively promoted and given privileged consideration when placed in conflict with exercises of governmental power.

The great justice in the late Justice Black focused upon the Constitution was not only intellectual, but was very literal—an affection of the heart as well as the head. It is well known that Justice Black liked to have a copy of the Constitution at his hand at all times, and his devotion to the words and the spirit of this document is perhaps best illustrated by a story reported in the New Yorker last September. A visitor found the Justice in his office without a copy of the Constitution a few years ago. As the story is related Justice Black admonished the visitor for not having a copy of the Constitution, and he was offended. A month later, he went to his office without a copy of the Constitution and the visitor asked why he was using a Constitution. In reply, he cited his oppostion to any judicial limitations or controls on the gathering of information on private citizens by the executive branch.

I do not believe, therefore, that there is any justifiable enforceable limitations on the gathering of this kind of public information by the Executive Branch of the Government for purposes of governmental concern to police it self? My answer would be that first, such a result is not as bad as it may sound, and, second, that is oversight rather than those afforded by judicial supervision are available.

The other form of oversight, however, turns out to be a congressional hearing after the occurrence of any particular excess of the constitutional powers and a complete misunderstanding of the effect which the restrained power of Government snooping can have on the vital exercise of first amendment activity by the general public. By advocating only retrospective investigations of governmental intelligence gathering activities and relying upon executive self-restraint to prevent excesses from occurring in the first place, Mr. Rehnquist ignores the chilling effect which such actions have on the free and open public discussion of the important issues of the day by all elements of our society. It is not enough to say that first amendment questions may be raised if it can actually be proven that someone was in fact deterred from speaking out. The only way to counteract this fundamental and necessary right to speak out is to take the steps to insure to the greatest practicable degree that infringements will not occur in the first place.

It is not only Government surveillance and information gathering can be proper exercises of law enforcement in some instances, such as where criminal laws have actually been violated or where there is a reasonable cause to believe that a criminal violation is going to occur. We must inquire as to the exact nature and bounds of these powers. Therefore, I formally request that the Presiding Officer, (Mr. Taft), The Senator's time has expired. Who yields time?

Mr. NELSON. Mr. President, I ask unanimous consent to proceed for an additional 5 minutes of Mr. Bay's time, since he is not here to yield or to object.

Mr. FANNIN. Mr. President, I yield the Senator from Wisconsin such additional time as he desires.

Mr. NELSON. Mr. President, I ask unanimous consent that the full text of my remarks be printed in the record as though read.

Mr. FANNIN. Mr. President, if the Senator will yield, we do have plenty of time, and I would be very pleased to yield. We have affirmatively made our case, and we are ready to vote, so the Senator can certainly have all the time he wishes.

Mr. NELSON. I thank the Senator.

The PRESIDING OFFICER. The Senator from Wisconsin may proceed.

Mr. NELSON. I ask unanimous consent to proceed for an additional 5 minutes, since the time of Mr. Bay's time is expired. Mr. Rehnquist does not feel that constitutional infringements upon individual liberties occur untill data that is impropery or illegally gathered is actually used against someone, even through the original gathering of this information was not a legitimate function of Government.

In an answer to a question from Senator Baxr asking whether an interference with constitutional rights and freedoms is alteration made at a rally had occurred where Army intelligence agents pretending to be photographers had taken pictures of participants, and then built up information on draft resisters, Mr. Rehnquist says, no, I do not, Senator. I think, from reading of the cases, that the time at which the courts would say there has been an interference with an individual's constitutional rights in that area is where the government seeks by some sort of legal sanction either to force divulgence of information or to put the information it has gathered without forcing it to some use such as criminal prosecution, or a civil action against the individual. I. I don't think the gathering by itself, so long as it is a public activity, is of constitutional stature.

It is in my judgment precisely this kind of wholesale interference at public meetings and the compilation of dossiers on individual citizens who are in no way connected with known or suspected illegal activities, which has that chilling effect upon the full and complete public discussion of ideas, and which should be firmly and clearly resisted. Preventive action to preserve the public's right to full and open discourse with the specter of governmental retaliation cannot be held in abeyance until the collected data is actually used to
still one dissident voice. It is the threat of such use, as much as the possible re-
talatory action itself, which causes the greater harm, for it makes no distinction between those it touches with its muzz-
ing effect.

The difficulty with not only mounting indi-
cidual, criminal, and constitutional, appear to expedient needs of Government, but also making the executive the arbiter of this balancing act, is perhaps best exempli-
 fied in the area of Government surveil-
 lan ce by wiretapping or electronic de-
 vices.

There is no doubt that the use of so-
sophisticated electronic equipment which is now available makes the gathering of intelligence an easier task for law en-
forcement officials. The ability to sur-
 rspiciously monitor purely private and personal conversations through these electronic means, however, also makes this practice a greater threat to indi-
vidual freedom and rights of privacy. The measure of acceptable use, therefore, is particularly dependent upon the ex-
tent to which the applications of the methods of control that are applied to insure that wiretapping or other elec-
tronic bugging use is kept well within its restricted boundaries.

The practice of wiretapping or elec-
tronic surveillance are serious invasions of privacy. They must be carefully pre-
scribed and restricted to the most serious of law enforcement issues—national se-
curity or other criminal crimes. Even with these exceptions, we must be sure to ex-
actly define the boundaries and limits of the practice, for what is national secu-
 rity to one person may be protected politi-
cal intrigue to another.

On first reading, it would appear that Mr. Rehnquist was in general agreement with this limitation of scope and prior review with regard to wiretapping by Government officials. His suggested amendment to this statement during the hearings in support of Mr. Rehnquist's recognition of the first line of protection to be drawn between the violation of the law and the individual's interest in privacy.

I think a good example of a line that has been drawn by Congress is the Act of 1968 which covers the use of private wiretapping and which required, except in a national secu-
 rity situation, prior authorization from a court before wires could be tapped.

Again, in a speech before the Ameri-
can Bar Association Convention in Lon-
don this summer, Mr. Rehnquist specifi-
cally used the example of organized crime to justify governmental wiretaps:

When we deal with the activities of or-
ganized crime, we deal with the most sordid sort of criminal activities, pushing prostitution, gambling, as well as in illegitimate aegra-
tions of legitimate business. Persistent ef-
forts, not always successful, to cor-
rupt law enforcement officials; murder, com-
mitted by anonymous hired guns, are their targets. Normal detection techniques of Sherlock Holmes or Spade, the long succession of Scotland Yard inspectors who have been immobilized in print, are of far lesser use here. But the business of pri-
 vacy entailed by wiretapping too high a price to pay for a successful method of attacking this kind of criminal activities and organized crime? I think not, given the safeguards which attend its use in the United States.

Taken alone, the statements would seem to indicate a desire for a so-called "strict construction" of the limits of wiretapping. When Mr. Rehnquist other- 
 statements and his support as an ad-
vocate for the Justice Department are taken into consideration, however, a quite different picture of Mr. Rehnquist's sympathies and convictions emerges.

The fact of the matter is that this ad-
 ministration and the Justice Department have actively moved to expand the use of wiretaps beyond reasonable limita-
tions of organized crime. In the District of Columbia crime bill which they pre-
sented to Congress last year, the author-
  ity for electronic surveillance given in S. 202 of expanding the rights of the de-
 finition of the organized crime. In the

President Roosevelt's 1940 order, in the first para-
 graph of his order, President Roosevelt recognized the danger of widespread wiretapping and warned that an emergency existed, the need for the Suprem Court to act as follows—

Also right in his opinion that under ordi-
 nary and normal circumstances wire-tapping by Government officials should not be approved by the court. That the reason was not for the excellent reason that it is almost bound to lead to abuse of civil rights.

President Roosevelt went on to limit wiretapping in the national security in-
 terest. "Grave matters involving the de-
fense of the Nation," persons suspected of subversive activities against the

Government of the United States, including suspected spies," and specifically re-
 quested his Attorney General to "limit these investigations as condensed as a minimum and to limit them insofar as possible to aliens." The exigencies of sub-
 version, treason, espionage, and sabotage were cited as public safety. The issue of foreign powers are a far cry from the

political protests and expressions of politi-
cal freedom and dissent during the late 1960's and 1970's by U.S. citizens who hold at through a tap based upon the "na-
tional security" exception.

The initial fallacy of the position enun-
ciated by Mr. Rehnquist in expanding the use of unsupervised wiretaps from for-
crime and national security to internal at the Attorney General's own finding of subversion is the failure to note the im-
portant distinctions between the Govern-
ment's right of action in domestic and foreign affairs. As the courts have repeatedly explained, the Government is limited in the actions it can take in the area of domestic politics. Unlike the area of foreign affairs, the Government can act only to prevent what it views as unlawful acts in the domestic arena, not unpopular acts or iconoclastic thoughts. Yet, in a speech at Brown University reported in the November 21, 1971, issue of the New York Times, Mr. Rehnquist has said that the Government's action in wiretapping is not a violation of these constitutional freedoms of speech, expression, and association and their right to petition their Government for the redress of grievances.

As U.S. District Judge Warren J. Fer-
 guson pointed out in a recent case in-
volving Government wiretapping of Black Panthers in Los Angeles without court

supervision:

The Government seems to approach these dissident domestic organizations in the same fashion as it deals with unfriendly foreign powers. The government officials have been to the Supreme Court with the advice of the government, and to the court with the present form of government. To do so is to ride roughshod over numerous politi-
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local freedoms which have long received con-
stitutional protection. (United States v.
Smith 321 F. Supp. 424 [1971]).

As Judge Ferguson concluded in United
States against Smith:

To guarantee political freedom, our for-
tification of the Constitution's guaran-
tees are inherent in a free democracy. It is
unthinkable that we should now be required
to sacrifice those freedoms in order to de-
feat crime.

To allow the Attorney General to de-
cide upon his own initiative who is a do-
mestic threat to the national security, and
then to proceed to tap without court
supervision, may be consistent with Mr.
Rehnquist's theories of law by balance-
civil liberties with executive power. In
my view, this philosophy is a radical de-
parture from our founding principles and
does violence to the Constitution and free
political expression in this country.

Also included in the District of Co-
lumbia crime bill was a provision author-
ing police officers under some cir-
cumstances to enter a dwelling without
probable cause and by identifying them-
selves. Mr. Rehnquist asserted in a De-
ceber 2, 1970, speech that—

This provision of law is actually nothing
more than a codification of the now
existing law under which they had not been
violating the Constitution in a case decided
a few years ago by the Supreme Court of the
United States.

The no-knock provision of the
District of Columbia crime bill was in actu-
ally a vast expansion of this authority
and is not merely codification of existing
common law as the nominees state. While
it is true that the common law recognized
no certain exceptions to the fourth
amendment's requirement that Government
officials must announce their pres-
ence before entering a man's home, the
District crime bill makes no provision.

Rehnquist supported expands these ex-
ceptions greatly and therefore is not mere
codification.

No-knock authority raises very seri-
ous concerns because of diminishing the fourth
amendment guarantee of the right of the
people "to be secure in their persons,
houses, papers, and effects, against un-
reasonable searches and seizures." His-
tory serves to remind us that eternal
vigilance is the price of liberty and as
Santayana asserted:

Those who cannot remember the past are
condemned to repeat it.

In the case of Miller v. United States,
357 U.S. 391 (1958) Justice Brennan dis-
cussed in an opinion of the Court.

The requirement was pronounced in
1803 in Semayne's Case. 5 Coke 81, 11
ERC 629, 77 Eq. Reprint 194:

In all cases where the King is party, the
sheriff (if the doors be not open) may break
the party's house, either to arrest him, or
to do execution of the K(in)g's process.
If otherwise he cannot enter. But after he
breaks it, he ought to signify the cause
of his coming, and to make request to open
doors... (Emphasis supplied)

In the same case, Justice Brennan
stated the importance of maintaining this
restriction upon the exercise of gov-
ernmental power and guarding against
making expediency the prime factor in
law enforcement:

We are duly mindful of the reliance that
society places upon our law and the order
unto the enforcing agencies of the
criminal law. But inaction on observance
of due process and fair procedures with
due process requirements, is from the long
point of view, best calculated to contribute to
that end. However much in a particular case in
dependency the extra appears as a
techniquery that inures to the benefit of a
guilty person, the history of the criminal
law shows that methods of enforcement in
law enforcement impacts its enduring
effectiveness. The requirement of prior notice
and the manner of exercising entry into a
home is deeply rooted in our heritage
and should not be given grudging applica-
lation. Congress, codifying a tradition em-
bedded in Anglo-American law, has declared
in Sec. 3106 the reverence of the law for
the individual's right of privacy in his house.
Even a householder... the good and the bad,
the guilty and the innocent, is entitled to
the protection designed to secure the com-
mon interest against unlawful invasion of
the house.

The case with which arguments are
raised to give a higher priority to the
need to enforce governmental edicts than
to the need to protect individual liberties
is the history of the Anglo-American
history. At one time the British Parliament
had taxed cider and the au-
thorities were having a difficult time col-
clecting the excise tax. To ease their
difficulties it was proposed that the collectors
be given the authority to enforce their
cider tax by entering a man's house
without knocking. When this proposal
was debated in the House of Lords, some
205 years ago, William Pitt closed his
speech in opposition to extending this
power of no-knock to the tax collectors
with these eloquent words:

The poorest man may, in his cottage, bd
defended by all the forces of the Crown. It may
be frail. Its roof may shake. The wind may
blow through it. The storm may enter. The
rain may drench it. But the King cannot
enter. All his forces dare not cross the
threshold of that ruined tenement.

It would appear that as years pass and
Kings give way to Presidents, and Parlia-
maments to Congress it is necessary to re-
affirm the validity of Pitt's statement,
and to reassert opposition to any possible
executive, legislative, or judicial actions
to narrow that protection.

In the light of a modern and pres-
ent society in this country, it would also
appear to be time that equal rights under
the law would no longer be an issue in a
crime bill. Unfortunately, the record of Mr.
Rehnquist in this regard does not dispel my
disquiet that the legal basis for civil rights
may still be in dispute.

As noted previously, Mr. Rehnquist has
impressively demonstrated his polemic
and legal talents in his aggressive argu-
ments for the expansive interpretation
of traditional constitutional doctrines
dealing with the Windham school
v. Kentucky

In his public briefs on the issue of the
Government and the Bill of
Rights, he has been consistent in his ad-
dress of our respect for constitu-
tional provisions and Judicial de-
cisions favoring Executive powers over
individual liberties whenever there is a
conflict. On the other hand, whenever the
issue has been equal protection under the
law for all citizens, the nominee has pro-
moted the narrowest view of the

Thirty years after a unanimous
Court, including Justice Jackson, had de-
cided Brown against Board of Education
in 1954 and declared the constitutional
principle that "separate but equal school
systems was "inequally unequal.," Mr.
Rehnquist wrote to the editor of the Ar-
zona Republic on September 9, 1967, to
criticize the Phoenix school system as
failing to meet the "integration pro-
gram" for the Phoenix high schools.
While Mr. Rehnquist recognized that in
this society each man should be equal
before the law, this failed Mr. despite the
Supreme Court's express holding to the
contrary, did not involve a commitment to
integrating the schools. In his letter
he said:

I think many would take issue with his
statement on the merits, and would feel
that we are no more dedicated to an "integ-
rated" society than we are to a "segregated"
society.

This is not only a perversion of con-
stitutional holding, but contrary to the
dominant thought in the country at that
time.

The State of Wisconsin enacted a tough
public accommodations law in 1896 guar-
teeing to all persons of every race and
color the right of full enjoyment of "inns,
restaurants, saloons, barber shops, eat-
ing houses, public conveyances on land
and water, theaters, and all places of
public accommodation and amuse-
ment." Sixty-nine years after Wiscon-
sin declared her opposition to discrimi-

cation, the same statute appeared before the Phoenix City Coun-
cil in 1964 to oppose a modest municipal
public accommodations law. When the
ordinance passed, the nominee wrote a let-
ter to the editor of the Arizona Republic
calling the passage a "mistake" and ele-
vated economic rights above human
rights.

When President Nixon announced his
two nominations for the vacancies which
existed upon the Supreme Court on Oc-
tober 21, 1971, he prefaced his remarks on
the nominees by saying:

During a four-year term, the President of
the United States, sitting at his desk, in this
historic room, makes over 3,000 major ap-
pointments to various Government positions.
By far the most important appointments he
makes are those to the Supreme Court of the
United States. Presidents come and go but
the Supreme Court through its decisions goes
on forever. Because they will make decisions
which will affect your lives and the lives
of your children for generations to come.

It is worth while to note that the Presi-
dent, himself, has consistently said that he
would nominate men to the Supreme
Court who reflected his philosophy. He
reminded us in his speech on the two
nominations that he was "committed to
nominate to the Supreme Court individuals
who shared my judicial philosophy, which is basically a conserva-
tive philosophy."

When he went on to give specific ex-
amples, that he meant by a "conserva-
tive judicial philosophy," however, it be-
came readily apparent that the Presi-
dent was not talking about what is the
accepted legal concept of that term—that is, a decider of individual cases who honors the rule of law and avoids breaking constitutional ground when there is a narrower ground on which to hold. Instead, the President made it clear that he was seeking men who would share his social and philosophical views and who would advocate them on the Court.

In 1959 Mr. Rehnquist stated in the Harvard Law Record article "The Making of a Supreme Court Justice" that "the Constitution just 'there' waiting to be applied in the same sense that an inferior court may match precedents to the facts at hand, no matter in the absence of stare decisis in constitutional law, but of its absence there can be no doubt. And it is no accident that the provisions of the Constitution which have been the most productive of judicial lawmaking—the 'due process of law' and 'equal protection of the laws' clauses—are about the vaguest and most general of any in the instrument."

Mr. Rehnquist ended his article with the advice:

"It is high time that those critical of the president's record consult with the late Charles Evans Hughes that for one hundred seventy-five years the Constitution has been what the judges say it is. If judicial self-restraint is desired, or a different interpretation of the phrases "due process of law" or "equal protection of the laws", then men sympathetic to such desires must sit upon the high court."

It is, therefore, apparent that it is not a "conservative judicial philosophy" in the tradition of Black and Harlan that President Nixon seeks in nominating William Rehnquist to the high bench. Rather he is seeking a judicial activist who is willing to advocate his own interpretation of the Constitution and previous judicial decisions in accordance with his own conservative political philosophy.

In concluding an article in the Yale Law Journal on the scope of senatorial review in Supreme Court nominations, legal scholar, Charles L. Black, Jr., concluded:

"To me, there is just no reason at all for a Senator's not voting, in regard to confirmation of a Supreme Court nominee, on the basis of a full unreviewed record, not embarrased by any presumption, of the nominee's fitness for the office. In a world that knows that a man's social philosophy shapes his judicial behavior, that philosophy is a factor in his fitness. If it is a philosophy the Senator thinks will make a judge whose service on the Bench will hurt the country, then the Senator can do right only by treating this judgment of his, uncumbered by deference to the President's, as a satisfactory basis in itself for a negative vote. I have as yet nothing, nothing substantial, nothing prudential, nothing historical, that tells against this view."

On the question of the guarantee of individual rights in the first 10 amendments to the Constitution, I am a strict constructionist. The Bill of Rights was specifically adopted to protect individual liberties against oppression and the excesses of governmental power. Mr. Rehnquist's interpretations of these guarantees as a Supreme Court justice, on the other hand, may not be acceptable to me, and I am unable to support his nomination.

Mr. BAYH. Mr. President, I ask unanimous consent that a sample of the public opposition to the nomination of William Rehnquist be printed in today's Record. I am including editorials from the New York Times, the Washington Post, the Boston Globe, the Chicago Sun Times, the St. Petersburg, Fla., Times, the St. Louis Post-Dispatch and the Christian Science Monitor. I also wish to have printed in the Record for the information of my colleagues the names of the national organizations opposed to Mr. Rehnquist.

The organizations include the American Federation of Labor and Congress of Industrial Organizations, the American Civil Liberties Union, the American Library Association, the National Lawmen's Association, the American Bar Association, the American Medical Association, the American Bar Foundation, the American Bar Association Journal, the National Catholic Conference, and the American Civil Liberties Union.

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

[From the New York Times, Nov. 15, 1971]

THE COURT APPOINTMENTS

In recent years the Senate has been loath to argue about the judicial philosophy of Supreme Court nominees. It has generally assumed in the absence of damaging evidence, a number of statements by the nominee who is intellectually qualified, honest and experienced in some branch of the legal profession, will cultivate the detachment and perspective which the task of judging requires. But inasmuch as President Nixon has to a greater degree than normal politicized the process of selection, and has so insistently proclaimed his determination to remake the Court in his own image, the Senate needs to question on what basis it is prepared to give an informed decision to the presidential nominations as an institutional courtesy rather than a constitutional obligation.

Assistant Attorney General William H. Rehnquist's published belief that the Senate has an obligation to inquire into the basic qualities of the judicial nominee is applicable to his own position today. The question is whether the nominee should be subjected to an inquiry specific, political, social and economic views—quite apart from the obvious requirements of integrity, ability, temperament and training. Does not the President have the privilege of nominating to the Supreme Court a man or woman of any political orientation that pleases him, without interference by the Senate; or does the Constitution, through its "advise and consent" clause give the Senate the right to influence the appointment? It disagrees with his politics or his philosophy?

* * *

The Supreme Court should be above politics; yet it is obvious that the Supreme Court deals with the stuff of politics. We have repeatedly argued that while the President has a right to say that the political job to keep partisan politics out of his judicial appointments, he ought to have the broadest possible discretion, so long as they are made within the context of the American democratic system. What this means is that the candidate who is conservative, the right of the right, or the left, must not be hostile to the broadly accepted principles of American constitutional democracy. This test the Senate has the right and duty to make.

[From the Washington Post, Nov. 28, 1971]

THE COURT AND THE NOMINEE—II

A few days ago, we noted that although the nomination of Lewis F. Powell Jr. to be an Associate Justice of the Supreme Court gave us no problem, the nomination of William H. Rehnquist did. It still does. Mr. Rehnquist's written response to questions submitted to him by some members of the Senate Judiciary Committee does not dispose of all the doubts that have arisen about his views on the concepts embodied in the Bill of Rights.

Those doubts are what have led us to make a distinction between Mr. Powell and Mr. Rehnquist. We believe both men to be suitably intellectually and professionally for the Supreme Court, and we may, indeed, perhaps better suited in those re-
December 10, 1971

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spectacles than any of the four men previously selected by Mr. Nixon for the court. We are aware of the reality of this record and the

(1) the matter of the views they hold of the Constitution, or to be more precise about what they believe the Constitution requires. We have seen the record of these two men differ.

(2) the commitment they have demonstrated to unite some of the court's recent initiatives to the same end. It is here that the records of the two men differ.

These aspects of their constitutional philosophy are relevant, however, to the question of whether the court is narrowly divided on some issues that arise under the First, Fourth, Fifth, and Sixth Amendments. Indeed, as a rule, a course in recent years has been to stress the protections for individuals provided in those amendments, a course that President Nixon has pointedly said he hopes to preserve by judging these two men, then, the Senate has to decide how far their confirmation would move the court toward or away from Nixon's goal—and whether it wants to let him move the court that far.

Two of the three striking features which run through the writings and speeches of Mr. Rehnquist over the last 16 years. These are: (1) his lack of unqualified approval of the Bill of Rights, especially as late as 1966; (2) a cavalier attitude toward interpretations of the Constitution that differ from his own; and (3) the underlying philosophy about the role of government that runs through so much of what he has had to say on these subjects.

Of the three, Mr. Rehnquist's attitude toward civil rights is the least troubling. He did not then, and he does not now, believe that civil rights should be made equal to the Constitution as late as 1966 and he now explains his opposition on the ground that he did not understand the "strong moral imperative" that's have for the "recognition" of their rights. We can't say he is the danger here, but we can't accept his explanation.

The second area of the court's responsibility to the Senate is the way it has handled -- that is the way it has handled the areas in which it should have shown some responsibility to the Senate is the way it has handled the areas in which it should have shown some responsibility to the Senate.

The third area is the way it has handled the areas in which it should have shown some responsibility to the Senate is the way it has handled the areas in which it should have shown some responsibility to the Senate.

For against all the pragmatic hopes and speculations set forth above that might argu-ble for his confirmation, there is another set of possibilities, no more certain but much more dire. Which is to say, a vote for Mr. Rehnquist could be a vote to take a considerable risk with the future of civil liberties in this country. It is not as if Mr. Rehnquist would become the first or the second or the third Justice known to hold or take if his nominee is rejected seems to us an adequate basis on which to determine the way a Senate votes on this nomination. This would be especially true of a Senate which the reservations and apprehen-
sions of those who care about the result of such a vote.

The lawer-client privilege makes great good sense where there is a private citizen and any breach of confidentiality by his lawyer would jeopardize the legal rights of the client in pending proceedings. But to invoke the privilege where the client is the attorney general of the United States and the lawyer is an assistant attorney general, where both have been engaged in the formulation of public policies crucially af-fecting individual rights, and where the lawyer is a nominee for a seat on the Supreme Court, is just untenable.

AN ADDED IRRONY

It is an added irony that an attorney general who has called for the appointment of a more sensitive and personal secretary of ordinary citizens should plead that his own official privacy transcends the rights of his fellow citizens to public access to nominations. It is true that the constitutional protection of the privacy of a Supreme Court nominee is important, but the principal issue at stake here, have in our opinion good and sufficient reason to vote against the confirmation of Mr. Rehnquist.

[From the Boston Globe, Nov. 13, 1971]
engage in some slight breaches of confidentiality—where it suited his purposes to do so.

For example, he told Sen. Edward M. Kennedy that he had felt there was "a misinterpretation and unwarranted use of force" by National Guardsmen in the Kent State shootings, but that it was not in his professional interest to put this to the attorney general because "he never asked me" and other agencies were at work on it.

Again, he testified that he had argued successfully within the Justice Department for abandoning the novel claim that the government, through its "powers," could use interstate Commerce Clause powers to dominate public schools. But these remarks were scarcely reassuring in light of his long and therefore unmitigated public opposition to civil rights.

Mr. Rehnquist has denied in an affidavit that he was ever a member of the John Birch Society and even that he advocated the group's ideas. He was, in fact, a member of the organization, that fact, standing alone, would not be grounds for condemning him. The right to associate is a fundamental one. People join organizations for myriad reasons, and similarly leave them. The critical issue is not what their group's "philosophy" may bring with him to the bench, especially the bench of the Supreme Court, which is the ultimate arbiter of cont"oversies over constitutional interpretation.

Mr. Rehnquist has himself declared: "It is high time that those critical of the (Supreme) Court recognize with the late Charles Evans Hughes that for 175 years the Constitution has been what the judges say it is. If greatly contended interpretations of different interpretations of the Constitution, a judge, and the rules of the law, may shape the outcome of cases as it must."

Consider this appraisal of Mr. Rehnquist's: political stance by John P. Franklin, constitutional and Supreme Court expert who knew Mr. Rehnquist in Phoenix for many years.

THE GOLDWATER VIEW

"He will represent the Goldwater view on the Supreme Court. Bill has been an intellectual force for reaction. I do not believe he will be the man he has been in the past. I'm sure of his point of view that it will be more than a pause. . . . There will be a movement in terms of race relations, I would expect him to be retrograde. He honestly doesn't believe in civil rights and will oppose them. On criminal matters, he will be a supporter of the death penalty and methods in the extreme. On free speech, Bill will be restrictive. On loyalty programs, McCarthyism, he'll be 100 percent supportive."

With a good lawyer's ingrained respect for professional excellence, Mr. Frank states that despite this appraisal of Mr. Rehnquist his nomination is "inherently weak" to the Senate.

As the record now stands we cannot agree, as the Senate majority suggests, that the conservative Republican has nothing to do with it. What does matter greatly is the judicial philosophy of Mr. Rehnquist, on which more must be heard.

For if what Mr. Frank says is true, and goes uncontested, and Mr. Rehnquist's nomination is confirmed, then a society already greatly polarized will become more polarized. It is vital that our highest court of justice be able to carry out indenitely its constitutional mission of protecting the liberties of the people against the assaults of the Federal and local governments. That is why the judiciary as a whole is so important and why it should be explored further.

[From the Boston Globe, Dec. 6, 1971]

Mr. BROOKE on Mr. REHNQUIST

Sen. Edward M. Kennedy (D-Mass.), to Atty. Gen. William H. Rehnquist, would not oppose Mr. Rehnquist because he is a conservative. A Southern or a strict constructionist would, he insisted, be out of order. Indeed, Mr. Rehnquist's nomination, after long study, that Mr. Rehnquist is lacking in commitment to an integrationist goal. For example, the some of the senator's colleagues are inclined to excuse this as unimportant.

Mr. Rehnquist, he said, is the nominee's opposition to a public accommodation ordinance in Phoenix, Ariz., in 1964, his opposition to a Phoenix school desegregation plan in 1967, and his statement at that time that "we are no more committed to an integrated society than we are to a segregated society." Mr. Rehnquist "recanted" on this, but even a view is not only unsupportable, it is a denial of the meaning of the Constitution which the nominee would be pledged to support, and it is hazardous at this time in particular when the lack of commitment to the Brotherhood of all men threatens to tear the nation apart.

Mr. Brooke, himself a lawyer and himself Supreme Court material, is more kind to Mr. Rehnquist than he perhaps has any reason to be. "He was the type of man who was to be confirmed, Mr. Brooke hopes that he might serve in the tradition of the late Justice Blackmun. . . ." Mr. Brooke also said that the Ku Klux Klan, and that he might demonstrate on the Court, as Mr. Black did, "a commitment to the American constitutional system."

Mr. Brooke's writings, actions and recent testifies particularly as a proponent of unchallenged state power. He has given a corresponding insensitivity to the need for protecting individual liberty and equality from the potential repression of government.

His attitudes toward government surveillance, law enforcement, and due process, personal property, the right of access to public accommodations, the free speech interests of federal employees and witless, and the rights of political candidates, and rights to legislative, and the right to keep silent about political activities demonstrate persistent hostility to constitutional protections of privacy, and the right of free communication. Where he modified his position in recent Senate testimony, he did so in a manner that left unchanged the basic views and reasoning underlying his earlier stand.

In short, Rehnquist is not conservative but rather a radicalist, * * * No ideological radical—either from the left or right—belongs on the Supreme Court, for none can possess the open-mindedness so essential to the fair rendering of justice. Rehnquist demonstrates that despite his intellectual and legal gifts, he has a closed mind and therefore is an apologist for an extreme ideology and a political reasonableness of his record shows that he argues back from desired conclusions to their justifications.

Such a philosophy transcends specific political and social views. That is a key point, because we don't think it is reasonable to vote a nominee up or down solely on the basis of differing views on current affairs. It is essential to foster vigorous debate, remembering that judges change their opinions sometimes drastically. But most importantly, there is no one correct way of approaching the nominee. Unless we can agree that we would not expect to agree with all the views of any nominees to the Supreme Court and we do not in the case of nominee Powell.

It is necessary, however, to be philosoph-
cally attuned to the basic concepts of American life built into the Bill of Rights. On that score we find Rehnquist grievously wrong. There is a lot more at stake than the immediate question of whether the Senate vote no on his nomination to the Supreme Court.

The Senate has ample precedent for rejecting nominees it does not think, for reasons stretching all the way back to the denial of President Washington's selection for chief justice, John Rutledge. I also recall a recent resignation of Judge John J. Parker was similarly turned back. During the Senate debate then, that great Nebraska senator, George W. Norris, made the most eloquent of the issue of personal qualifications, he said is as relevant today as in his time. "When we are passing on a judge, we not only ought to know whether he is a good lawyer, not only whether he is honest and I admit that this nominee possesses both of these qualifications—but we ought to know how he approaches the great questions of human liberties."

From the St. Petersburg Times, Nov. 7, 1971

POWELL, YES; REHNQUIST, No

After careful review of President Nixon's choices to fill Supreme Court vacancies left by John Harlan Kennedy's late resignation, we were not prepared to support Lewis Powell, but must oppose confirmation of William Rehnquist. Powell, 64, a Richmond, Va., lawyer, backed by the Virginia Bar Association, is the third Southern conservative nominated by Mr. Nixon. A racial moderate, Powell once had been described as making up the court's most liberal direction. We had previously opposed his nomination on the ground that he refused to support civil rights laws and thus could not provide the needed balance to the court.

In 1964, Rehnquist opposed a Phoenix City ordinance prohibiting racial discrimination in public accommodations, despite feelings that the ordinance was necessary to save the city from federal suit. He had earlier been criticized for his advocacy of segregation in public education. In 1967, he defended the separate but equal concept struck down 13 years earlier by the Supreme Court.

More recently:

In September 1970, he said citizens lose at least part of their right to free speech when they take government jobs, and for good measure, he cited public employment of Negroes who differed publicly with President Nixon could lose their jobs.

In October 1970, he told Congress that he believed the precise moment a candidate loses the right to free speech. He had added the Administration's position that it had the inherent power to tap telephones without court orders in domestic security cases.

In addition, Rehnquist has endorsed the use of illegally obtained evidence, backed the President's abortive effort to manipulate the Subversive Control Board controlled by Congress, supported the massive denial of freedom of expression by the court in Washington, and maintained that presidents have the right to fill Supreme Court vacancies without congressional interference, in utter disregard of constitutional requirements for Senate confirmation.

Although Rehnquist has partially recanted some of his earlier views, his record is one of past support for narrowed personal rights and advocacy of enlarged government power. It forms a clear picture outside the constitution and a danger to our constitutional democracy. The Senate has a duty to vote to deny Rehnquist confirmation.

The responsibility for nominating another unsuitable candidate clearly falls upon President Nixon, whose overall record in this respect is abominable.

But now, of course, has been transferred to the U.S. Senate. It has the constitutional duty and the resources to investigate every nominee fully and let the people be delegated—either by the president or the Senate.

From the St. Louis Post-Dispatch, Nov. 29-30, 1971

NOT WILLIAM REHNQUIST

The Senate Judiciary Committee has voted unanimously to approve the nomination of Lewis F. Powell for the Supreme Court and accepted the nomination of William H. Rehnquist by 12 to 4. If the two nominees had not been paired, Mr. Rehnquist might have faced a more troublesome Committee floor, his nomination would face defeat.

Long before his nomination Mr. Powell had proved himself both a highly respected attorney and a man of integrity. He had served on the U.S. Court of Appeals for the District of Arizona, which Mr. Rehnquist flatly denies. That is secondary. If Mr. Rehnquist's supporters were willing to make comparison with Mr. Powell's qualifications, they could not fail to note that the late Justice Hugo Black once belonged to the Ku Klux Klan. But Justice Black was appointed to the Supreme Court by Mr. Powell's party which he could have judged before he was placed on the court. Mr. Powell's record, which runs the other way, does not indicate such capacity for intellectual growth.

By Mr. Rehnquist's record we refer, in short, to his views. He has opposed civil rights legislation, accommodations ordinance and school busing. As an assistant attorney general he has championed segregation, but Attorney General Mitchell's repressive ideas: arbitrary wiretapping in some cases, pre-trial detention, without any trial, the "no-knock" police raid and so on. Indeed, he once charged that Communists "scored significant victories" from decisions of the court on the merits.

That much of the record suggests misapprehension and, indeed, mistrust of the court and some of its major decisions, along with constitutional guarantees. But there is more.

Mr. Rehnquist also defended President Nixon's decision to invade neutral Cambodia as "precisely the sort of tactical decision traditionally confined to the Commander in Chief." No president, however, has asserted the right of a president to ignore a court's order. Though Mr. Nixon has said no court nominee should "twist or bend" the Constitution to promote political views, that through the courts as he has here.

There are, of course, lawyers and laymen who will argue that a court candidate's views should be of little moment; that what counts is the candidate's character, equality and honesty or, to put it crassly, if a nominee is a member of the bar in good standing and is not a swindler, then he is qualitatively capable. Rehnquist himself is not of this opinion; he has argued that a nominee's views are pertinent.

In our opinion the degree of the president's latitude in filling appointments to the court, and the degree of the Senate's role in providing advice and consent, are illustrated well enough in the cases of Mr. Powell and Mr. Rehnquist. Mr. Rehnquist's consistently-held views about the court, the Constitution and presidential powers are more than enough to draw the line against him.

That is because Mr. Rehnquist's confirmation would be tantamount to a dedicated advocate of unilateral executive power and privilege, of authoritarian policies the Constitution was written precisely to prevent. The Senate is at a crucial stage, the shaping of the court. The issue involves the long tradition of divided and balanced powers of government.

Congress has already seen its war-making authority eroded by the executive—a process which will continue if Congress is not only opening to the Senate is only beginning to challenge that extension of presidential power. It should not acquiesce in executive subjugation of the Supreme Court.

From the Christian Science Monitor, Nov. 20, 1971

THE REHNQUIST QUESTION

There is no serious doubt about the right of the President of the United States to name persons of his preference to the Supreme Court—provided their professional qualifications are suitable. But it may come clear that the individual must be competent in the law, judicious in temperament, and capable of giving free, independent judgment not set by the Senate. Beyond that—a liberal president is entitled to name a conservative judge.

The Senate hearings have established that both of Mr. Nixon's latest nominations for the court are men of personal character and clear temperament, and competence in the law. In those three categories both men are entirely qualified. And so far as Lewis Powell is concerned this is the matter. He will have the approval of the Senate.

There is one difference in the Rehnquist case. His record on civil-rights issues indicates that he is, or has been, sufficiently conserva
tive in civil liberty matters to fit what is broadly known as the "Southern strategy."

His nomination to the court expresses Mr. Nixon's own attitude toward racial matters and is in line with the views similar to his own on the court one way of providing his sincerity.

It is perfectly proper for a president to consider a matter of this kind in his appointment. It is a political point of view. Presidents Roosevelt, Johnson, and Kennedy all looked around for persons with political points of view similar to their own when they wanted candidates for the Supreme Court.

But it is equally proper for senators of a liberal bent to oppose a president when the issue is political in this manner. It is just as proper for Senator Bayh to resist a conservative nomination as it is for President Nixon to promote one.

In other words the issue in respect to Mr. Rehnquist is the same as the number of senators of a liberal bent to oppose a president when the issue is political in this manner. It is just as proper for Senator Bayh to resist a conservative nomination as it is for President Nixon to promote one.

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AFL-CIO CONVENTION, NOVEMBER 19, 1971—

REHNQUIST RESOLUTION

Political extremism of the right and of the left, the result of our political system and constitutional structure of the United States. It is for that reason that this Convention views the nomination of William H. Rehnquist to the Supreme Court as a dangerous departure from the philosophy of a broadly representative, constitutionally sound Court.

Mr. Rehnquist believes in strict constructionism of the Constitution. However, his record, his writings, his self-expressed philosophy clearly show he is a strict constructionist of the Constitution. Will he respect prior to the adoption of the Bill of Rights.

Mr. Rehnquist purposely avoided the efforts of members of the Senate to question the existence of individual liberties. He believes in strict constructionism of the Constitution. Will he respect prior to the adoption of the Bill of Rights.

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which we are aware, show him to be a thor-
oughgoing authoritarian, a nearly absolute
believer in executive supremacy over the le-
gislature, and a slack reconstructionist of
the constitution.
Rehnquist's authoritarian bent is not tem-
pered by any sense of judicial restraint. He
thinks much like the late Justice Felix Frankfurter and former Justice John Marshall Harlan, both isn't
distant judicial activist, who explicitly rejects
the doctrine of stare decisis. Writing in the
Harvard Law Review in 1958, Rehnquist said
that those critical of the present Court recognize with
the late Charles Hughes that for 175 years the Con-
stitution and its judiciary stood in the way of:
If greater judicial self-restraint is desired, or
a different interpretation of the phrases "due
process of law" or "equal protection of
the laws," then men sympathetic to such desires
must sit upon the high court.
In 1959, Rehnquist, then in private practice in Phoenix,
made clear the "different interpretation" of the Constitution
he had in mind: "a judi-
cial philosophy which I consistently applied would reach a conserva-
tive result."
The kind of "conservative" result which Rehnquist
desires, is diametrically opposed to the American conservative tradition
of vigorously opposing the extension of govern-
ment power.
To justify the Justice Department's policy of encour-
going indiscriminate mass arrests of Mayday demonstrators and bystanders (who were then
filing suits against them for injuries
caused by police who had often never seen
the accused or the crime), and of having those suits
dismissed as being altogether un-
related to the Mayday movement, Rehn-
quist invented the fact the doctrine of
"qualified immunity in suits of jailers.
Now even if one believes the Capitol was
in direct jeopardy on Mayday, the Rehnquist
rationale is legally slovenly. Rehnquist would have
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sary by police who had often never seen
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in direct jeopardy on Mayday, the Rehnquist
rational...
the time, the strong concern that minorities have for the recognition of the rights of Negroes. Since the incident in the wake of the Montgomery bus boycott, the Freedom Rides, the protests and mass jailings in Birmingham, the March on Washington, and the, now, con- strained readiness of thousands of Negroes to die for equality, one wonders what may well occur when Mr. Rehnquist is aware of a "strong concern."

PEOPLE AND SCHOOLS

In 1967, when Phoenix School Superintendent Seymour sought to desegregate the city's schools, Mr. Rehnquist was one of the many concerned with achieving an integrated society. Mr. Rehnquist wrote again in 1967, "We are no more dedicated to an 'integrated' society than we are to a 'segregated' one."

Those seeking to end segregated schools, he thought, "assert a claim for special privileges for this minority, the members of which, in many cases, may not even want the privileges which the social theorists urge be extended to society." It is hard not to hear an echo here of the old argument that Negroes in the South would have been content with their lot were it not for "outside agitators." Thir- teen years later, Mr. Rehnquist declared racially segregated schools to be unconstitutional Mr. Rehnquist was still arguing the right to keep school children separate by race.

PEOPLE AND THE POLLS

Mr. Rehnquist's views on voting rights were left in murky obscurity by the Senate Judiciary Committee's refusal to provide a committee report. In the Senate Appropriations Committee, he declared racially segregated schools to be unconstitutional Mr. Rehnquist was still arguing the right to keep school children separate by race.

Four citizens of Arizona have presented affidavits swearing that Rehnquist was a Republican challenger at the polls in 1964 and was "harassing unnecessarily several people at the polls... attempting to make them recite portions of the Constitution and refused to let them vote until they were able to comply with his request." They further asserted that when one of them, a cripple, recited to him, Mr. Rehnquist engaged in a physical struggle. Although Mr. Rehnquist made a general denial of this charge, he was still at the polls in 1964. His Senate supporters refused to allow him to be recalled and questioned about this matter. Further, in the United States Supreme Court, citizen of Arizona presented an affidavit that Mr. Rehnquist "planned and executed the strategy designed to reduce the number of poor black and poor Mexican American voters" and "trained young white lawyers and others to invade each black or predominantly black precinct in Phoenix on election day.

While Mr. Rehnquist again made a general denial in writing of this allegation, he admitted his chairmanship of the responsible committee which actually carried out these unconstitutional practices. Again, there was a refusal to recall Mr. Rehnquist and clarify that the committee has never run.

THE CARSWELL NOMINATION

When the Washington Post in 1970 opposed the nomination of G. Harrold Carswell to the Supreme Court, on the grounds of his rejection of civil rights laws, a report that included a speech in favor of white supremacy, serving as an incitement to white panic, as a reason to keep it racially segregated, and harsh treatment of civil rights lawyers and plaintiffs who came into his court, as well as a decision after a trial in which the Supreme Court said, "are we any more to be trusted to Carswell's defense."

"Your editorial clearly implies," he wrote, "the result will be a further expansion of those hard earned rights which is so often said to be anti-Negro, anti-civil rights animus, rather than because of a judicial philosophy which could have been applied to reach a conservative result."

Judge Carswell's judicial decisions in civil rights cases, he insisted, "are traceable to an overall personal philosophy of civil rights."

In the case of anti-civil rights decisions is, perhaps, a portent of things to come from Mr. Rehnquist.

The nominee's expressed views on public accommodations laws and school desegregation, his relationship to incidents of voter harassment in Arizona, his identification with Arizona's "most honorable" Arizonan State Senator Clove Campbell's assertion that in 1964 Mr. Rehnquist told him he "was open to the civil rights movement," and certainly Mr. Rehnquist's denial should be tested before the Senate Judiciary Committee with Senator Campbell present.

THE REHNQUIST RECORD ON CIVIL LIBERTIES

If it is difficult to see any deep sense of obligation to all the American people in his record on civil rights, it is just as hard to discern any obligation to a strict construction of the Constitution and the Bill of Rights.

In his recent opinions, Mr. Rehnquist observed the Supreme Court at first hand as a law clerk to Justice Robert Jackson in 1962 and 1963. He came away from that experience with greatest respect for the Warren Court and its interpretation of constitutional issues.

In an article written in 1957 for the U.S. News and World Report, he condemned the liberal point of view of the Court, which he said was characterized by "extreme solicitude for the claims of Communists and other criminal defendants."

He expounded that theme in greater detail in an article he wrote for the Barron's Journal. His reasoning is that the rulings Mr. Rehnquist saw as "significant victories" for Communists, "Those were landmark civil liberties decisions involving a loyalty-security firing in the Department, the rights of witnesses before Congressional and state legislative committees and a free-speech issue."

"Two of them were written by Justice Harlan, a distinguished conservative. Was Mr. Harlan 'soft on Communism'?" (It is ironic to note that Mr. Rehnquist is being nominated to fill Mr. Harlan's seat.)

Here is a further sampling of Mr. Rehnquist's views on civil liberties issues:

ON GOVERNMENT SURVEILLANCE

Asked by Senator Sam Ervin (D., N.C.), "Does a serious constitutional question arise when a person may be placed under surveillance for exercising their First Amendment rights to speak and assemble?" Mr. Rehnquist said, "No."

ON FREEDOM OF SPEECH

Mr. Rehnquist does not see it as a right of federal workers. "The government as an employer has a legitimate and constitutionally protected right to require employees to shun political criticism on the part of its employees even though that same government as sovereign, has no similar constitutional claim to limit dissent on the part of its citizens."

ON DEMONSTRATORS

In a letter to the Washington Post (Feb. 14, 1970), Mr. Rehnquist declared "further expansion of the constitutional rights of criminal defendants, or photographers and demonstration, lumping all three together without discrimination."

In a speech to the New York Kiwanis Club he stated, "In the area of public law... disobedience cannot be tolerated, we must use force if necessary to maintain law, we must not shirk from its employment."

ON MAY DAY ARRESTS

In a speech to a state university in North Carolina on May Day, Mr. Rehnquist defended the mass arrests of thousands of innocent persons as the exercise of a "moral duty to maintain law, a most dangerous and repressive doctrine in the hands of the police."

Mr. Rehnquist denied using the phrase in connection with the courts, but if he were not applying the term as he says, why did he use it in a speech about May Day and why did he let the press uniformly interpret it that way until after he was nominated to the Supreme Court?

ON RIGHTS OF ACCUSED

When Mr. Rehnquist reads the Constitution it is invariably through the narrow lens of the accused. He favors pre-trial detention, saying in defense of the D.C. Crime Law, that it was a "necessary device for the protection of persons who pose a serious threat to the public safety..." would like to modify the "exclusionary rule" which "prevents the use against a criminal defendant of evidence which is found to have been obtained under circumstances that amount to a violation of the Fourth Amendment."

He favors restricting the application of habeas corpus after trial and, referring to a decision by Justice Harlan earlier this year, sees arresting a man without a proper warrant and without probable cause as more than a technical violation of the Fourth Amendment.

All of this suggests a readiness on Mr. Rehnquist's part to tailor the Constitution to his views that hardly fit the usual notion of a strict constructionist.

III. GOVERNMENT VERSUS THE RIGHTS OF THE PEOPLE

In Mr. Rehnquist's view, big government knows best. On several occasions he has defended extreme use of governmental powers against citizens.

1. WIRETAPPING

He has defended governmental wiretapping under court order in criminal cases and without court order in national security cases. He has even entertained by wiretapping too high a price to pay for a successful method of attacking this and similar types of crime? I think not, given the safeguards which attend its use in the United States. But the only safeguard he mentions is the discretion of the government.

2. INVASION OF CAMBODIA

Mr. Rehnquist has defended Mr. Nixon's invasion of Cambodia last summer as a proper use of the President's authority, as Commander-in-Chief. He maintained that under the Constitution the President can order the invasion of another country—even a moving one—if he deems it necessary to protect American troops.

This plea for unlimited Presidential power is as dangerous as it is unprecedented. When he wrote the opinion overturning President Truman's seizure of the steel mills during the Korean War, Mr. Justice Jackson, whom Mr. Rehnquist once served as a law clerk, argued that the constitutional power of the Commander-in-Chief clause of the Constitution, the President has power to do "anything, anywhere that can be done with an army."

Yet, Mr. Rehnquist denied in effect advanced that notion in his statement supporting the Cambodian invasion.
3. Subversive Activities Control Board

The Board was almost defunct until Mr. Rehnquist took the lead in enlarging its powers, on the assumption that the government, as an agency created by Congress without the express consent of Congress, could not deprive us of any existing or offending organization of citizens.

- A Lack of Candor

On several occasions during the Senate committee session in which he testified about his careers, Mr. Rehnquist was less than candid in his responses.

1. Pressed to explain his views on certain civil liberties cases, Mr. Rehnquist declined to say whether it would violate the attorney-client relationship with Attorney General John Mitchell and other members of the University of California Law Faculty who attacked this position in a letter to Senator James Eastland (D., Miss.), Chairman of the Senate Judiciary Committee. They say, "No nominee may justify withholding from the Committee which must judge, in light of his qualifications and disposition for handling this political power in legal form a frank expression of his political views or policy. The attorney-client privilege is not the attorney's. It is for the protection of, and belongs to, the client. It is peculiarly appropriate for a judge to invoke the privilege with respect to advice he has given to government servants (whether President, Attorney General, or Deputy Marshal). His client is the people, and not the President. There is no such privilege, which any nomi..."

2. Asked during the nomination hearings to explain why he had been a critic of civil rights, Mr. Rehnquist could think of only two things—his relationship with his colleagues.

- The National Legal Aid and Defender Association, by a vote of its 46th plenary assembly, held on November 17, 1971, unanimously rejected the nomination of Mr. Rehnquist to the United States Supreme Court. The assembly passed the following resolution:

   "Whereas, William Rehnquist has not exhibited an understanding of and dedication to the Bill of Rights of the United States Constitution; and
   "That the staff of the association be directed to send telegrams as quickly as possible to all members of the Senate Judiciary Committee notifying that committee of the NALADA's position."

- NALADA urges the Senate judiciary committee to oppose Mr. Rehnquist's nomination because it sees him as a "nominating body on numerous issues of vital concern to all of our citizens, poor and non-poor alike. Our clients, the red and the blue, the black and brown and they are the poor of this nation. As their advocates, we must insist upon respect for the Bill of Rights, a Bill of Rights which they are involved in both civil and criminal."

- The nominees statements and views on pretrial detention, due process for defendants in criminal matters, habeas corpus, public accommodations, equal education opportunities, voting rights, first amendment freedoms and his political philosophy are indicative of a fundamental antagonism toward individual freedoms, civil rights and civil liberties.

- NALADA, as the spokesman for thousands of legal assistance lawyers throughout the country, public defenders and poverty law attorneys, asks the Senate to vote no on William Rehnquist's nomination.

Frank Jones, Executive Director
National Legal Aid and Defender Assn.

HON. JAMES EASTLAND
U.S. Senate, Washington, D.C.

Dear Senator Eastland:

Enclosed for your consideration is a letter expressing the views of the Washington Council of Lawyers with respect to the Senate's consideration of the nomination of William H. Rehnquist as an Associate Justice of the Supreme Court of the United States.

Sincerely yours,

RUSELL B. STEVENSON,
Interim Chairman.

Washington Council of Lawyers,

Dear Mr. Chairman: This letter is submitted on behalf of the Washington Council of Lawyers and concerns President Nixon's nomination of William H. Rehnquist to the Supreme Court of the United States.

The Washington Council of Lawyers is a growing organization which consists of approximately three hundred and fifty government and private attorneys in the Nation's Capital who are actively involved in and concerned with the practice of law in Washington. It is the Council's belief that this letter will provide important input to the Senate's hearings on the nomination of Mr. Rehnquist.

After a careful review of Mr. Rehnquist's record, both as a practicing attorney and as a member of the Senate Judiciary Committee, the Council is convinced that the nomination of Mr. Rehnquist to the Supreme Court of the United States is in the public interest. The Council does not make a practice to oppose the appointment of Mr. Rehnquist to any judicial post. However, the Council opposes Mr. Rehnquist because of his apparent deep-seated and consistent insensitivity to the individual constitutional safeguards as embodied in the Bill of Rights and the Fourteenth Amendment. As will be demonstrated in this letter, Mr. Rehnquist's record is, in fact, the Council's position would undermine the individual's constitutional rights in most prac...
vide an answer to virtually all of the legitimate complaints against excesses of information gathering. 2 Senate Judiciary Committee, 92d Cong., 2d Sess. (March 9, 1971).

CRIMINAL LAW

1. In 1971, Mr. Rehnquist expressed the following views before the Subcommittee on Constitutional Rights, Senate Judiciary Committee, 92d Cong., 2d Sess.

(a) He supported abandonment of the exclusionary rule and the constitutionally-gathered evidence. Id. at 7.

(b) He supported abandonment of the rule requiring uniformity of jury verdicts in the Federal courts. Id. at 10.

(c) He supported restrictions on the availability of habeas corpus in cases where a criminal conviction had been obtained on an allegedly unconstitutional basis. Id. at 12.

(d) He deplored appellate reversals of criminal convictions "merely" on the basis that a warrant was obtained in violation of the Bill of Rights. Id. at 19, 23.

2. In his course of his remarks at the American Bar Association Conference in London, Mr. Rehnquist opposed strict construction of the "probable cause" requirement for commencement of governmental investigations, saying "Quite the contrary, probable cause—for an arrest or seizure—is a grave danger that hopefully will be found at the conclusion of an investigation and ought not to be required as a judicial fact for commencement." Id. at 12.

He went on to express the view that protection from governmental abuses should be found in the electoral process rather than in the Bill of Rights.

PRESIDENTIAL WAR-MAKING POWERS

In 1970, before the Subcommittee on National Security Policy and Scientific Development of the Committee on Foreign Relations, 91st Cong., 2d Sess. (July 1, 1971), Mr. Rehnquist took the following positions:

(a) He opposed "hard and fast" rules to limit Presidential war-making powers. Id. at 5.

(b) He relied upon past exertions of independent Presidential war-making power to justify expansion of that power beyond that intended by the Constitution. Id. at 7-8.

With respect to the War Powers Resolution Act of 1973, he regarded the Constitution as "flexible" enough to allow Presidential initiative even in the face of contrary Constitutional indications. Id. at 13.

CHICAGO COUNCIL OF LAWYERS

Hon. Burke Bahn, Senate Office Building, Washington, D.C.

Dear Senator Bahn: Herewith enclosed is a copy of a telegram which the Chicago Council of Lawyers sent today to Senators Percy and Stevenson expressing the Council's opposition to the nomination of William Rehnquist to the United States Supreme Court.

Very truly yours,

Robert W. Bennett.

OPPOSITION TO NOMINATION OF WILLIAM REHNQUIST

The Chicago Council of Lawyers opposes the nomination of William Rehnquist as Associate Justice of the United States Supreme Court.

His record to date does not reflect that dedication to constitutional liberties, to minority rights and to progressive social change this nation has the right to expect from members of its highest court.

It is with reluctance that we oppose a Supreme Court candidate on the basis of his expressed political and social views. As a matter of policy the Council believes that Supreme Court nominees should not be selected on the basis of political grounds provided that the nominee has shown a firm respect for the law and the constitution. We abandon that usual stance here because President Nixon has been lying under a cloud for at least three years, President Nixon has ignored the precedent of his predecessors of both parties who have treated the Senate in an effusive manner, and President Nixon has relentlessly pursued a particular point of view, ignoring qualifications except when he feels it will further his political ends. We are duty-bound to protest against a nomination which ignores the Senate's right to confirm or reject a Supreme Court nominee.

The Council respectfully directs the Committee's attention to the attached outline of the Chicago Council of Lawyers' position which substantially part, compel the Council to oppose his confirmation. All the information considered by the Council is contained in a public record which are available for inspection should the Senate wish to pursue further any point of inquiry raised herein.

Respectfully submitted,

WASHINGTON COUNCIL OF LAWYERS.

APPENDIX

1. In support of his views, the Council cites the following positions taken by Mr. Rehnquist:

CIVIL RIGHTS

1. In 1964, Mr. Rehnquist opposed the adoption of the National Conference of Provincial and State Conference of Public accommodations ordinance, saying: "It is as barren of accomplishment in what it gives to the Negro as in what it takes from the propietor." Letter to the Editor, The Arizona Republic, at p. 6 (June 21, 1964).

2. In 1967, Mr. Rehnquist opposed an integration plan for Phoenix high schools, saying: "... we are no more dedicated to an integrated society, than we are to a 'separate society.'" Arizona Republic, at p. 7, col. 1 (Sept. 9, 1967).

GOVERNMENT SURVEILLANCE OF PRIVATE THOUGHTS

In 1971, Mr. Rehnquist recommended de-emphasis of Constitutional safeguards against governmental electronic snooping, saying: "I think it quite likely that self-discipline on the part of the Executive Branch will pro..."

The constitutional language is sufficiently broad to permit a latitude of judicial interpretation, and to provide adequate guidelines and needs of our society at any given time." Arizona Judicial Conference, Tempe, Arizona (Dec. 4, 1970).

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ly states that he did not realize that minority Americans feel strongly about having equal access to public accommodations, is not qualified to represent these Americans on our highest court.

William H. Hubbard stated that in the judgement of his board, "William Rehnquist fails to meet one of the most essential qualifications of a Supreme Court justice. This qualification," said Hubbard is that "a Supreme Court justice should hold in highest priority, the highest ideals of all Americans. Any or all of them may be affected for decades by the decisions handed down from the Supreme Court of the American people."

"Mr. Hubbard's letter," said Rehnquist, "utterly fails to meet this most essential qualification."

The National Catholic Conference for Interracial Justice is a lay body formed a decade ago to work nationally for racial and social justice through local Catholic Religious Councils and diocesan Human Relations organizations as well as through national programs operated out of the Chicago headquarters.

STATEMENT ON THE NOMINATION OF WILLIAM H. REHNQUIST TO THE SUPREME COURT OF THE UNITED STATES

(Prepared by Walter T. Hubbard, Sr., Chairman for the Board of Directors of the National Catholic Conference for Interracial Justice.)

The Board of Directors of the National Catholic Conference for Interracial Justice hereby expresses its grave concern over possible confirmation of William H. Rehnquist to the Supreme Court of the United States. The Board believes that three qualifications are essential for a nominee to represent the people of the United States at the summit of justice and judicial power in our nation. These qualifications are as follows:

1. The nominee should not be only technically competent both as to legal background and judicial temperament, but also should have demonstrated an excellence and a brilliance which would qualify her or him to serve on the nation's highest court.

2. The nominee should have a balanced judicial philosophy which would not innately bias him or her in favor of any particular interest group or segment in American society.

3. The nominee should hold in highest priority the highest ideals of all Americans. Any or all of them may be affected for decades by the decisions of the Supreme Court of the American people. The National Catholic Conference for Interracial Justice will now speak to the first qualifications listed above. However, we do seriously question his ability to meet the third qualification.

We believe strongly that a man who openly states that he did not realize that minority Americans feel strongly about having equal access to public accommodations, is not qualified to represent these Americans on our highest court.

To insure the legal rights of minority Americans, the Supreme Court must recognize and protect the rights of all Americans; their hopes, their wants, their needs, their capacity to suffer and their desire for equal justice under the law. It is our conviction that Mr. Rehnquist has not demonstrated a capacity of dealing with these human issues.

In accordance with the recent statements of the American Catholic bishops and the recent recommendations of the Synod of Roman Catholic bishops on World Justice and Peace, the Board of Directors of the National Catholic Conference for Interracial Justice calls on all Americans, particularly Roman Catholics, to oppose vigorously the nomination of William H. Rehnquist to the Supreme Court.

Mr. FANNIN, Mr. President, on behalf of the distinguished senior Senator from Utah [Mr. Mondale] who is absent because of illness, I ask unanimous consent to have printed in the Record a statement by him on the qualifications of William Rehnquist to serve as Associate Justice of the Supreme Court of the United States.

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

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In considering the nomination of William Rehnquist to the Supreme Court the Senate is confronted by a very basic question. The question appears to be one of whether or not the Senate is called upon to judge the philosophy of a nominee before he can be confirmed. There is no question about the legal qualifications of William Rehnquist. His academic record at Stanford Law School provided an excellent preview of the high degree of scholarship which he has demonstrated in his practice of law. His being number one in his class also indicates by his admission by his teachers and his instructors. Associate Justice of the Supreme Court Jackson also recognized the abilities of Mr. Rehnquist when he appointed him to serve as a clerk in his Supreme Court office.

The experience served as excellent training and background for Mr. Rehnquist who later engaged in at the Department of Justice. When President Nixon called William Rehnquist "The President's Lawyer," he was clearly expressing to the American people his recognition of the talented legal work done by Mr. Rehnquist.

Obviously, the legal record compiled by the nominee reflects the high level of legal competence which should be expected of men who sit on the Supreme Court. So there can be no question about Mr. Rehnquist's legal qualifications.

What then appears to be the major source of controversy concerning this nomination? We are all well aware of the answer to that question. William Rehnquist has been attacked since his nomination for his legal qualifications, because they are impeccable, but rather because his philosophy differs from that which the majority of this body holds.

CIVIL RIGHTS leaders perused before the Senate Judiciary Committee attempting to discredit Mr. Rehnquist when he had not followed their particular philosophy. While I would never question the right of Congress to oppose any nomination, I think it is important to note that not once were they able to produce any evidence which would provide any justification for not confirming William Rehnquist. As far as I have been able to determine William Rehnquist has never knowingly done anything which violated Constitutional rights granted to individuals.

Mr. President, I believe it has been shown on numerous occasions that William Rehnquist is a lawyer qualified to serve on the Supreme Court. I do not believe it is the role of the Senate to pass on the judicial philosophy of nominees who meet the high standards of the Supreme Court. For this reason I believe that President Nixon has selected the best qualified man for the Supreme Court, and I urge that William Rehnquist's nomination be confirmed by the Senate without further delay.

Mr. HRUSKA, Mr. President, a desperate attempt was being played in this Chamber by some of my colleagues with regard to the nomination of William Rehnquist. One of our morning newspapers headlines this morning "Controversy Deepens Over Rehnquist Memo." This Senator respectfully submits that the "controversy" exists only in the minds of those who have no solid evidence to oppose confirmation of this nomination. A close examination of the facts—an endeavor too little present day legislative debate—will put this matter into perspective.

First, Mr. President, a national magazine published a story in its edition this week stating that Mr. Rehnquist in 1952 wrote a memo to Mr. Justice Jackson arguing that in the school desegregation cases the 1896 doctrine of "separate but equal" stated in Plessy against Ferguson should be upheld. No attempt was made by anyone to contact Mr. Rehnquist to verify these facts before the publication was made.

Second, as soon as the news magazine was distributed and continuing throughout Monday, Tuesday, and Wednesday morning numerous Members of this body and the press corps repeatedly asked Mr. Rehnquist to make a statement concerning the memo. On this floor the Senator for the Sunshine State exclaimed was "shocking" and that the nominee's memo "stated his personal opinion that Plessy against Ferguson was rightly decided and should be reaffirmed." He also added that "I would think that the Senate would be up in arms" over the memo.

Third, in response to these untrue and unfounded statements and in response to the repeated requests from the press, Mr. Rehnquist sent a letter to the chairman of the Committee on the Judiciary explaining the circumstances surrounding the writing of the memo. This letter and subsequent communications from his fellow law clerk, Donald Cronson, clearly prove that the memo was not a statement of Mr. Rehnquist's views on the school desegregation cases, but rather a working paper prepared for Mr. Justice Jackson at his request.

Let me quote from Rehnquist's letter, "He and here Rehnquist is referring to Justice Jackson, "expressed concern that the conference should have the benefit of the argument that there be a legal basis for the "separate but equal" doctrine, as well as those against its constitutionality."

Cronson has indicated that he and Rehnquist had previously prepared a memo to the Justice indicating the legal arguments in favor of overruling Plessy against Ferguson. I ask in this connection that an article in today's New York Times be printed at this point in the Record.

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

[From the New York Times, Dec. 10, 1971]

EX-COLLEAGUE SAYS REHNQUIST OPPOSED SEGREGATION

(Anony Lewis)

LONDON—A former colleague of William H. Rehnquist today said that in 1952 Mr. Rehnquist was opposed to the legal doctrine of racial segregation.

Donald Cronson, who in 1953 was a law clerk to Supreme Court Justice Robert H. Jackson, along with Mr. Rehnquist, spoke out in the controversy over Mr. Rehnquist's nomination to the Supreme Court.
The latest phase of that controversy has turned on a memorandum bearing Mr. Rehnquist's name. I have thus far not seen it; but it has been presented to the Senate by the Justice. It is said to be an argument made to the Supreme Court in 1988. That memorandum has been referred to in recent days. Mr. Rehnquist has stated that the claim is false. I want to make it clear that I have not seen the memorandum. It has not been placed in the hands of the Senate. That is a matter for the Advocate General, and I do not want to comment on it.

Mr. CRONSON, a lawyer for Mr. Rehnquist, has stated that the matter is simply a misstatement. I do not think that it is a misstatement. I think it is a false statement. I have not seen the memorandum, but I have been informed that it contains false statements. Mr. Rehnquist has asked me to provide him with a copy of his memorandum. I have not provided him with a copy. I have not seen the memorandum.

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The second assistant legislative clerk proceeded to call the roll.

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

The PRESIDENT pro tempore (Mr. TAITT). Without objection, it is so ordered.

Mr. JAVITS, Mr. President, with the permission of the distinguished minority leader, I ask unanimous consent, as in legislative session, that I may proceed for 3 minutes.

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

(Remarks of Mr. JAVITS when he introduced S. 2987 are printed in the morning business section of the Roll Call under Statements on Introduced Bills and Joint Resolutions.)

MESSAGE FROM THE HOUSE
A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announces that the House had agreed to the amendments of the Senate to the bill (H.R. 3749) for the relief of Richard C. Walker.

The message also announced that the House had agreed to the amendment of the Senate of the bill (H.R. 1341) to provide additional revenue for the District of Columbia, and for other purposes.

NOMINATION OF WILLIAM H. REHNQUIST
The Senate continued with the consideration of the nomination of William H. Rehnquist to be Associate Justice of the Supreme Court of the United States.

Mr. GOLDWATER. Mr. President, I can agree unanimously to reach a vote this afternoon at 5 on the nomination of William Rehnquist, the Senate has taken a significant and important step toward the nomination which I, for one, believe has been lacking in much of the debate by the opponents of Mr. Rehnquist up to now. In these recent developments of the debate, I think it is important for each of us to reflect on how the character and nature of the discussion we conduct might affect the personal feelings of the individual who is the subject of our examination. We should pause to consider whether the words and charges which we use on the Senate floor and with the press can unfairly damage the reputation of another honorable human being and cause cruel effects on the lives of the individual and his family and friends.

Mr. President, I have stated on the Senate floor on another occasion already during the current debate my opinion that a part of the discussion has exceeded the bounds of reasonable debate. We have witnessed the critics of Mr. Rehnquist vilifying at every turn, at the recent hearing by the Judiciary Committee, and distorting and taking out of context some past statements he has made on issues involving human rights. He has been a consistent and unswerving advocate of civil rights and liberties of all people, including the rights of racial minorities.
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because of a memorandum he prepared at the direction of the Justice for whom he was a law clerk. But anyone who knows anything at all about the law knows that a lawyer, and particularly a Justice of the Supreme Court, has to brief himself on both sides of whatever legal question it is he is then considering. I am told one of the first things that any law student is taught upon entering law school is how to be prepared on all sides of the legal issue he is confronting so that he will not be surprised or unprepared in any case he may later be handling, much less his own. It is an essential part of the job. Justice Jackson appears to have been trying to do; but, nevertheless, we find the opponents of Mr. Rehnquist automatically jumping to the conclusion that any paper he might have written for Justice Jackson as a law clerk represents his own personal views.

Then, too, we have seen the judgment made by a few Senators who tell us that even a brief prepared by Justice Jackson, as an employee of the executive branch necessarily represents his own individual position on each and every one of these matters. His critics seek to break through the protective shield of the attorney-client relationship and demand that he give his personal opinion of every argument he has made while testifying before Congress or in any position taken by the executive branch on legislative proposals before us or while he was preparing legal briefs offered in court on certain issues involving the Justice Department or the executive branch.

Even though Mr. Rehnquist has never said one way or the other whether any of his declarations as an employee of the Department of Justice represent his personal views, and indeed he stated it would be improper for him to do so, his testimony and writings as a Government official are deemed by his opponents to be his own beliefs in every instance. Over and over, they contend that any position accuses the nominee of holding a very expansive view of the powers of the President in the field of foreign relations and the making of war. And yet this same defense, the one who in the recent press conference of his party was in office, complained that the U.S. Constitution had become outdated and was imposing unnecessary restrictions on the President's power. I cannot understand why this Senator today might be sensitive to interpretations of the relative powers of the President and Congress in view of the apparent change of views on his own part, but I cannot understand how one can fairly decide to vote against a nominee because that nominee has, as an advocate for his employer, taken the same position that one is now seeking to condemn in the refusal to confirm a nominee.

Nor can I understand the refusal of Senators to accept or even to read the words of the nominee in the hearings record which rebut and completely answer the unfounded assertions being made up about him. One Senator stated that "a very critically important point" affecting his judgment on this nomination is the role in all briefs and proceedings of the May Day demonstrators this year and his defense of the Government's actions on the grounds of qualified martial law. Again, Mr. President, I am not surprised that some Senators might be disturbed at the newspaper reports discussing what the nominee is supposed to have said about the May Day incident. However, all these reports of Mr. Rehnquist's position have now been exposed as being utterly and completely untrue.

During the recent testimony of the nominee at the hearings before the Judiciary Committee, he unequivocally defended the position that it was proper to use the doctrine of qualified martial law on May Day. Mr. Rehnquist told the committee that "it is my view that on May Day and in this case the use of martial law would have been constitutional." Even so, one Senator has stood on the floor to say that his vote against the nominee will be based in significant part on the Rehnquist's defense of the Government's action on the doctrine of martial law.

Furthermore, Mr. Rehnquist has made it absolutely clear that he had no role at all in the controversy over May Day and it would have been wrong to use it. Even so, one Senator has stood on the floor to say that his vote against the nominee will be based in significant part on the Rehnquist's defense of the Government's action on the doctrine of martial law.

Mr. President, I ask that, whenever the Senate undertakes to examine and discuss the qualifications of a nominee for appointment to any official position, we do so with an eye to the possible of decency and respect for human sensitivities. We must always keep in front of us the knowledge that by unjustly condemning persons whose names and reputations might not only permanently injure the personal lives of those individuals without reason, but we might well discourage many honorable and intelligent and conscientious citizens from ever desiring to allow their names to be placed in consideration for Government service.

Mr. President, the manner of our conduct in this body relative to those persons whom we are considering can have a very large impact on the kind of men and women who this Nation will be able to obtain for positions of responsibility today and in the future, and also that we and the whole country should constantly keep this broad and important consideration in front of us, and act accordingly.

Mr. President, in closing, I merely want to say that it will be an extreme pleasure for me to vote for this man, not because he is a fellow Arizonan whom I have known all of my life, nor because I have been friends with him in my State, but also because I feel that, in the years lying ahead of this relatively young man, he will become one of the greatest jurists of all time. I have extreme confidence in him, I know him to be dedicated to the place where he lives, to be a churchman, a member of my church, who has served the church well both at home and here in Washington, and also because I know him so well for my senior colleague, Senator FANNIN, to speak when I hear Senator FANNIN and I were about the first ones to recommend this gentleman for the job.

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from a letter written to the Senator from Arizona from a Judge Hardy of Arizona. The Senator from Arizona said he may have voted for Judge Hardy and the judge said that there was voting

The question is whether Mr. Rehnquist participated in it. The Senator from Indiana does not know about that. If the Senator from Arizona has any evidence that the Senator from Indiana has said that Mr. Rehnquist personally harassed witnesses, told us, or stop saying that we were lying about it.

Mr. GOLDWATER. As I said, the Senator from Indiana told me last Monday, or whenever it was, that he would not bring this up. I am happy that he did not.

Also, I might mention that the minority views, starting on page 41 of the committee report have about three pages of memoranda from me in this supposed incident. That is the thing I complain about and the thing I complained about in the letter I wrote to the Washington Post. It is not true. Mr. Rehnquist was not involved in any one of the police or any instance that took place there. I do not think anybody in Phoenix, at least the police, or anybody else, will say that he was. I tried to explain it.

Mr. BAYH. I want to say—

Mr. GOLDWATER. We appoint poll watchers in Arizona and I am sure that Indiana has them. The purpose of poll watchers is to prevent any wrong acting taking place at the polls. Mr. Rehnquist was not involved in that.

Mr. BAYH. I appreciate the answer. Perhaps I am a little sensitive. I have never like being accused of telling a lie.

Yet in the Washington Post I see a letter in which the Senator from Arizona suggests the Senator from Indiana and other gentlemen have made such charges. But he has been unable to point one example in which I did this. The minority of the Committee on the Judiciary felt it was our responsibility to disclose all the evidence and evidence includes eight affidavits, one from Mr. Rehnquist, in which he said he did not participate personally in voting harassment. He said from constituents of the Senator from Arizona who said he did.

Despite the affidavits, and the Senator from Arizona to the contrary, I invite his attention to the minority views where, after pointing out the evidence, we conclude:

Instead, it appears that the committee lacks either the motivation or machinery to conduct a reasonably fair and full investigation needed to uncover which side of this dispute is mistaken. Therefore, each Senator will have to make up his own mind what weight—if any—to give either the charges or the bluestein denial.

That does not sound not like the allegation which the Senator from Arizona, with all respect, made on three occasions, that I was saying about his stretching what is stated in the record and attributing it to the Senator from Indiana.

Mr. GOLDWATER. We have a saying, "culpado." It means look out.

That is why I wrote the letter, and the letter was published. I wanted to give warning that if an effort was being made
to include this in the debate, I would have to take personal exception to it, as I outlined in the letter, and I have not changed my mind a bit.

Mr. BAYH. In other words, the Senator still feels that the Senator from Indiana lied about it.

Mr. GOLDWATER. I do not think I said the Senator lied about it. For a better description, the Senator was totally uninformed and did not take the trouble to ask those of us who were there to see what was going on.

Mr. BAYH. I know the Senator from Arizona is a man of many talents. I wonder if he has the capacity to be present at every precinct about which allegations were made.

Indeed one of the judges in Arizona, the judge who the Senator from Arizona was quite filled with praise for the other day, Judge Hardy, who is a judge in Maricopa County, said specifically:

In the black shirts who were distributed warning persons that if they were not properly qualified to vote they would be turned away. There were squads of people taking photographs and standing in line waiting to vote and asking for their name. There is no doubt in my mind that these tactics to disenfranchise and indiscriminate challenging were highly improper and violate of the spirit of free elections.

Mr. GOLDWATER. I think the Senator will find Mr. Rehnquist was not involved in these alleged actions at all. Having lived in Arizona all my life, and having been a member of the majority party all my life, I can tell the Senator that I would be the first to say that everything we do in our State would meet with the approval of a Sunday school teacher. We try to see that things are done properly. Democrats do that, too. I do not like to see people vote who are not entitled to vote.

Mr. BAYH. Let me ask the Senator this question. I fear we are not talking about the same incident.

Mr. GOLDWATER. I think we are.

Mr. BAYH. I think the Senator from Arizona is talking about the normal protection that is to be accorded voting procedures. The Senate has already said in the Raskin case that he gives great credence to Judge Hardy and believes that he is an honest man. Judge Hardy said this was going on:

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 a deliberate effort to slow down the votes to the point of waiting their turn to vote to grow tired of waiting and leave without voting.

Is that what the Senator from Arizona feels is necessary to have a safe and honest election? I think the Senator feels that it is important to do what Judge Hardy said was being done, where pictures were being taken and there was an effort to harass and intimidate?

Mr. GOLDWATER. The Senator will read further he will find that Judge Hardy talked to Bill Rehnquist, and he stated to the judge that he was disheartened—that it might not be the word, but he did not like what he was being reported to be going on, and Judge Hardy believed Mr. Rehnquist was sincere. That is how my attention was called to this. When this took place I was called to headquarters and told about it by the lawyers committee that assisted in giving advice in every election. If I recall correctly, I asked if they could corroborate that there had been any violence. To my recollection, the answer was there had not been. The police were there, and the police generally are roaming around polling places in those particular areas.

Mr. BAYH. I would say to my colleague that he has been very patient to permit me to question him. It does not matter how I ask the question the answer is the same. He feels he has not been telling the truth. He says on the one hand I have not been telling the truth and this is what I said. I have not made the allegations about Mr. Rehnquist's personal involvement, but in the newspaper he clearly said I did.

Certainly, the Senator from Arizona is entitled to think what he wants about me but it is inconsistent for him to say there was no harassment and that he and Rehnquist were all concerned that there had to be such action, as described in Judge Hardy's letter.

Mr. GOLDWATER. I am talking about Bill Rehnquist.

Mr. BAYH. I am glad to yield such time to the Senator as he wants.

Mr. GOLDWATER. I just close by indicating to my friend that, if that be the case, we were talking about Mr. Rehnquist not the Republican Party or the Democratic Party, or anything of that sort.

Mr. BAYH. The record will show that my friend said categorically the other evening that there was no harassment anywhere in Arizona, and if he thinks that he has to disagree with Judge Hardy.

Mr. JACKSON. Mr. President, the Senate has already heard much about Mr. Rehnquist's record in both public and private life. There are many aspects of his record which merit discussion.

But I am convinced that Mr. Rehnquist's record in civil liberties, in and of itself, disqualifies him from service as an Associate Justice of the Supreme Court.

A record where the executive powers of Government threaten civil liberties as never before, Mr. Rehnquist seems not to appreciate what the Bill of Rights means in America. Whatever his views may be in other areas, he is an unequivocal advocate of "big brother government" when it comes to balancing the interests of Government against individual rights.

His views on such subjects as wiretapping and Government surveillance leave little doubt of his willingness to guard the security of Government at the expense of the security and civil liberties of the individual.

Mr. Rehnquist's nomination must be judged not only in light of the Supreme Court's role as a protector and interpreter of the Constitution, but also in light of its role as a balancing force against the executive exercise of power by the other branches of Government. I cannot vote to confirm a man who, however qualified in other respects, seems not to understand the fundamental necessity of protecting human rights and individual liberties in America.
Mr. HOLLINGS. Mr. President, I would like to explain why I disagree with those of Mr. Rehnquist's opponents who have claimed that the wiretapping is untrammelled executive power gained at the expense of both Congress and the courts. These claims that the nominee favors unchecked and unbridled executive wiretapping are supported only by distortions and extensions of positions he advocated for the administration and the Department of Justice in the course of his duties as Associate Attorney General. Even Mr. Rehnquist does not consider that when making these statements Mr. Rehnquist was an advocate for the administration, and as such was bound to make all rational and responsible arguments available to his clients, the statements relied on by his critics do not support any such conclusion. Because his statements in the area of wiretapping and surveillance have been distorted and without support these charges, I would like to discuss positions advocated by Mr. Rehnquist in those areas. I conclude from his statements that far from being a support of the extension of executive power in this area, he firmly believes in the full complement of powers given the Congress and the courts by our Constitution.

Mr. Rehnquist advocated the position that the only restraints upon executive branch wiretapping should be self-restraint. This is absolutely untrue. He has always recognized that the First Amendment, the Fourth Amendment, and the 1968 Crime Act place restraints on wiretapping by the executive branch.

The question to which he was addressing himself is the available before Senator Ervin's subcommittee was whether additional statutory restrictions, beyond those imposed by the 1968 act, should be imposed by Congress. And even if there is no restraint, the Department of Justice might well support carefully drawn legislation to correct specific abuses. At the hearings on his confirmation, Mr. Rehnquist made the following recommendation:

I doubt that you can find any statement, Senator, in which I have suggested that the Government should be given carte blanche authority to bug or wiretap. I recently made a statement at a forum in the New York School for Social Research in New York, attended by Mr. Net of the Civil Liberties Union and Mr. Katzenbach, that I thought the Government had every reason to be satisfied with the limitations in the Omnibus Crime Act.

Far from arguing that Congress could not curtail executive power in this area, Mr. Rehnquist stated at the hearings:

Congress has it within its power anytime it chooses to regulate the use of investigatory personnel on the part of the Executive Branch. It has the power as it did in the Omnibus Crime Act of 1968 of saying that Federal agents may not use wiretaps or bugging devices without the consent of the other party.

The only area in which Mr. Rehnquist advocated use of wiretaps without prior warrant is a magistrate is in the area of national security wiretaps, and that position is fully consistent with the requirements of the Fourth Amendment, which specifically exempted national security wiretaps from its warrant provision. It should also be noted that all administrations, since Franklin Roosevelt's, have taken this position in these areas.

Also in the wiretapping area, it is important to remember that Mr. Rehnquist advised that the so-called inherent executive power argument should not be applied in this instance to the national security wiretap case. One implication of this theory was that the executive and not the courts would determine the propriety of such taps. The Government in the Fourth Amendment takes the position that the courts should determine the propriety of such taps under the reasonable requirements on the Fourth Amendment.

In the surveillance area, too, it has been suggested that Mr. Rehnquist supports unchecked use of executive branch personnel for public surveillance and information gathering. At the hearings Mr. Rehnquist made clear that the Congress can restrict the use of such personnel by the executive branch at any time it chooses. Moreover, if there is any element of free expression, a question of fact may be presented for court determination under the Bill of Rights:

He also stated before Senator Ervin's subcommittee that I do not conceive it to be any part of the function of the Department of Justice or of any other governmental agency to sur- vail or to discipline the press or the people who are simply exercising their First Amendment rights.

The only legitimate use of surveillance [is] either in the effort to apprehend or solve a crime or prevent the commission of a crime. Surveillance has no proper role whatsoever in the area where it is simply dissent rather than an effort to apprehend a criminal.

It also has been suggested that in the area of the rights of the accused Mr. Rehnquist's philosophy is that trials should exist on executive branch law enforcement personnel, that the protections of the Bill of Rights should be removed. The following quote, from a speech he gave in North Carolina last spring, shows he fully believes in the role of the courts in providing protection to individuals accused of crime:

Finally, I hope you can see from some of this discussion that no reasoned opinion can invariability insist that courts resolve all of these [Fourth Amendment] issues in favor of the prosecution or all of them in favor of the criminal defendant. The issues are so complex and so important to all of us that it is wrong to think that either side invariably has the white hats. Ultimately, decision is made by the balance of the need of society for protection against crime against the need of the accused defendant for a fair trial and just result. Both of those are so high in the scale of most of us that none would want to say that one should automatically prevail at the expense of the other.

I hope I have shown by these remarks that the real fact that Mr. Rehnquist is something akin to a "totalitarian" is plain, unvarnished nonsense. No one who knows him could believe the charges and these treatments which he made before and during the hearings on his confirmation document that personal judgment. He believes the Congress has extensive supervisory powers over the use of executive branch investigatory personnel, both executive and already exercised in the 1968 Crime Act. Moreover, he believes that under our constitutional scheme the courts should and will review the actions of the President under the Fourth Amendment and other provisions of the Bill of Rights.

Mr. EAGLETON. Mr. President, we have before us the nomination of William H. Rehnquist as an Associate Justice of the Supreme Court.

Once again the Senate is called upon to give its advice and consent to a Supreme Court nominee—a process made more difficult by reason of the fact that Senators disagree as to what criteria should be used in evaluating a Supreme Court nominee.

It appears there are two general schools of thought on the proper exercise of the Senate's power to advise and consent, or to withhold consent.

One school, perhaps the majority school, would require a Senator to learn the full range and evolution of a nominee's thought and philosophy and to accept the nominee only if the nominee's thought and philosophy are substantially and in significant measures consistent with the individual Senator's thought and philosophy.

The other approach defines the role of a Senator more narrowly. After a Senator inquires into the "three Is" of the nominee—industry, intelligence, and integrity—he then determines whether the nominee's philosophy is consistent with the fair and debatable range of legitimate judicial thought and, if it is, votes to affirm.

Under this theory, a Senator need not necessarily be in substantial agreement with the nominee's philosophy.

I adhere to the latter approach. In connection with the Haynsworth nomination, I stated it as follows:

The Senate has the right and the duty to consider the views of the Supreme Court nominees on vital national issues. However, we should not seek a uniformity of opinion with respect to all nominees. We should be rejected on this ground only if his views are so extreme as to place him outside the mainstream of American political and legal discourse. (Congressional Record, vol. 115, pt. 21, p. 2821.)

I am more assured in this belief because relatively few judicial careers on the Supreme Court have been delineated in advance with a high degree of accuracy, either by a nominee's supporters or by his opponents.

Applying this guideline to Mr. Rehnquist, I find his "three Is"—industry, intelligence, and integrity—都喜欢

His philosophy has been questioned, indeed challenged, by some—the most serious challenge, I am aware, in the areas of civil rights and civil liberties.

As to civil rights, it is said of Mr. Rehnquist that he is insensitive or indifferent or hostile to the cause of equal justice. Reading Mr. Rehnquist's views as reflected in his various utterances and writings, I am frank to conclude that his views and my views are at variance.

Footnotes at end of article.
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On again, our quest is not an identity or conformity of philosophy between nominee and Senator. Rather, we ask, are his views so patently irreligious as to be outside the reasonably debatable judicial mainstream?

There are two of Mr. Rehnquist's civil rights statements which are most frequently given being so irregular as to be disqualifying.

At page 25 of the Bayh-Hart-Kennedy-Turner minority report, and again at page 39 of their minority memorandum, the difference is made to Mr. Rehnquist's statement "we are more dedicated to an integrated society than we are to a segregated society."

This statement was taken in part from a letter to the editor written by Mr. Rehnquist in 1967 which letter dealt with certain actions taken by the Phoenix superintendent of schools, a Mr. Seymour. The full paragraph from which the few words extracted reads as follows:

"Mr. Seymour declares that we "are and must be concerned with achieving an integrated society." Once more, it seems to me that this is more a broad declaration to come from policy-making bodies who are directly responsible to the electorate, rather than to an appointed administrator. But I think many would take issue with his statement on the merits, and would feel that we are no more dedicated to an "integrated" society than we are to a "segregated" society, that we are not dedicated to a free society, in which each man is equal before the law, but in which each man is accorded a maximum amount of freedom of choice in his individual activities. (Emphasis supplied.)"

One should first note that a semicolon, not a period, comes after the word "society" and that the words following the semicolon cast a somewhat different light on Mr. Rehnquist's views.

Reading the totality of the paragraph in the context of the letter, it appears that Mr. Rehnquist was espousing recognized constitutional doctrine, namely, that the Constitution prohibits governmental segregation. However, he does not require governmental imposition. Or, to put it in yet another way, the Constitution prohibits de jure segregation by governmental act, but it does not require governmental integration resulting from nongovernmentally induced living habits and patterns.

It is interesting to note that at the time of the historic Civil Rights Act of 1964, Senator Humphrey and Senator Dirksen recognized this principle of law and incorporated a provision in that act prohibiting the use of Federal power to bus students "in order to achieve such racial balance." It is therefore not surprising that Mr. Rehnquist has been able to challenge Senator Humphrey's fealty to equality of opportunity, yet Mr. Rehnquist's articulation of similar views is labored.

The second Rehnquist civil rights statement which has been strenuously challenged was contained in a 1962 memorandum written by Mr. Rehnquist to Justice Robert Jackson at a time when Rehnquist was serving as Jackson's law clerk.

Two sentences from the statement read as follows:

"I realize that it is an unpopular and unorthodox position, but I think Plessy v. Ferguson was right and should be reaffirmed. And it did not enact Spencer's Social Statics, it just as surely did not enact Myrdal's American Dilemma."

Mr. Rehnquist has explained the origin of the memorandum in that it was prepared by his idea and dedicated to Justice Jackson and was intended to be a rough draft of Justice Jackson's views.7

Turning now to the field of civil liberties, Mr. Rehnquist has been strenuously challenged by advocates of a broader governmental intrusion into the private lives of citizens. For example, Mr. Rehnquist supports the broadened use of wiretapping and eavesdropping, even in the face of some loss of individual privacy, as not too high a price to pay to stop crime.

The late Justice Hugo Black, recognizing one of the greatest champions of the Bill of Rights, shared views similar to those of Mr. Rehnquist on the question of wiretapping and eavesdropping.8

Personally, I disagree with Mr. Rehnquist's views on this subject, but I do not find the espousal of their views to be so clearly inconsistent with constitutional democracy as to be disqualifying.

In conclusion, let me reiterate that my philosophical and jurisprudential views are at variance with those expressed by Mr. Rehnquist, just as my views have on occasion been at variance with other Supreme Court Justices, past and present.

However, it is my opinion that Mr. Rehnquist's views, although different from mine, are not so extreme as to place him outside the main stream of American political and legal discourse.

The ideological differences in America today, I am happy to believe, are not so great that a man can be heretic by being a man of intelligence and integrity. But they are large enough so that they can be exacerbated by doctrinaire rigidity and dogmatism. Rehnquist prescribes an ideological mold for the Supreme Court. From that can come only harm to the Court and thus to the country.

Therefore, I will vote to confirm Mr. Rehnquist's nomination.

FOOTNOTES

1 Senator Sam Ervin expressed this viewpoint in the debate on the nomination of Justice Thurgood Marshall:

"... It is not only important for a Senator to determine whether the nominee has sufficient knowledge of the law or sufficient legal experience, but also to determine whether he is able and willing to exercise that judicial self-restraint which is implicit in the judicial process and which he must understand and apply. This I mean whether or not he will base his decisions upon what the Constitution says rather than upon what he thinks the Constitution ought to have said. And so I think that the question of the philosophy and the power of self-restraint should be given important consideration." (Judiciary Committee hearings on the nomination of Justice Thurgood Marshall, June 14, 1967, 90th Congress, 1st Session, p. 800)

2 Interestingly, Mr. Rehnquist himself vigorously adheres to this "school" calling for a constitutional "interpretation in the law of the nature of a nominee's philosophy. See November 11, 1971 New York Times, page C47, wherein he reprinted a card Law Record article by Mr. Rehnquist:

This article is on the Rehnquist's nomination is one by Anthony Lewis in the November 15, 1971 New York Times, page C41, wherein he wrote:

"2. In my view, the Senate should be required to vote upon the nomination of Mr. Rehnquist on two different counts: First, if the Senate is not convinced that Mr. Rehnquist is qualified to sit on the Court, approval of his nomination should be withheld. Second, if the Senate is convinced that Mr. Rehnquist is qualified to sit on the Court, he should be confirmed only if he has not already been confirmed by the Senate, either by an affirmative vote or an acquittal vote in a subsequent vote by the Senate, and if he has not already been confirmed by the Senate, either by an affirmative vote or an acquittal vote in a subsequent vote by the Senate, the second count could be voted upon by the Senate in such a manner as to be effective against any other action or participation in the selection process."

"It is time that those critical of the Rehnquist nomination will declare that they are committed to the principle that the Senate should be able to confirm a Supreme Court nominee and that the Senate should be free to vote against a nomination even if the Senate does not have a clear majority in favor of such nomination."

"Senator Edward Kennedy touched on this position during the Thurgood Marshall debate:

"I believe it is recognized by most Senators that we are not charged with the responsibility of approving a man to be Associate Justice of the Supreme Court only if his views always coincide with our own. We are seeking to be sure that the Supreme Court who will express the majority view of the Senate on every given issue; or on the other hand, who will be a man to whom we are really interested in knowing whether the nominee has the background, experience, qualifications, temperament to handle this most sensitive, important, and responsible job." (Consolidated Record, vol. 113, pt. 18, p. 24647.)


"On the other hand, to make that judgment solely on the basis of his political views (wherever, after all, may change) is dangerous business. It promises some kind of rightful political orthodoxy; it would tend to politicize the courts according to the temporary political complexion of Congress; it could punish some individuals for their ideas and frighten others out of having any."

"It is bound to lead to retaliation, as it did when Republicans and conservatives defeated President Johnson's nominee, Justice Thurgood Marshall, at least partially on political grounds. Paying off that score had a good deal to do with Judge Haynsworth's subsequent rejection."

"It may be argued that Mr. Nixon should not have handed Senators this dilemma by appointing an active, nonpartisan, nonpolitical court; but the precedents are ample, and the Senate is likely to compound the damage if it denies Mr. Rehnquist's nomination should it seat solely because of his political views."

Wicker reiterates his position in the December 5, 1971 New York Times, page 211, where he wrote:

"On balance, with full awareness that Mr. Rehnquist's views on the Bill of Rights seem antilibertarian, and despite weighty arguments from many who disagree, it still is not possible for me to call him a nonpolitical court; but the precedents are ample, and the Senate is likely to compound the damage if it denies Mr. Rehnquist's nomination should it seat solely because of his political views."

..."
entirely disagree with Mr. Rehnquist's right-wing ideas will nevertheless properly vote for his confirmation.

On this point, I have received a letter, dated 11/39/71, from Professor Walter Gelhorn of Columbia University School of Law expressing his strong opposition to Mr. Rehnquist as well. Professor Gelhorn, a widely recognized constitutional scholar, writes as follows:

"Discussion concerning the qualifications of Mr. Rehnquist to be a Supreme Court Justice has, I think, strayed beyond suitable limits. It appears to me that the issues involved are not at all matters for public discussion, and that any questions raised as to his qualifications are appropriately left to an appropriate court of law."

Mr. President, the Constitution declares segregation by law to be unconstitutional, but it does not require integration in all aspects. I believe this point has been made very well in the courts, and I understand that other Senators will cite the particular cases.

"I shall quote from the case of Bell against School City of Gary, Ind., in which the Federal court of appeals cited the following language from a special three judge district court in its opinion."

"Segregation does not mean that there must be intermingling of the races in all school activities, that they may not be prevented from intermingling by going to school together because of race or color."

"Brown v. Board of Education, D.C. 139 F. Supps. 468, 470."

"In Briggs v. Elliott (EDSC), 112 F. Supps. 776, 777, the Court said: 'The Constitution, in other words, requires integration. It merely forbids discrimination.'"

"In other words, an overt act by law which does so in a manner is unconstitutional. That was the ruling of the historic Brown case of 1954."

"If school district boundaries are determined without any overt act of race or color, there is no affirmative duty under the Constitution to alter these boundaries so that a proportionate balance in the schools will result. Senators should distinguish between segregation which results from an overt act of affirmative action by the State or the local school board, and into segregation which results from neighborhood residence patterns. This is a matter better left to the courts and the legislature as each community deems wise. It is not a consideration of the present bill." (Congressional Record, p. 13920, May 13, 1961.)

"As to Mr. Rehnquist's "extreme" positions, see article by Robert Bartley in December 6, 1961 Wall Street Journal, page 13, entitled "Rehnquist and Critic: Who's Extreme?"

"The Rehnquist 1952-1962 memorandum has been made interesting reading. It sets forth the rationale for the doctrine of judicial abstention and restraint."

"Former Judge Justice Warren and Justice Douglas espoused a philosophy of judicial activism or intervention. Needless to say, either concept is well within the debatable jurisprudential mainstream."

Mr. President, in the various footnotes to my speech, I have cited some newspaper articles as well as the 1952 Rehnquist-to-Jackson memorandum. I ask unanimous consent that the following items be printed at this point and in the Senate Record:on

In elaboration of footnotes (2), the November 11, 1971, Wicker article from the New York Times; the December 5, 1971, The New Yorker article from the New York Times; the November 15, 1971, Lewis article from the New York Times.

In elaboration of footnotes (4), the December 9, 1971 Kraft article in the Washington Star.

In elaboration of footnotes (6), the December 6, 1971 Bartley article in the Wall Street Journal.

In elaboration of footnote (7), the full text of the 1952 Rehnquist-to-Jackson memorandum.

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

[From the New York Times, Nov 11, 1971]

THE REHNQUIST DILEMMA

(By Tom Wicker)

The spectacle of Senator Edward Kennedy defending the reputation of William Rehnquist suggests that the Senate is only a step away from the maddest of the A.D.A. suggests the painful dilemma in which liberals and civil libertarians have been placed by Mr. Rehnquist's nomination to the Supreme Court.

This nomination is not like that of Clement Haynsworth, whom President Nixon appointed as Judge of the Court. Judge Haynsworth was not confirmed by the Senate on the ostensible ground that his record was insufficient. This is a case of perception of possible conflict-of-interest situations.

Nor is the Rehnquist case similar to that of Mr. Nixon's other rejected nominee, O. Harrold Carwell. Judge Carwell was found to have made statements to a Senate committee, and his confirmation hearings disclosed a glaring lack of qualification for the Supreme Court.

The Rehnquist matter is not even like that of Lewis B. Cohn, whom Mr. Nixon has also named to the Court.

Mr. Powell is a pillar of the Southern establishment, a good credit in the Senate.

Mr. Rehnquist will not have to face the Court on the issue of his qualifications. The Court will be limited by that; he is not expected by most observers to become a powerful figure in the Court.

Mr. Rehnquist is a horse of a very different color. At 47, he can look forward to a long and active tenure on the bench. Moreover, his record is that of a hard-working and vigorous champion of conservative political causes, both in Arizona and within the Nixon Administration. Persons in and out of the Administration who know his work credit him with superior intellect and a keen mind.

Thus Mr. Rehnquist on the Court is altogether likely to become a driving force for ideological expressiveness. There are those who believe that in these years going along he will be a more formidable leader than Chief Justice Burger in the conservative wing of the Court. All of this will be in the majority on some issues and will almost surely become dominant if Mr. Nixon wins another term. We shall see.

It is no wonder, then, that liberals and libertarians are desperately casting about for means of defeating this nomination in the Senate. Mr. Rehnquist's record of opposition to civil rights measures, his record of opposition to backing litigation that would threaten Bill of Rights guarantees at least what many people passionately believe to be guarantees—his youth and his obvious lead-
ership qualities might alter the course of the Supreme Court for decades to come.

If Mr. Rehnquist’s integrity that Senator Kennedy rebuked Mr. Baur. The latter had suggested that the nominee had been less than candid in denying that he was a member of the John Birch Society. The Senator could hardly be sympathetic to a man of Mr. Rehnquist’s views, but he insisted that the nominee’s basic integrity was unchallenged.

So the real question before the Senate is whether it can, or should, reject Mr. Rehnquist solely because of his political views. On the one hand, the writers of the Constitution, in giving the Senate the power to confirm or reject Presidential nominees to the judiciary, clearly meant the legislative branch to play a substantive role with the executive branch in choosing members of the judiciary. This right, therefore, to judge for itself the qualifications of a man to sit on the Supreme Court.

On the other hand, to make that judgment solely on the basis of his political views (which, after all, may change) is dangerous because it rests on a mistaken understanding of rightful political orthodoxy; it would tend to politicise the courts according to the temperament of the moment. The Senate could punish some individuals for their ideas and frighten others out of having any.

Moreover, it is bound to lead to retaliation, as it did when Republicans and conservative Democrats defeated President Johnson’s nomination of Judge J. C. Clark to be Chief Justice, at least partially on political grounds. Paying off that score had a good deal to do with Judge Haynsworth’s subsequent rejection.

It may be argued that Mr. Nixon should not have handed Senators this dilemma by appointing an activist political figure to a non-political court; but the precedents are ample, and the Senate is likely to consider them. But Mr. Rehnquist, if confirmed, would sit solely because of his political views.

[From the New York Times, Dec. 5, 1971]

In Re Rehnquist
(By Tom Wicker)

WASHINGTON — The Senate apparently will confirm Lewis Powell next week as an Associate Justice of the Supreme Court. After that, it will either face up to or delay the far more controversial and difficult matter of William Rehnquist, President Nixon’s other nominee to the Court.

As it now appears, Mr. Rehnquist will be confirmed, too, unless those who oppose him are able to muster the votes to stop him. That is the job of the filibuster, which in 1968 prevented confirmation of Abe Fortas as the Court’s fourth justice.

This is at least a long-shot possibility because of Mr. Rehnquist’s comparative youth (47) and his reputation as a skilled, active and highly intelligent jurist. Liberals fear he may become for many years the vigorous leader of a reaction that would have the support of ideological or professional charges sufficient to warrant Mr. Rehnquist’s rejection have so far evaded any argument.

That means that the battle is to be fought, if at all, on the tricky ground of Mr. Rehnquist’s intellectual philosophy — whether it is called his “judicial philosophy” or his “constitutional approach.” The view was put forward in this space on Nov. 11 that this kind of opposition was “dangerous business.” There is no existence of any kind of political orthodoxy, would tend to politicise the Court, would punish some people for frightening others out of having any and would lead invariably to political retaliation.

On balance, with full awareness that Mr. Rehnquist’s views on the Bill of Rights seem antilibertarian, and despite weighty arguments from many who disagree, it still is hard to believe that he is an opponent for his political views. Is it seriously to be asserted that conservative — even arch-conservative — judges can be found on the Supreme Court? If so, then what prevents some other Senate from disfranchising a man for strongly liberal views or for being a “new leftist” or “a neo-isolationist” or some other stereotype?

This is not to deny that the Senate has a duty to consider the qualifications of a nominee to sit on the Court. Or that among the qualifications it ought to consider is the senatorial practice, judicial and public view of things. Judge Cardwell, for instance, was judged to be lacking in intellectual integrity or in his judgment that could be solidly documented.

But it can be shown that Mr. Rehnquist lacks fiddling to the Constitution? No, only that in his view it provides the answer to the state and to the individual than many other Americans believe to be the case.

Can it be that Mr. Rehnquist’s views are factually or in substance?”

No. It is a matter of interpretation, and it is left in the hands of the Senate to decide whether or not asserting that the Constitution is an absolute document not subject to interpretation or differing ideas. It is, in fact, the prime duty of the Supreme Court to determine the constitutional meaning, on given subjects at given times in history.

Nor is the political aspect of the Rehnquist nomination an open-and-shut affair. No doubt Mr. Rehnquist will be a formidable conservative force on the Court (although that remains a supposition that only time can justify). Even so, the damage he might do to liberal causes could well be less than the damage he might do to liberal causes if Nixon nominee, a third defeated conservative, in a state dominated by liberal Democrats. Just as Mr. Rehnquist sometimes practice “judicial restraint,” so it may be that the Senate ought to practice some political restraint. This, of course, is a value judgment that each Senator, for himself, must make.

That also is true of the really crucial question about Mr. Rehnquist, which can best be evaluated if we refer to Mr. Powell. Those who know the Virginia lawyer, a former American Bar Association president, concede of him that his views in many ways are as conservative as those of Mr. Rehnquist — and that fact was documented in an article by Mr. Powell recently reprinted on this page.

But Mr. Powell is an experienced and fair-minded man of judicial temperament who, in deciding legal and constitutional questions, do not have the same political views that Mr. Rehnquist has. And if he might, in fact, generally approve wiretapping as a law enforcement tool — yet be willing to rule against it when, in some particular case, the facts showed that the law was constitutional had been violated.

It is to be hoped that that is true — of Mr. Rehnquist. For to reject him on the grounds of irrelevancy, whether or not it is true of William Rehnquist is the vital question about his nomination, and filtering, or any other qualifications, he must judge for himself. If Mr. Rehnquist can put his personal views aside when they can’t come into play, he might generally approve the law the facts, but then those views should not be the deciding factor, but if any Senator feels that Mr. Rehnquist, or any other nominee, could not or should discipline himself intellectually, voting to reject him would surely be a duty.

[From the New York Times, Nov. 15, 1971]

After Rehnquist
(By Anthony Lewis)

LONDON — In the growing trouble over American liberals in the nomination of William H. Rehnquist to the Supreme Court was discussed last night at an academic conference. In his Holmes Lectures at Harvard he said:

“In so far as it is made part of the duties of judges to take sides in political controversy...”

Known for his conservative leanings, he said, “judges will not be trusted to their predilections will, and indeed should, at least one determinant in their appointment, not to say to their rejection.” The Senate had not used the word “political” in its narrow partisan sense. If our judges are to decide controversial national issues in the guise of law, he was saying, then they will be chosen in part for their ideology.

It is difficult for liberals to deny the premise. They know that for years they praised the Supreme Court on its adherence to the values of liberalism. How, then, can a conservative President want judges with different values? Is it logical to deny him that power, or even democracy? After all, the usual application of liberalism is little more than the notion of seeing that the Court even distantly reflects the changing outlook of the country it must serve.

From this it follows that a President should be allowed ample ideological scope in choosing his Court judges. There is the hard truth — a racist would be disfranchised — but they are broad. And so many Senators who entirely disagree with Mr. Rehnquist’s right-wing ideas will nevertheless properly vote for his confirmation.

But a more basic issue will remain — the one really interested Judge Hand. That is the issue of the appropriate limits on the judicial function. Should judges be dealing with heated social and economic controversies? Or should they limit themselves to matters of more traditional law?

In recent years it has gone out of fashion to ask such questions. Mr. Justice Frankfurter’s plea for judicial self-restraint seems long ago and far away. Few seem to remember the terrible lesson of the 1930’s and 1940’s, when self-willed judges almost destroyed the Supreme Court.

That is why we have had the so-called neo-realist view. It was put forward in 1968, the same year as Judge Hand’s lecture, by Prof. Charles Black in his own view.

“We are told that we must be very careful not to favor judicial vigor in supporting the status quo. Those who do so see judicial change as a bad precedent. Later on, we may get a bench of [conservative judges . . . but] suppose the present Court were to shrink from vigorous judicial action to protect civil rights. Would that prevent a Court composed of latter-day McIntyre and Burrows from following their own views?

Professor Black’s rhetorical question expects a negative answer, but it is not so clear. It is the point on which the political liberals would have no effect when the pendulum swings. Certainly Brandeis, the greatest in-


dependent on the question of what judges would think otherwise. Again and again he held back from results that he personally desired because he thought he would encouraged the other judges to push their views in other cases.

Of course there is no convenient formula to determine the limits of the Court’s independence. Every judge will have his own deep instincts about the values essential to the American system, and these will bias his judgments, even if he does not have the word “political” in its narrow partisan sense.
The justices of the Warren Court did not decide the great cases as they did out of step with the majority of the public. They did not seem to think; they were carrying out what they perceived to be their duty. If they had changed their minds because they anticipated adverse reaction, they might have been said to lack courage.

The Warren Court is to be criticized not for its motives but, occasionally, for its judgment. It overreached from time to time. For me the outstanding example was the Miranda case. It did not have a solid basis in history or expert consensus; read a particular code of police procedure into the general language of the Constitution.

The area of fundamental issues is most clearly justified when there is no other remedy for a situation that threatens the national fabric—when the path of political change is blocked. That was the case with racial segregation and legislative dictating; it was not the case with Miranda.

Judge Hand would have excluded all such matters from the courts, but that remedy would be too drastic. We have long come to rely on the Supreme Court as an essential medium of change in our rigid constitutional structure. What we can ask of the judiciary is incommensurate with the imperfection of the Supreme Court and the Supreme Court's understanding, only by man's imperfect but by the fragile nature of the judicial institution.

[From the Washington Post, Dec. 9, 1971]

REHNQUIST: Top Mind (By Joseph Kraft)

Justice Holmes, on being asked what he thought of the Court's intellectual ability, said of one judge, once replied: "I never thought of him in that connection." And there lies the fallacy, that well-meaning, positive comment, that can be made for Senate confirmation of President Nixon's latest nominee for the Supreme Court, William Rehnquist.

What the Court needs is an intellectual function, Mr. Rehnquist, far more than any other recent nominee, has the ability to restore intellectual distinction to the Court.

To understand why, it is necessary to say a word about the role of the Court in the country. The country is dominated by the million and daily actions of an energetic people, who have organized in its capacity to buy and sell, move and changed, educate and obscure, build and tear down.

An intellectual disposition toward almost constant action, it is ludicrous to think of tyranny being imposed on this country from above by some establishment eager to freeze the status quo or turn back the clock.

The central political problem of a populous country is to preserve some modicum of elite values—respect for achievement; toleration for difference of outlook; regularity of procedure. Partly by original design, but even more by the chance acclamations of history, the Supreme Court has come to be the defender of those values—the elitist institution in a populous society.

Unfortunately for the Court, certain political decisions were thrust upon it by the deadlock between the Executive and Legislature during the post-war period. In the fields of civil rights and legislative reapportionment, the Court might well have decided that all other avenues seemed closed—to make rulings that might much more appropriately been the work of the legislative branch.

In the heavy atmosphere engendered by those decisions, the Court headed by Chief Justice Earl Warren became the dumping ground for presidential programs. In case after case, it was increasingly hard to discover the inner logic of decision-making. After all, if the Court's decisions were blacks, baseball because it was a good clean American sport, anti-trust plaintiffs because they were against economic monsters, President Nixon's efforts to correct the imbalance have been hobbled to the point of casting doubt on the sincerity of his claim to want "strict constructionists." His preferred candidates have been right-wingers, so little distinguished that the Senate and the American Bar Association have constrained him to throw them at the judicial pond.

Mr. Rehnquist is something else. He has not shown sensitivity to the needs of people whom he applies the law to in his lifetime—and to me silly-sounding—things about the influence of Supreme Court clerks and the softness of judges towards communism. Some of these things are unanswerable, but I think Rehnquist might have said more on that front. The junior, junior, junior are required to say in order to get ahead in the Republican Party of Barry Goldwater, and our 1971 Goldwater, at least once in every speech, who cringes when he sees an English work created from a Greek prefix and a Latin suffix.

Only if history has considered that qualities of Senator Kennedy is pleased to dismiss so crudely express a critical aspect of the Court's present condition, or that it know more liberal, more conservatives, or more middle-of-the-roaders, are there enough of a choice that might be going to happen in civil rights or criminal law.

What the Court needs is more brains, Mr. Rehnquist has them—more abundantly perhaps than any other recent nominee. He might up-lift the quality of the Court in general, he will do far more than any particular decision in any particular case can do to advance the values thoughtful men hold dear.

[From the Wall Street Journal, Dec. 6, 1971]

REHNQUIST AND CRITICS: WHO'S EXTREME? (By William Ballenger)

WASHINGTON.—The most powerful impression to emerge from the microscopic public analysis of the life and works of Supreme Court Justice William Rehnquist is that his critics are pretty desperate. At one point the arguments and innuendos offered by critical witnesses proved too much even for the most critical Senators, and Sen. Edward Kennedy upbraided the witnesses for creating "an atmosphere which I think is rather polemic." Now the critical members on the Senate Judiciary Committee—Sen. Bayh, Hart, Kennedy and others—have rallied behind their minority report setting out the responsible case against the nomination. As Sen. Kennedy's remark suggests, this is a. lot less substantial allegations that have appeared in the press in recent weeks. There is, for example, no suggestion that Mr. Rehnquist is guilty until proven, of hypocrisy as an extremist organization because his name appears on a list compiled by a little old lady and little old lady.

OUTSIDE THE MAINSTREAM

The minority report, rather, focuses mostly on Mr. Rehnquist's views on certain issues that are the furthest removed from the mainstream.

"Outsiders are those who think the power does exist, two have expressed views that it does exist, one has expressed the view that it is in the hands of the... the government is entirely justified in presenting the matter to the court for its determination." WIRETAPPING OF RADICALS

This did not satisfy the four critical Senators. They noted that the current issues are
somewhat different from those of preceding administrations, not least because the current Congress was predominantly new, with a majority of foreign agents but of domestic radicals. The change in the department's position is "more cosmetic than real." The question, the majority also levels into Mr. Rehnquist's widely quoted opinion on government surveillance of telephone conversations. The majority points to the recording of their activities in public places. In warning against overly restricting such surveillance, it is said, "the Supreme Court is a self-restraint on the part of the Executive Branch will provide an answer to virtually all of the legitimate complaints against excesses of information gathering."

During the hearings, Mr. Rehnquist noted that in his remark he was addressing the question of whether new legislation is needed in addition to the Bill or Rights and laws already on the books. He noted, "if we have already legal recourse against a government official, but in the argument that the Supreme Court should take into account that it has a "chilling effect" on freedom of expression, he said any such effect is a question not of content but of fact. "Personal activities didn't prevent, you know, two hundred, two hundred fifty thousand people from coming to Washington on at least a very limited basis to exercise their First Amendment rights, to protest the war policies of the President... ."

Mr. Rehnquist's statement, if 250,000 appeared, others may have been deterred by surveillance. It agrees that the committee's majority report correctly described Mr. Rehnquist's attitude: "Information-gathering activity may raise first amendment questions if it is proven that citizens are not being deterred."

The minority report does not make too much of allegations that Mr. Rehnquist has reconsidered, but he was involved in Republican voter challenging teams in Phoenix, but it also does not dismiss them as the majority did. Some of his black activities have come up with affidavits charging he was personally involved in harassment, and his supporters have had their ongoing activities and attitude by a sometime counterpart on the Phoenix Democratic challenging teams. The minority report says that the record shows he was involved in Republican voter challenging teams.

On the stand, Mr. Rehnquist was asked if his stance has changed, because the majority record also came up with a letter from the principal of the elementary school in Phoenix, "Mr. Rehnquist became known to me when I was a teacher here at Kenilworth School. He had moved his family into Phoenix Elementary School District from one of the outlying areas, and within the middle socio-economic, school districts. He wanted his children to have experience and participate in an educational setting which was different from the majority of his peers, as well as with the different socio-economic groups."

The minority opinion notes that "Mr. Rehnquist's legal views also demonstrate a strong affirmative commitment to civil rights, to equal justice for all citizens, let alone a constitutional right, and they would rebuff the strong evidence of insensitivity to such rights." The evidence the report discussed was "due process." Mr. Rehnquist wrote to the Arizona Republic in 1977, responding to remarks on school integration, that "Phoenix School Superintendent Raymond Beard."

The minority report says, "The truly alarming aspect of the 1977 letter, however, is Mr. Rehnquist's statement. 13 years after Brown v. Board of Education that 'We are no more dedicated to an 'integrated' society than we are to a 'segregated' society... . Yet at least since the Supreme Court declared that 'separate is inherently unequal,' this nation has not made any progress toward desegregation; it stands squarely in favor of the former. And if Mr. Rehnquist does not agree, he is outside the American thought and should not be confirmed.'"

A FREE SOCIETY

The statement in the original letter that civil rights have been "acted on with respect to the mainstream runs, 'Mr. Seymour declares that we are and must be concerned with achieving an integrated society... . But I think many would take issue with the assertion on the merits, and would feel that we are no more dedicated to an 'integrated' society than we are to a 'segregated' society... . That we are instead dedicated to a free society, in which each man is equal before the law, but in which each man is accorded a maximum amount of freedom of choice in his individual activities.'"

Mr. Rehnquist's extremist position on civil rights, then, turns out to be nothing more than the familiar proposition that the Constitution is color-blind. On surveillance activities, he is apparently "Acted on with respect to the mainstream runs, 'Mr. Seymour declares that we are and must be concerned with achieving an integrated society... . But I think many would take issue with the assertion on the merits, and would feel that we are no more dedicated to an 'integrated' society than we are to a 'segregated' society... . That we are instead dedicated to a free society, in which each man is equal before the law, but in which each man is accorded a maximum amount of freedom of choice in his individual activities.'"

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an Associate Justice of the Supreme Court. I have absolutely no quarrel with the credentials of William Rehnquist as an attorney. He has shown himself to be an excellent lawyer and has had a notable career in the legal profession. There appears to be no question about his personal and financial dealings. What concerns me deeply, however, is Mr. Rehnquist's marked and persistent insensitivity toward the civil and human rights of the American people.

I have taken a good deal of time in the past several weeks to personally review all of the evidence presented regarding the appointment of Mr. Rehnquist to the High Court. I have carefully examined the transcript of the hearings on his nomination. I have studied a large number of the available papers which have been written by the nominee. I believe that as a result of this review, I feel confident of my position that William Rehnquist lacks the necessary commitment to the fundamental values of our constitutional democracy which I feel are the absolute requisite for the elevation of any man to be a Supreme Court Justice.

There is no more important principle underlying our system of government than the constitutional safeguards. Every individual should be able to live in our society with the assurance that he will be protected from unwarranted intrusions by the Government. Every individual should be equal under the law. This was the rationale behind the adoption of the first 10 amendments to the Constitution. It was the purpose for the enactment of the 13th, 14th, and 15th amendments.

I find it disappointing that Mr. Rehnquist seems to be unable to demonstrate an unequivocal commitment to these constitutional safeguards. And I think that it would be a tragedy for us to approve a man for the Court who would work against the very principles which it was created to protect.

Mr. Rehnquist has a record which shows that he would rather discount civil liberties when they come into conflict with governmental authority. This is demonstrated by the opinions which he wrote—and would not dissociate himself from—in regard to surveillance, wiretapping, inherent Executive power, preventive detention, no-knock search and seizure procedures, and more.

Mr. Rehnquist has a record which shows a strong disregard for the individual rights of the minorities of this country. Only 7 years ago, as the Congress of Crippled Americans realized its commitments to the right of any individual to make use of public accommodations on an equal basis, the nominee offered his personal opposition to a Federal Civil Rights Act. This was the 1973 ordinance. Only 5 years ago, Mr. Rehnquist worked to delete key provisions of a model state antidiscrimination act which would have become law by a vote of the Senate. Three years ago, Mr. Rehnquist took it upon himself to resist efforts by the city of Phoenix to promote integration of its school system. He stated in a letter to the editor of the Phoenix, Ariz., Sun that—

We are no more dedicated to an 'integrated' society than to a 'segregated' society.

Mr. President, William Rehnquist has not convincingly demonstrated that he has changed any of his fundamentally held views in these matters. In response to intensive questioning by members of the Judiciary Committee, he consistently stated that the "judicial philosophy" was a proper and vital area of inquiry of any nominee to the Supreme Court, he was unable to provide those Senators with many clues as to his personal viewpoints on the grounds that he might be abusing his "lawyer-client relationship" with the Attorney General and the President. I for one do not understand where this claimed protection arises under the law. And even if it does exist, Mr. Rehnquist has indicated in his testimony that the views which he advocated as Assistant Attorney General were no different from those he now attributes to him that he would feel compelled to resign his position, because of this advocacy. These were views which, for example, condemned the abandonment of due process guarantees during May Day demonstrations in Washington, which justified the extension of the Executive power to conduct wiretaps without judicial scrutiny. The Government believes there is a domestic threat to the national security, and which supported the Government's right to undertake unrestrained surveillance activities with regard to individuals and citizens. Thus, to the extent that we can determine his personal philosophy about these vital matters, I find an extreme lack of compassion and good judgment which, I do not understand how an integral part of a nominee's attitude toward fundamental liberties inherent in the structure of American Government.

Any man in an equal state, with regard to the question of surveillance of private citizens, that "I do not believe, therefore, that there should be any judicially enforceable limitations on the gathering of this kind of information by the executive branch of the Government" should not be confirmed by the Senate of the United States to hold a position on the Supreme Court.

It is for these reasons that I shall cast my vote against William Rehnquist.

Mr. TOWER. Mr. President, I am pleased to rise in support of the nomination of William H. Rehnquist to be an Associate Justice of the Supreme Court. Mr. Rehnquist will bring with him to the Court an outstanding academic record as well as great experience both in the practice and implementation of the law. But Mr. Rehnquist was born in Milwaukee, Wis., in 1924, and grew up in the nearby community of Shorewood. After graduating from high school, he enlisted in the U.S. Army where he received the rank of sergeant while serving in the Air Corps. After receiving an honorable discharge, he attended Stanford University and was graduated in 1948 "with great distinction." He was awarded a master of arts degree in history from Harvard University and in the same year entered Stanford Law School, from which he graduated in 1952 with the rank of No. 1 in his graduating class. These qualifications show that Bill Rehnquist is a capable and dedicated student. This ability and desire to work hard and to study the situation in depth should acquit him well as Associate Justice of the Supreme Court.

Mr. Rehnquist has been just as successful since he completed his formal education. After graduation, he became the law clerk of then Justice Robert H. Jackson, and served as a federal judge, 1953. He then went to Phoenix, Ariz., where he practiced law quite successfully until 1969, when he assumed his present duties as assistant attorney general.

While practicing law in Phoenix, Mr. Rehnquist was much honored by his colleagues. He served as president and a member of the board of directors of the Maricopa County Bar Association in Phoenix. In addition to his law practice, Mr. Rehnquist has been instrumental and professionally Mr. Rehnquist's career and contributions to the practice of law were at all times of the highest order in the finest legal traditions of this Nation.

Mr. President, we have all been aware of the attempt by some to discredit Mr. Rehnquist through a campaign of whispe and innuendo. There have been intimations that he not only is naive enough on one issue or another, that he was somehow against our American liberties. No substantiation of these charges has been provided, no completely unbutted statements stand for us to examine. Yet, some would have us believe that this man is somehow against those things which we all hold dear. I think that in discussing these charges we need only refer to the statement of Mr. Martin F. Richman who was at one time a law clerk to former Chief Justice Earl Warren and formerly Deputy Assistant Attorney General in the previous administration, when he said:

The key question here, in my opinion, is whether as a Justice, Mr. Rehnquist will bring to the decision of the cases in only his own views, however long held and well thought out, but an open mind. Will he approach each case on the basis of the facts in the records, the language by counsel, the arguments of his brethren in conference, and his best judgment of all the available legal materials? In short, will he act like a judge?

Based on my experience with him, my own experience, I am convinced that he will. I am confident that his views are based on the merits of the cases, that his opinions will illuminate the issues, and he will make a constructive contribution to the work of the Court in the development of our law.

Also, we have Mr. Rehnquist's own view, stated long ago, that what is truly important in the United States is that we have a "free society."

Mr. President, I believe that President Nixon has made a very fine choice in selecting Bill Rehnquist to be an Associate Justice of the U.S. Supreme Court. It is my hope and belief that he will serve with
DISTINCTION FOR MANY YEARS ON THE COURT AND THAT HE WILL HELP SHAPE LAW IN AMERICA.

MR. MILLER. MR. PRESIDENT, I SHALL VOTE FOR CONFIRMATION OF WILLIAM H. REHNQUIST TO BE AN ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES. THE SENATE JUDICIARY COMMITTEE MEETS THE POINTS RAISED IN OPPOSITION TO HIS APPOINTMENT. I UNDERSTAND THE CONCERN WHICH OPPO- NENTS TO THE NOMINATION HAVE EXPRESSED, BUT I BELIEVE THEY HAVE CARRIED THEIR SEARCH FOR EVIDENCE TO SUBSTANTIATE THEIR ARGUMENTS TO SUCH EXTREME THAT PRACTICALLY NO NOMEEDIE COULD MEASURE UP TO THEIR SATISFACTION UNLESS THE APPOIINTEE HAD NEVER PARTICIPATED IN PUBLIC LIFE OR FITT PRECISELY WITH THEIR OWN MODE OF PHILOSOPHY. THIS CANNOT BE THE TEST FOR CONFIRMATION BY THE SENATE.


Mr. Rehnquist is not my choice for the Supreme Court. His political philosophy is not mine. And if I believed the charges of indifference to human rights and abuses of executive power were supported by evidence I would not consent to his nomination.

The charges against Mr. Rehnquist affect not his character, his intellect or professional standing, but his philosophy. The Senate has a right and a duty to consider these charges. I have considered them at length and wish there had been more time for Senate debate. I have studied the record before the Senate Judiciary Committee. I have read about Mr. Rehnquist's testimony and speeches. I have considered the opinions of many who know and have worked with Mr. Rehnquist, and I have talked with him myself. It would be easy under any circumstances to assay Mr. Rehnquist's commitment to the human rights guaranteed by the Constitution. It would not be easy to take his attitude toward the responsibilities of the High Court for guaranteeing not only the rights of individuals, but also the rights of the Congress against the ever more pervasive powers of the Executive. What would have been difficult in the best of circumstances has become more so. The polarities of race and politics in the Nation have been reflected in the debate over the nomination of Mr. Rehnquist. Charges that he interfered with blacks exercising their franchise in 1964 are disproven, but have nonetheless inflamed the issue.

Mr. Rehnquist's statements as an advocate in public and private life have been confused with his own beliefs—and those beliefs have been difficult to divine, because of the client-lawyer privilege which he has invoked before the Judiciary Committee. His disposition to pre-judge issues likely to arise before the Supreme Court has, however, been made more difficult.

His views in some cases have been modified with the passage of time and in others offset by stated views which the debate has brought to light.

His statements have been taken out of context in a few cases. None was more disturbing to me than his statement in 1967 that we are no more dedicated to an integrated society than we are to a segregated society.

But even that harsh statement was followed by the not altogether consistent statement that—

We are instead dedicated to a free society in which each man is equal before the law, but in which each man is accorded a maximum amount of freedom of choice in his individual liberties.

Such statements are capable of more interpretations than his opponents concede.

Mr. Rehnquist has at times in the past been blind to the rights and interests of minorities, admittedly so in 1964 when he opposed a public accommodations ordinance. For many like many others, has changed his views since then. Twenty years ago he wrote the now famous memorandum to Justice Jackson supporting Plessy against Fer- guson. But I believe him when he says it did not reflect his views. If the evidence makes anything clear, it is that Mr. Rehnquist is a man of integrity.

The "new barbarians" referred to in a 1938 address as a "small minority which cared nothing for our system of government." He carefully excepted the civil disobedience of a Tho- reau in a self-governing society and the non-violence of a Gandhi in an au- tocratic society from his general con- demnations of lawlessness. I am more concerned that he could perceive "new barbarians" as a threat to the security of our Government, so serious as to jus- tify surveillance of activities protected by the first amendment. At what precise point he recognizes a judicially protected right I cannot say, except that he would as a Justice go further than his statements as an Assistant Attorney General would indicate—or his opponent concede. As in most of the decisions, he adheres to a firm notion of judicial restraint and invites legislative protective, while deploring Executive threats to free speech.

It is charged that he perceives few constitutional limits to the Executive's power to conduct war. Here his views are most difficult to ascertain because they are stated as an integral part of a personal ideological philosophy. There is little evidence to sustain the charges. I cannot quibble with his statement that it would invade the powers of the Commander in Chief for Congress to forbid an assault on Haig and Rehnquist.

Mr. Rehnquist never defended block-busting: he did in 1966 before the Uniform State Law Commissioners wrongly supported a first amendment right of property purchasers to make honest statements of fact about property values in socially changing neighborhoods. He is an advocate of preventive detention, but argues afterward that he would bring an inquiry and dangerous individuals before trial by excessive bail requirements. He argues that preventive detention will protect society at the same time it affords the government more protection than the constitutional prohibition against excessive bail does now.

The temper of the times and the incompleteness of the evidence make it appropriate for the Senate to assess him for the public at this point than for a Sena- tor. We in the Senate have heard the debate and the evidence. Senator Barry wisely sought more debate, but failed against the opposition of the Rehnquist supporters. The public hears the accusa- tions and, too seldom, the defenses. Pub- lic attention focuses upon the debate at above the time Mr. Rehnquist is effec- tively deprived of a chance to defend himself.

The history of attempts in the Senate and by the President to judge men of unorthodox character and philosophy casts further doubt upon their efficacy. Justice Warren surprised his sponsor. The Senate was wrong to reject Judge Parker in 1939. None guessed that Felix Frankfurter, the political liberal, would become the judicial conservative on the Court.

Mr. Rehnquist may be an "extreme liberal." He may be isolated. He may have philosophical tests cast further doubt upon his efficacy. Justice Warren sur- prised his sponsor. The Senate was wrong to reject Judge Parker in 1939. None guessed that Felix Frankfurter, the political liberal, would become the judicial conservative on the Court.

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I have no divine insight to the charac- ter of the man, nor any clear perception of all the issues to reach him on the Court. My belief is simply that once a nominee is confirmed, he is now entitled to stay within the mainstream of American tradition, the character and the intellect of the man are about all we as Senators can confidently judge. I believe that Mr. Rehnquist would bring to the Court a judicial integrity that he lacks against the generation of judges produced by the great decades of our Constitution.
before him logic, the facts and the Constitution would prevail. I believe he renews the law and the Court. Aware that such judgments are difficult at best, I believe that he will bring method, and in his work, excellence to an institution where so many other, will exalt or demean the law of the land.

We cannot be certain. I have tried to weigh my faith in human nature and, in this instance, a human abundantly endowed, far beyond the average man and against the risk that his judicial opinions will reflect a narrow view of the Court’s role as a guarantor of individual rights. He probably will leave to the Congress the primary responsibility for advancing the frontiers of human dignity. I expect him to follow in the tradition of Frankfurter and Harlan, more sensitive now than before his ordeal, to the expectations and the rights of minorities.

Our role in the Senate is limited. To “advise and consent,” we have now only the power to reject. Judges Haynsworth and Watkins have already been rejected. Others whose nominations were apparently contemplated but never transmitted to the Senate; namely, Mrs. Lillie and Mr. Lilliard. Mr. Mosby’s choice is not between Mr. Rehnquist and a better man. It is to reject, or not to reject.

Mr. Nixon’s commitment to judicial and political conservatism has been made, and only the power of his word. His future nominees like those in the past will be judicial and political conservatives. Their philosophies may be more cautiously expressed, but they neither will be, nor will be, different from Mr. Rehnquist’s. What may be different, markedly, is character and intellect—excellence in the law. It is a compliment to Mr. Powell and to Mr. Rehnquist that they were not Mr. Nixon’s first choices. But that is not to say that the President has exhausted the Nation’s supply of mediocrities.

Judged on its own merits, but the risk of not consenting is greater than the risk of consenting, I fear the trials of other nominees in the future, liberals as well as conservatives, for his beliefs.

I do not want to see Mr. Rehnquist rejected for freely and brilliantly expressing opinions withheld by other more cautious, and therefore successful, nominees. Those opinions upon close examination are not outside the mainstream of judicial thought. They reflect a narrow view of the judicial function and a hunch, a view of the legislative function. Mr. Rehnquist does not oppose integration. He moved his family from an outlying area to the center of Phoenix so his children could attend an integrated school. He condemned the excessive use of force at Kent State. With very few exceptions his teachers and the individuals who know him best believe in his fitness for the Court. He has manifested his concern for the legal rights of the poor through his service in the NAACP Legal Defense Fund.

Essentially he holds to the view that the active promotion of interests, be they of corporate special interests or of the poor and downtrodden, is a function for the Court. The Court. I can wish that he supported a more positive judicial approach for the latter than the former. But I cannot say that his view is unfit to be represented on the Court.

We have looked in recent years to the Court for a reassertion of the Constitution. It is its role to expand, in the broad and newly enfranchised generation, by the young and by women, blacks and the poor, to expand upon those guarantees. I do not want to see the Congress restrained by the Court. Mr. Rehnquist’s judicial conservatism dictates judicial intervention. He has been as critical of the McReynolds Court as of the Warren Court.

This is the most difficult decision I have had to make as a Senator. I have received more pressure and advice on this question than upon any other, even of all it opposed to Mr. Rehnquist. But I must support him, not just because of his demonstrated excellence in the law, his unquestioned integrity, and an intellect which I am convinced would not permit a mechanistic or political, or before the Court. We are not prophets. I must take the risk of being wrong. And I will be bitterly disappointed if my faith in Justice Rehnquist is proved unfounded.

Mr. Rehnquist, in the exercise of our responsibility to deny or confirm nominations to the High Court, we have six times been called to scrutinize the choices of President Nixon. At least twice we have been spared this task by the timely intervention of the American Bar Association. During the controversy that led to the resignation of Justice Fortas, Mr. Nixon said that if he were President of the United States he would appoint men of the caliber of Oliver Wendell Holmes or Louis Brandeis. The President, we know, is under pressure from the right wing of his party. Plans are apparently afoot to oppose the President’s renomination with an ultra-conservative candidate.

It is plausible to believe that the President has chosen to deploy the Supreme Court against discontent in his own party? The President has inherited an historic opportunity to shape the Supreme Court for a generation. Now, it may be that the President would genuinely like to construct the Court in such a way as to impede change for another generation. Or it may be that his motives are more related to his own current political position. In either case, the next 20 years will be vital ones in the history of this country. We are going to have to meet and try to overcome problems of the economy, of pollution, of war, of race, of the working class, of the middle class, of decayed cities, of crime, of penal reform, of fundamental freedoms. The Justice whom we are to confirm, together with other Justice, the next. The Court, will have a tremendous power to aid or to hinder attempts to solve these problems. To know the roadblocks to progress that can be thrown up by recalcitrant judges, one need only remember that Warren G. Harding appointed three judges who tried to stop social welfare legislation. The Congress, and the Constitution. In its accepted historical legal sense, strict construction means that the powers of Government should not be construed so broadly as to enable Government to break into people’s houses, who will let the Executive send men to war without congressional authorization, who will let the Executive impound and refuse to spend funds which Congress has appropriated, to help ameliorate the suffering of millions of citizens, and who will let the Executive refuse to give Congress information on what is being done with the taxpayers’ money in regard to military affairs. In William Rehnquist they have apparently found just such a Justice.

Mr. Nixon already has a Supreme Court which largely agrees with his interpreted view of strict construction. Two of the Justices from the Eisenhower and Kennedy era are basically counted in the so-called conservative camp, although they occasionally vote the other way. The two Justices appointed by Kennedy, and presumably the third appointee confirmed last week, have already shown themselves to be firmly in Mr. Nixon’s camp on most issues. There is thus a possibility that Mr. Rehnquist will be a fifth vote on the Court.

It seems to me, therefore, that the time has come once again to speak of balance on the High Court. When Mr. Nixon nominated Mr. John S. Harlan, in 1968, he spoke of balance on the Court. He said he thought the Court was tilted too much in one direction and that there should be a more even distribution of power. Mr. Nixon may be able to count eight Justices on his side, but I think he is going to have a tough time.
It is a serious business to tie the hands of a generation. Legislation to meet the needs of the country does not come easily. It is the product of earnest sweat and toil in Congress and the White House. But despite the great legislative efforts which will be made to solve the problems of the Nation, Mr. Nixon's appointees will have it in their hands to knock down the efforts to better society, just as the four horsemen of the 1980's Court knocked down efforts to get this country out of debt and make the common man a fair break.

So I come back to the question of what kind of man or woman should be nominated to the Court. Obviously the nominees should be men or women of the highest intellectual and legal abilities. They should be persons who in their life have shown compassion for the unfortunate, yet have the capacity to work bitterly hard but make little money, who have shown that they sympathize with those of minority races and with the problems of hard-working middle class citizens. And it is evident that the nominees cannot be persons who have already shown that their minds are closed on critical issues facing the Nation and that their minds are closed to the problems of the poor and the underprivileged of a different race. Mr. Nixon should nominate people who will bring balance to the Court rather than packing it with those of single persuasion.

We now know enough about Mr. Rehnquist to conclude that he would not meet these criteria. I am not certain even that Mr. Rehnquist meets all of the criteria laid down by the President in his nomination. Mr. Nixon’s nomination. Senators will recall that the President spoke of “judicial philosophy” as a major consideration in putting forward Mr. Powell, and Mr. Rehnquist. By “judicial philosophy” I do not mean agreeing with the President on every issue. It would be a total repudiation of our constitutional system to try to control the Federal Court, or any other Federal Court, for that matter, were like puppets on a string pulled by the President when he announced the decision later: “As far as judicial philosophy is concerned, it is my belief that it is the duty of a Judge to keep his position, and not to place himself above the Constitution or outside the Constitution.

The President proceeded to announce a sound principle when he said a Supreme Court Justice should not “twist or bend the Constitution in order to perpetuate his personal political or social views.”

Then he promptly sank his own doctrine.

Mr. Rehnquist has made a career with this administration of torturing the Constitution to suit the political strategies and ideological quirks of his bosses in the Justice Department and the White House.

He is the principle architect of the premise that the President, as Commander in Chief of the Armed Forces, has virtually limitless powers to involve this country in war, Needing only to perceive a threat to American troops somewhere—as in Cambodia last year, this year in Vietnam—with an invasion without so much as a glance toward Capitol Hill. Under the same doctrine Mr. Nixon could invade China tomorrow, and so could 30 million Mr. Rehnquist needs no such proof to make his point, because he is so sure of it. Mr. Nixon may see such thinking as an “exceptional” qualification for the Supreme Court. I do not.

Mr. Rehnquist has been equally forthright in proclaiming the need for “an effective government of the American people to be secure in their private thoughts and actions. They have no such right, he says. On the contrary it is the Government's responsibility to snoop on its own citizens unhampered by inconvenient constitutional limitations. We can rely on the self-restraint of the executive to avoid abuse. One wonders why we need a Bill of Rights at all.

Mr. Nixon may regard such thinking as the mark of one of “the very best lawyers in the Nation.” I do not.

On the rights of the accused, Mr. Rehnquist sees a need for adjustment in the landmark Miranda decision. As I understand it that precedent created no new substantive rights at all. It does no more than assure the poor, unformed and uneducated to “know as much about the Constitution's explicit protections as the well-to-do fellow who has an attorney on retainer to tell him. Clearly that is not a fair interpretation of Mr. Rehnquist's meaning when he tells us that “law and order must be preserved at whatever cost to individual liberties and rights.”

Mr. Rehnquist may see such thinking as a means of restoring “that delicate balance between the rights of society and the rights of defendants accused of crimes against society.” I do not.

As the Nation's lawyer, Mr. Rehnquist played a dominant role in developing the mass arrest strategy employed during the May Day disturbances in Washington. Under his “limited martial law” doctrine some 13,000 people were arrested, most without specific charges, most without any possibility that they could even be identified by the arresting officer; only apparent crime was that they happened to be on the streets of the Nation's Capital.

One standard of measuring Supreme Court nominees with judicial experience has been to assess the number of times they have been reversed on appeal. Considering failures to prosecute, dismissals and appeals, the latest estimate is that Mr. Rehnquist has been reversed at least 12,000 times on cases growing out of the May Day affair alone.

Mr. Nixon may see such a record as an argument for the “institution of the Supreme Court,” by adding “distinction and excellent to the highest degree.” I do not.

I reject the view that the Senate's only responsibility on Supreme Court nominations is to evaluate academic credentials and success in the practice of law. We have a higher obligation to both the Constitution and to the public.

I further reject the notion that Mr. Rehnquist deserves speedy confirmation because he does not have the same weaknesses as Mr. Nixon's prior rejected nominees. He has no more personal balalaikas than we have. Certainly right-wing extremism is no less dangerous when it is brightly put.

Perhaps no one has so clearly forecast the danger posed by Mr. Rehnquist to our Constitution, as a Senate committee in the most recent issue of his biweekly. Incidentally, I have found his bi-weekly to be one of the most scrupulously researched and informative of the publications which have come forth to mask the activities of our Government. Mr. Stone's courage, intelligence and hunger: for the truth are matchless. I am sure that I join many in Government and outside, who lament the absence of Mr. Justice Harlan. I do not continue this particular facet of his work. But it does make his contribution to our present debate all the more appropriate.


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

[From I. P. Stone's Bi-Weekly, Nov. 29, 1971]

WHAT REHNQUIST SAW AS A BLACK DAY IN THE COURT

By the standards of the libertarians, June 17, 1957, was one of the greatest days in the history of the U.S. Supreme Court. By the standards of William H. Rehnquist, a legal examinership of the Court handed down that day indicates the kind of “conservatism” he would bring to the bench.

One of his attacks on the Warren Court was an article he wrote for the American Bar Association Journal (44ABAJ229) in 1968. He began, “In the long history of the Court and of Communists and others like political philosophers who scored significant victories during the New Deal term of Chief Justice Charles Evans Hughes and the late 1930's, culminating in the historic decisions of June 17, 1957.”

Joseph L. Rauh, Jr., calling attention in his testimony on Rehnquist before the Senate Judiciary Committee to the four historic decisions handed down by the Court that day in the field of civil liberties.

Mr. Justice Harlan, the great conservative whom Rehnquist has been named to succeed, wrote two of those decisions and concurred in the fourth. Rauh, who was surprised, on his hospital sick bed, to hear them described as victories for Communists rather than for strict construction of the Bill of Rights.

It is a pity that a clash between Rauh and Senator Kennedy over Rehnquist's advocacy of a “National Defense” amendment attracted attention from Rauh's exposition of those four cases. To compare these decisions with Rehnquist's description is to see how far to the right are his political preconceptions. One of them dealt with Communists at all. That was the Yates decision (354 U.S. 296) where Mr. Justice Harlan reversed the conviction of the California Communist leader and held that advocacy of revolutionary doctrine was protected by the First Amendment unless accompanied by advocacy of action. This decision was, to all intents and purposes, the First Amendment decision. It was the Smith Act, our first peacetime sedition statute since the Alien and Sedition laws of John Adams. The other decision by Harlan was an earlier case in the field of loyalty and security. It ended (354 U.S. 123) the long and shameful harassment of John Stuart sandalwood non-cooperators the Bill of Rights, the declaration of a real Bill of Rights, the rejection of the Declaration of the Rights of Man by the people. It ordered his restoration to the State Department.

To other decisions that day were also setbacks to the witch hunt of the 50's. Watkins v. U.S. (354 US 395), which Rauh argued for the defense, was the first major setback in the anti-Communist trials in the Warren Court. The Court reversed the contempt conviction.
of an Auto Workers’ official, Warren (with Harry J. Daugherty and Franklin D. Roosevelt) held that Congress had no power of “exposure for exposure’s sake.” The fourth case, Sweezy v. New Hampshire, which was a victory for academic freedom against a State witch hunt, Warren and the majority ruled as they did in Watkins but for a more clever and Frankfurter an attack on the second position, voting for reversal on First Amendment grounds. Paul Sweezy, an editor of Monthly Review, is an Independent Marxist of international reputation. These are the decisions Rehnquist found so deplorable.

The Brown Decision: His Target
Rehnquist’s attacks on Brown, in his attacks of the 50s on the Court were the witch hunt and school segregation. Much attention has been focussed on the article he wrote for the Harvard Law Review on October 8, 1959 urging the Senate to restore “its practice of thoroughly informing itself on the power of Congress to cut off funds for nominees before voting to confirm him.” Less attention has been given the animus he displayed in a 1960 article against the Court’s decision for school integration. Rehnquist protested in confirming Mr. Justice Whittaker, the Senate had failed to inquire sufficiently into the background of the Court and segregation or about the Supreme Court and Communism.

In 1960, 1970 Rehnquist defended Cardwell’s anti-integration record and sneered in a letter to the Washington Post that it was attempting to set up “a rather curious set of ‘right decisions’” and “the equivalent of subscription to the Nicene creed for the early Christians.” But he wanted to make Cardwell’s vote to make sure that nominees were hostile to school integration. It is ironic that Rehnquist, who argued less than a decade ago for the fullest inquiry into the political opinions of Court nominees, should have resisted inquiry into his past, viz., on his anti-integration views. He declined to give his opinion on the constitutionality of the Massachusetts, on the amendment on the在他说道, on which he asserted “The distinction between individual freedoms more important than property rights, on the one hand, and the personal liberties more important than property rights, on the one hand, are sanctioned by the Bill of Rights as a rule that cannot be increased to provide quality education.”

Mr. Justice Black, in his dissenting opinion, said he would prefer no intrusive police, FBI surveillance of demonstrations, bussing, and thethe rights amendment. Rehnquist came up with a new doctrine for evasion. He claimed the right to silence because of a client-attorney relationship with the government on these issues. This evoked a letter from 19 of the 26 members of the Catholic University Law School to the Judiciary Committee in which they declared “The doctrine of client-attorney privilege is not the attorney’s. It is for the protection of, and belongs to, the client.” They insisted furthermore that Rehnquist quoted correctly as a Justice Department official was “the people and not the President.” They said no nominee before had ever made such a claim “since the Slaughter-and-Knight case.” Certainly Rehnquist never advocated any such doctrine when he wanted to block or reverse the rulings of the Weeks, the Warren Court, or, the Senate inquiry into the beliefs of Court nominees. His nomination and Powell’s are two major steps toward the conversion of the Court into a citadel of reactionary jurisprudence.

Mr. McCOPPER, Mr. President, with Mr. Stone’s article as background, let me turn to a fuller analysis of some of the episodes in the Rehnquist record which make his nomination to the highest court in the land so ill advised.

I. CIVIL LIBERTIES

No man can be worthy of appointment to the Supreme Court who has demonstrated such misunderstanding of the Bill of Rights as William Rehnquist. He is a record of contempt toward the very essence of this free society, the notion that individual freedom and expression is the foundation of America. Whereas the Bill of Rights is based on protection of individual and governmental, federal and State, restrictions of Government, Mr. Rehnquist has consistently sought to narrow that freedom and increase those encroachments to the point where this Government would once more attempt to suppress its people. And the dismal Rehnquist record dates not from the start of his involve-ment in this administration, but from the beginning of his legal career.

In 1955 Mr. Rehnquist announced the Chief Justice appointed by Mr. Nixon’s mentor, the late President Eisenhower, one Earl Warren, on the ground that he and his Court showed “extreme solicitude” for “obscenists” and other criminal defendants. He also objected to the Court’s rulings in support of Government regulations of business. This accusation was made in an article, Who Writes the Supreme Court?, which appeared in U.S. News & World Report, December 13, 1957. Interestingly, Mr. Rehnquist apparently has no trouble with government regulation of human freedom. It is a contradiction with his notion, expressed before the historic decision in Brown against Board of Education that the Constitution, and the Amendment, forges a property more than they do people. His views in that instance were reversed by a unanimous Supreme Court.

Later Mr. Rehnquist attacked the Court’s record of “failure to permit applicants for the bar to practice law” that “despite the political beliefs they held.” What is more instructive than the de-nunciation is the manner in which this commentator ignored the fact that he was in 1956 attacking Mr. Justice Black for having ideological sympathies with the defendants, one an admitted Communist. It is surely a sorry event to elevate to the highest Court one who shows contempt for that Court and its General Counsel.

Mr. Rehnquist’s defense of wiretapping without court order against suspected domestic subversives, even though the Congress and the courts have not approved such behavior, is but another example of this nominee’s readiness to resort to impermissible techniques to control groups or people he deems subversive. In view of Mr. Justice Black’s, can any one doubt that almost no American would be free from wiretapping should Mr. Rehnquist’s view prevail on the Supreme Court.

As the nominee’s colloquy with Senator ERVIN demonstrates—hearings before the Senate Subcommittee on Constitutional Rights, “Constitutional and Statutory Sources of Investigative Authority in the Executive Branch of Government,” 82nd Congress, first session, March 9, 1971 (unprinted)—he is equally of the view that the Government has the right to make public surveillance on its citizens almost without any supervision. Of course, Mr. Rehnquist’s narrow regard for the rights of our citizens extends with equal force to his willingness to deny even the most fundamental freedoms to our public officials. As a member of the Court, he seems to miss the point that, in our free society, the truth will out only when all citizens are free to speak the truth, consistent only with those laws the Congress has seen fit to enact and not consistent with Mr. Rehnquist’s view of effective government. His fear of insubordination may be a result of the present administration’s ability to keep the confidence of some of its own party, but that is not the case for the American people, but that fear hardly justifies destroying the rights of our public employees.

Mr. McCOPPER in recent memory was so fraught with potential destruction of our Constitution then the Department of Justice’s response to the May Day demonstrations. That the Department of Justice, and the President’s lawyer to the Senate, could be the architects of a policy deliberately designed to violate the rights of innocent citizens on a mass basis, is simply incredible. If we can expect from Mr. Rehnquist if he is appointed to the Court. That the administration and Mr. Rehnquist were fully prepared not only to incarcerate innocent people under what we all know to have been intolerable conditions is perhaps another symptom on the wall that Mr. Rehnquist views order and property as far more important in life than individual dignity. And yet that the President’s position is to enforce the law. For the government crimes of the District of Columbia has dismally bungled to the point where they could prove no wrong doing.

The picture which emerges from the record is not that of a man simply holding a different philosophy than some of us hold, but of a man careless and hostile toward the very document it would be his duty to follow, willing to sacrifice at every turn the rights of our people for order, property, and other values which are meaningless if we have lost our faith in the vast majority of our law-abiding citizens, whatever be their political beliefs. And the mass arrests on May Day for which Mr. Rehnquist is responsible are but proof of the amount of the blame, are dramatic examples of what we can expect on that day in history when this Nation sacrifices individual freedom to the distorted, twisted view of our country which Mr. Rehnquist has.

II. CIVIL RIGHTS

No one reading Mr. Rehnquist’s vigorous opposition to the Supreme Court involving itself in the issue of school segregation following his hostility to passing public accommodations laws just a few years ago, com-
I ask unanimous consent to have printed in the Record a letter published in the Washington Post of December 4, written by Joseph L. Rauh, Jr., and Clarence Mitchell, legislative chairman, Leadership Conference on Civil Rights.

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

[From the Washington Post, Dec. 4, 1971]

FOR AN EQUATION OF MR. REHNQUIST’S CIVIL LIBERTIES RECORD

Your editorial “The Senate, the Court and the Nominee—II,” which appeared on Sunday, December 4, is a very important piece of legislation, and I should like to correct some of the points.

Senator Fannin’s “rebuts” (Letter, Dec. 2) only reinforces the Post editorial. By quoting banal generalities, Senator Fannin conceives that the specifics of Mr. Rehnquist’s decisions stand out in the light of day. For example, Senator Fannin quotes a Rehnquist statement favoring a free press, but he ignores the efforts to pressure the Washington Post not to print the Pentagon Papers. Senator Fannin quotes Mr. Rehnquist favoring the Fourth Amendment, but does not mention his position that wiretapping “for domestic subversion” without even a court order is a reasonable and legitimate activity. He quotes Mr. Rehnquist in favor of a fair trial, but fails to mention his support for preventive detention, his opposition to the exclusionary rule and his belief in restricting the use of habeas corpus.

Weak as Mr. Fannin’s defense of Mr. Rehnquist in the area of civil liberties, he makes no defense whatever of the Rehnquist civil rights record. Nor could he. This record is so clear and so consistent.

As the Post editorial points out, most black persons could expect a fair trial in any court where Mr. Rehnquist would be the judge. The extent of his participation in schemes to deny Negroes the right to vote is incredible.

Over the years, there has been only one area of civil rights legislation where conservatives, liberals and even some of the Deep South members of the Senate and House could agree on an agreement. That is the right to vote. Thus, the history of the personal and organizational involvement in denying Negroes the right to vote in Arizona, Mr. Rehnquist’s own state, is shared by many segregationists who welcome voting by colored Americans.

Mr. Rehnquist’s participation in attempts to bar voters from casting their ballots took two forms. First, he personally was present in some precincts where unwelcome attempts were made to prevent elderly and timid black citizens from voting. He says he was there to halt abuses by others. In contradiction there are witnesses who have signed sworn affidavits alleging that it was Mr. Rehnquist, himself, who was interfering with the voting. As Horace Mann, the United States Department of Justice has dared to let Mr. Rehnquist return to the Senate Judiciary Committee to answer these charges in person. Also, Sen. James Eastland (D-Miss.), has asserted that FBI reports do not mean Rehnquist was personally trying to prevent anyone from voting. If these reports by the FBI are so exculpatory, why does Senator Eastland and the Department dare to take such a risk? What is their word for what is in these documents? Surely, the investigation of complaints of civil rights violations is not scrupulous. As long as these reports are not made public, there is a strong suspicion that a full picture of the situation will not reveal as much as the public would know that Mr. Rehnquist was more than a foot soldier in the Arizona army that was mobilized in the 1960’s to reduce the number of Negro and Mexican-American voters.

The second aspect of the Rehnquist operation, voting is very much. It will be remembered that in 1964 the Congress passed a law prohibiting the giving of oral or written tests, unless the Attorney General gave special exemption. Rehnquist supporters admit that there were extensive efforts in Arizona to give so-called tests to Negro voters by asking them personal questions relative parts of the United States Constitution. This campaign was so well organized, so widespread and so successful that the voter was unable to see the server of what was going on said, “It is a wonder someone didn’t get killed.” Mr. Rehnquist, on the other hand, this campaign has been given various descriptions. The suit was pictured as the benign lawyer who was opposed to what was happening. Sometimes he is cast as the leader of the relief man who dropped in to the polling places to give others a rest period. One report credited him with being in charge of a “blatant conspiracy.” What may have been his rank or serial number, one thing is clear. He was deeply involved in a scheme which, on its face, seems to have been a violation of federal law.

The Senate has a right to know just what Mr. Rehnquist was doing when the program started? Did he advise the troops that trying to make would-be voters pass oral tests is the best way to achieve the desired results? If the sending of letters warning people that they might get arrested for voting? These and other activities have not been answered in an open hearing. As long as Mr. Rehnquist, or the Justice Department or the White House take the position there will be no more appearances where one can only conclude that there is something ugly and possibly shocking that is being covered up, some of the most embarrassing, that it would show Mr. Rehnquist should not have been nominated in the first place.

The Post editorial expresses the opinion that Mr. Rehnquist’s horizons on civil rights may have broadened and may broaden even with his tenure on the Court. It is optimistico on that point. It must be remembered that Judge Haynsworth also was said to be a person of broad horizons. He has never, in his civil rights viewpoint. Yet, he was the opinion in Tillman v. Wheaton-Haven Recreational Association decided on Oct. 27, 1971, which held that neither the Voting Rights Act of 1965 nor the Civil Rights Act of 1964 gave relief to Negroes who were denied use of a swimming pool. It is ironic that Judge Butner in his dissent said that the Haynsworth decision was a “marked departure from authoritatively precedent.” Judge Carswell had also pictured as one who had changed his racial views for the better. Few can forget that, after his nomination was defeated in the Senate, the real Judge Carswell emerged as an anti-civil rights candidate in the 1970 Florida Senate race. It is unlikely that Mr. Rehnquist is any different from the two nominees who were rejected. Sooner or later, the same old Rehnquist, who opposed public accommodations law, will rise and attempt to look powerful and broad.

Unfortunately, there are some members of the Senate who find it hard to vote against a nominee solely because of his negative views on civil rights. For there, the issue of civil liberties may seem more respectable as ground for opposition to the nominee. However, let no one be deceived about the importance of civil rights issues. Mr. Rehnquist’s position on civil rights, even standing alone, is sufficient to make him unworthy of being on the court.

Mr. McGOVERN: Mr. President, perhaps no one speaks better against confirming Mr. Rehnquist’s confirmation
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than Mr. Rehnquist himself. I am speaking, of course, of Mr. Rehnquist’s vigorously argued and appalling memorandum to Mr. Justice Jackson written in 1952 on the impact of school desegregation cases. All of us have at one time or another held positions which we have come to see as wrong or untenable, but the important point is that nothing in Mr. Rehnquist’s memorandum suggests that he has, in fact, come to admit the errors which led to his advice to the Justice. I think we should all ask, as we listen to Mr. Rehnquist’s own words today, what type of person he would be if we would inflict on a generation of Court decisions: I ask unanimous consent that Mr. Rehnquist’s memorandum, “A Random Thought on the Segregation Cases,” be printed at this point 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

One-hundred fifty years ago this Court held that it is not the role of judges to determine which the Constitution imposed on the various branches of the national and state government. Marbury v. Madison. This was an opinion that stressed that legal standards to be applied other than the personal predilections of the justices.

The conduct of interstate or state-federal relations, as well as to inter-departmental disputes within the federal government, is the business of judiciaries and has worked well. Where theoretically co-ordinate bodies of government are disputing, the Court is well suited to its role as arbiter. This is not the case with those involving matters that are emotionally charged subject matter than do those discussed below. In effect, they determine the skeletal relations of the governments to each other without influencing the substantive business of those governments.

As applied to relations between the individual and the state, the system has worked much less well. The Constitution, of course, does not set out individual rights, particularly in the First Ten and the Fourteenth Amendments. But as I read the history of this Court, there is no hint of the Rehnquist when attempting to interpret these individual rights. Fletcher v. Peck, in 1810, represented the general consensus to extend the protection of the contract clause to infant business. Scott v. Sanford was the result of Taney’s effort to protect slaveholders from legislative interference.

After the Civil War, business interests came to dominate the Court, and they in turn ventured into the deep water of protecting certain types of individuals against legislative interference. Championed first by Field, then by Peckham and Brewer, and later by Burger, the high water mark of the trend in protecting corporations against legislative influence was probably in 1947 in the Ashwander opinion. In that case, Holmes replied that the Fourteenth Amendment did not entitle Herbert Spencer’s Social Stats. Other cases counselled similarly. In a similar vein were Adkins v. Children’s Hospital, Hammer v. Dagenhart, Tyson v. Banton, Hibbitt v. McDonald. But evidently the Court called a halt to the high reading of its own economic views into the Constitution. Apparently it recognized that while it had been reading with concern the views of the national government, it was not part of the judicial function to thwart public opinion except in extreme situations.

In these cases now before the Court, the Court is, as Davis suggested, being asked to read its own sociology into the majority situation. Uprising a view palpably at variance with precedent and probably with legislative history, appellants seek to convince the Court that the moral and constitutional treat- ments they are receiving. I would suggest that this is a question the Court need never reach; for regardless of the Justice’s Individual views on the merits of segregation, it quite clearly is not one of those extreme cases which commands intervention from one of the most conservative of our court members individually are “liberal” and dislike segregation, now chooses to strike it down.

One of the cases that is not likely to attract much of the ink of the justification for the Constitutional thing and the kinds of special claims it protects. To those who would argue that “personal” rights are now in peril, that participation in “true democracy” is impossible by one the cases establishing such rights have been sloughed off, and crept silently to be forgotten.

He was, in effect, the one who was to profit greatly by this, example, it must be prepared to see its work fade in time, too, as embodying only the sentiments of a transient majority of many men.

I realize that it is an unpopular and un-humanitarian position, for which I have been criticized, but it is my view; I think Plessy v. Ferguson was right and should be re-affirmed. If the Fourteenth Amendment was intended to give such rights of citizenship as Negroes enjoy, it would, just as surely, not enact Myrdal’s American Dilemma.

Mr. MCGOVERN. Mr. President, in his own review of Mr. Rehnquist’s sorry record, William V. Shannon wrote an article for the New York Times entitled “No to Rehnquist.” I ask unanimous consent that it be printed in the Record.

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

No to Rehnquist

(William V. Shannon)

In 1964, Senator Barry Goldwater won the Republican Presidential nomination, Goldwater’s campaign was not a putative candidacy. The stage was thus cleared for a united bid for power by the most regressive factions in national politics—the Southern racists and the right wing of the Republican party.

The issues were clearly drawn. Senator Goldwater had voted against the 1964 Civil Rights Act and opposed the whole thrust of the Negro drive for equality. Ten years earlier he had supported McCarthy and fully endorsed the McCarthyite assault on the civil liberties of Government employees. Senator Goldwater stood squarely for a “war on crime” against procedural safeguards that hobbled the justice system.

“I would remind you that extremism in the defense of liberty is no vice. And let me remind you that moderation in the pursuit of justice is no virtue,” said Mr. Goldwater, accepting his nomination.

The nation overwhelmingly rejected this rejection of the majority view. People in 44 of the fifty states voted “no” to Mr. Goldwater. He was, in Nelson Rockefeller’s famous phrase, outside “the mainstream” of modern America.

Four years later, as a consequence of the Nixon-Agnew administration, the President was delivered into the hands of the two Goldwaterites. Two of his Arizona protégés—Richard Kleindienst and William Rehnquist—became Deputy Attorney General and Associate Attorney General, respectively. Mr. Rehnquist’s record on racial equality, civil liberties and the overweening power of government to control private lives and property of the citizen and security is wholly consistent with that of his political sponsor.

Mr. Rehnquist clearly opposed the passage of the Phoenix municipal ordinance and the Arizona state law requiring non-discriminatory racial policies on the part of private employers and housing accommodations. That was in 1964–65, extraordinarily late for anyone to re- fuse to rejoin the justice of Negroes to equal treatment.

Wherever the convenience of the police and tranquility, Mr. Rehnquist is a malleable, willing that wants to enlarge the power of the police and circumscribe the citizen. He would alter the “exclusionary rule” that prevents the police from using evidence obtained by unconstitutional search and seizure. He has argued for the Government’s right to tap the phones and close the mail of private citizens. He has equally been a strong advocate of the disintegration of our national security by going about the business of identifying people whom it suspects of “national security” offenses and to do so without a court order.

In 1964, he was one of the justices involved in those cases involving spies and foreign countries, he would apply it to any American citizen who threatens the security.

Warning against his confirmation as a “dangerous mistake,” the Ripon Society was a dangerous mistake, the Ripon Society, made up of conservative young Republicans, de- manded that his name be removed from serious consideration. “Approval of William Rehnquist’s nomination will for the first time give credence to the Supreme Court. Mr. Rehnquist’s appointment was a warning to the American people that we are moving into an era of re- pression. The entire scenario of repressive consists of measures that Rehnquist, on the record, strongly and explicitly rejected.”

A man’s opinion can change but a mature man’s habits of mind rarely change. Ominously, Mr. Rehnquist is a malleable, willing that has borders upon intellectual McCarthymism. After serving as a law clerk to the late Justice Robert Jackson, he gave an unusual interview in which he attacked, other than the Senate’s Committee on the Judiciary as “left wing” and said that “unconscionable slinging of material” influenced the cases on which the Court granted certiorari.

Mr. Rehnquist’s first political speech in Arizona on November 2, 1967 was before the Supreme Court, which included derogatory personal remarks about Chief Justice Earl Warren’s professional competence.

The following year he began a bar association journal article with this sentence: “Communists, former Communists, and others of like political philosophy scored significant victories during the October, 1956, term of the Supreme Court, culminating in the historic decision of June 17, 1957.”

These were landmark civil liberties decisions involving a loyalty-security firing in the State Department, the right of wit- ness protection, the right of Government employees to form a labor committee and a free-speech case. Two of them were written by Justice Harlan, dissented by Mr. Rehnquist. Was Mr. Harlan “soft on Communism?”

The Rehnquist record is not that of a true conservative. It is the record of an aggressive ideologue with contempt for the Constitution and strong commitment to a harsh, narrow doctrine concerning government and individual. It would be the fine name of events if this Goldwaterite doctrine so overwhelmingly rejected by the voters should be legitimized on the Supreme Court.

Mr. MCGOVERN. Mr. President, I ask unanimous consent that the editorials appearing in the New York Times of De-
cember 8, 1971, and the Des Moines Register be printed in the Record.
There being no objection, the items were ordered to be printed in the Record, as follows:

[From the New York Times, Dec. 8, 1971]

THE REHNQUIST NOMINATION

With only one dissenting vote, the Senate has confirmed the nomination of Lewis F. Powell, Jr., to the Supreme Court, thereby giving the nation a justice who, in a decisive manner, the Senate has shown how false was the imputation that it would not approve a Southern Virginia lawyer. When a nominee is a man of professional stature, wide experience, and a fundamental belief in the basic guarantees of the Constitution, no personal or philosophical disagreement bars his way.

It is a source of profound regret that President Nixon's other nominees for the Court is not of the same quality. Instead, by submitting the name of William Rehnquist, the President has once again provoked the turmoil of a confirmation struggle.

The grounds for rejecting Mr. Rehnquist are quite different from those of the Senate's rejection of the two earlier Nixon nominees. His record does not show either insensitivity to potential conflicts of interest or a lack of intellectual integrity. Rather, he is the defect of basic insensitivity to racial equality and seriously deficient understanding of the subject.

He has repeatedly shown himself opposed to judicial or legislative efforts to eliminate racial discrimination. There was a time decades ago when a nominee with Mr. Rehnquist's opinions would have been confirmed for the Court. By his prolonged and repeated voting the Court has denied its opportunity for all races has become one of the indispensable standards of modern constitutional democracy. Since Mr. Rehnquist is lacking in such a commitment, the Senate if it confirmed him would be voting to turn back the clock.

Mr. Rehnquist's evident lack of sympathy for individual liberties also disqualifies him.

The Constitution is a libertarian document. The First and Fourteenth Amendments are the propositions are prohibitions against the exercise of certain kinds of power by the Federal and state governments. It is the need for excessive, or unreviewed exercise of other powers.

A political activist and as an Assistant Attorney General, Mr. Rehnquist has relentlessly argued in favor of abridging and diminishing the liberties of the citizen. He has cynically enhanced the powers of Government—to tap the citizen's phone and "bug" his home and office, to enter his premises without knocking, to use tainted evidence against him, to arrest him in dragnet sweeps, to compel him to testify against himself, to deprive him of his right to practice his profession if he is a radical lawyer.

It is easy and comfortable for the ordinary, law-abiding citizen to assume that those with governmental power will never touch his life, but the whole history of human liberty shows that the unpowered citizen is the first—but rarely the only—victim of arbitrary power.

In voting for the first time in fifty years to oppose a nominee for public office, the provisions in the Bill of Rights, in order to catch and punish criminals or Communists, seems quite strong. He has spoken in favor of arbitrary wiretapping and "preventive detention"—detaining suspects for long periods without trial. Attorney General John Mitchell's "no knock" raids and similar repressive acts have been accompanied by the same implicit arguments.

Rehnquist has argued that the government has the right to conduct surveillance of any citizen. He thinks that "self-discipline on the part of the executive branch will provide an answer to virtually all the legitimate complaints against excesses of information gathering."

The evidence that he believes in detouring overstatements by making the Bill of Rights, in order to catch and punish criminals or Communists, seems quite strong. He has spoken in favor of arbitrary wiretapping and "preventive detention"—detaining suspects for long periods without trial. Attorney General John Mitchell's "no knock" raids and similar repressive acts have been accompanied by the same implicit arguments.

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Rehnquist seems to favor a diminution of the powers of the judicial branch in favor of the executive, the amount and scope.

Moreover, Rehnquist has expressed himself positively toward Supreme Court decisions in ways that indicate he mistrusts the court. He said, for example, that Communists had scored a major victory in the case of the Washington wine tavern front in months. A building of something like the old trust that once existed between Ottawa and Washington has been so thoroughly eroded in relations that has been so evident since the imposition of the American import surcharge last August.

To say this is not to suggest that relations can or should restetle into a familiar pattern that may or may not have existed in a former time. The United States has been slow to recognize that Canada has come of age among the tenth in the world's nations and sixth in per capita trade. Canada was never simply the tail to the United States kite in world affairs that many Americans believe. It is probably will try even more foreign policy initiatives such as the recognition of China and Prime Minister Jimmy Stretches have some. It is certain to be more zealous in conserving Canadian natural resources for home use.

We hope subsequent Washington actions will bear out Mr. Trudeau's optimistic interpretation. It is obvious, in any event, that this visit has cleared much bad air and restored sorely needed cordiality to American-Canadian relations at the top level.

[From the Des Moines Register, Nov. 30, 1971]

POWELL AND REHNQUIST

Lewis F. Powell and William H. Rehnquist, President Nixon's nominees to the Supreme Court, passed the Republican-controlled Senate Judiciary Committee, though doubts were expressed about Rehnquist. Both men are superior to the mediocre nominees submitted by the American Bar Association by the White House and disapproved by the ABA committee. Powell was approved unanimously by the committee, and Rehnquist was accepted by a 12 to 4 vote.

The four negative votes on the latter nomination described as a group of a dozen senators that Rehnquist's views about civil rights questions, especially concerning racial equality, are unequal to the task. Powell is able, intelligent, honest, but the Senate has the duty to judge him not on these characteristics alone but on his ideas—so Rehnquist has argued.

The evidence that he believes in detouring overstatements by making the Bill of Rights, in order to catch and punish criminals or Communists, seems quite strong. He has spoken in favor of arbitrary wiretapping and "preventive detention"—detaining suspects for long periods without trial. Attorney General John Mitchell's "no knock" raids and similar repressive acts have been accompanied by the same implicit arguments.

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supposed harassing of blacks at the polls in Phoenix. We are concerned about his views—not that they are conservative on political issues, but that they fall short of “strict constructionism” of the Constitution on individual rights.

We fervently believe that the Bill of Rights is the cornerstone of our American liberty and of a free society. De- votion to these liberties rises above political conservatism or liberalism, and we would not select a Supreme Court justice who was will- ing to compromise in this area.

Lewis Powell, on the other hand, we en- dorse. Powell is a conservative—but a conservative in the Southern pattern of Senator Sam Ervin (Dem., N.C.). He is convinced that the Constitution guarantees individual freedom and the rights of man. Powell is a highly respected man of the law in the fullest meaning of that term in the American tradition.

DOES WILLIAM RENHQUIST MEET THE HIGH STANDARDS EXPECTED OF THE SUPREME COURT?

As we have thought of William H. Rehnquist as a prospective Justice for the U.S. Supreme Court, this was the reply of John H. Darlington, a partner on the Con- stitution and the Court and a friend of Mr. Rehnquist’s for many years in Phoenix, Arizona.

“He will represent the Goldwater view on the Supreme Court. Bill has been an intel- lectual conservative, in that he does not believe in a social welfare state. He will put manacles back on the slaves, but I’m sure from his point of view it will be more than a pause . . . there will be backw Ward momentum.”

“In terms of race relations I would expect him to be retrograde. He honestly doesn’t believe in his intellect.3 Bill will apply the law when considering him for the Court.”

Yet President Nixon and Mr. Rehnquist have the same intellectual conserva- tional philosophy—should be part of an in- quiry into his fitness for the highest judi- cial appointment in the land.”

When President Nixon announced the Rehnquist nomination on October 21, he said judicial philosophy was one of the ma- jor considerations governing his choice. And Mr. Rehnquist, in a Harvard Law Review article he wrote in 1969, urged that the Sen- ate’s Constitution is the “foundation of the legal philosophy of a Supreme Court justice.”

To ask whether Mr. Nixon and Mr. Ren- hquist for, us, the crucial question is this: To what extent would Mr. Rehnquist’s phi- losophy influence him in trying to meet President Nixon’s high criterion—that a Supreme Court Justice’s “sole obligation is to the Constitution and to the American people”?

—THE RENHQUIST RECORD ON CIVIL RIGHTS

Mr. Nixon’s statement admits no exceptions. So it is fair to ask if Mr. Rehnquist is part of the national conscience of all the American people and not just to some of them.

We believe that question particular point are the first substantial public expressions of his views on civil rights when he was a law-

PEOPLE AND PRIVATE PROPERTY

In 1964, Phoenix was about to pass a pub- lic accommodations law, a local ordinance requiring stores, restaurants and other places of public accommodation to allow members of the public without regard to race, color, religion or national origin. It was July, and 36 months after the U.S. House of Representatives had passed, by overwhelming vote, a civil rights law with a public accommodations section similar to one the town was considering. It was five days after two-thirds of the mem- bers of the U.S. Senate had broken a filibus- ter and passed the Civil Rights Act of 1964.

Yet William Rehnquist went before the city council to argue against the local ordinance.

He spoke, he said, only for himself; and indeed he was virtually alone in his opposition. Even Senator Barry Goldwater was in favor of the local law.

But Mr. Rehnquist called it “an assault on the institution of private property.” Of the councilmen he said “they are not aware of the nature of this kind of assault . . .”

Mr. Rehnquist wrote to the local paper. The ordinance, he said, in a letter to the Arizona Republic, would “harass . . . the legitimate right of the owner of a drug store, lunch counter or theater to choose his own cus- tomers.”

“By a wave of the legislative wand, hitherto private businesses are made public facilities, which are open to all persons, regardless of the owner’s wishes.”

He questioned “whether the freedom of the property owner ought to be sacrificed in order to give those minorities a chance to violate the private rights of those who choose to peacefully access to integrated eating places.”

In his view, placed a “separate indignity” on the proprietor in order to “harass . . . the Negro.”

He wrote, “it is, I believe, impossible to justify the sacrifice of even a portion of our historic individual freedom for a purpose such as this.”

As asked at the Senate Judiciary Commit- tee hearing on his nomination on November 3, if he still felt that way, Mr. Rehnquist replied, “I think probably not. The ordinance really worked well in Phoenix.”

“It was developed and I think I have come to realize since, more than I did at the time, the strong concern that minority- ries have over those issues. Since that time was in those days, it was the party of the Montgomery bus boycott, the Freedom Rides, the protests and mass jailings in Birmingham, the March on Washington, and the demon- strated readiness of thousands of Negroes to die for full equality, one wonders what more was needed to make Mr. Rehnquist aware of a strong concern.”

People and the schools

In 1967, when Phoenix School Superin- tendent Seymour sought to desegregate the city’s schools, Rehnquist wrote: “We must be concerned with achieving an integrated society.”

Mr. Rehnquist wrote again to the local paper justifying the local ordinance saying: “People are more dedicated to an integrated society than we are to a segregated society,” he said.

Those leading to end segregated schools, he thought, “assert a claim for special privileges for this minority, the members of which, in his view, even in law is the privilege which the social theorists urge be extended to them.”

It is hard to say how echo here of the old Dixiecrat argument that Negroes in the South would have been content with their lot were it not for the legislators.” Thirteen years after the U.S. Supreme Court had declared racially segregated schools to be unconstitutional Mr. Rehnquist was still arg- ing for the right to keep school children separate by race.

People and the polls

Mr. Rehnquist’s views on voting rights were left in murky obscurity by the Senate Judiciary Committee. The Southwest Area Conference of the NAACP took part in a local campaign of “harassment and intimidation” to keep minorities from casting their ballots.

Four citizens of Arizona have presented affidavits swearing that Rehnquist was a Re- nouncee and challenge in 1964 and was “harassing unnecessarily several people at the polls . . . attempting to make them do things that are not required by the Constitution and refused to let them vote until they were able to comply with his request.” They further assert that when one of them, a cripple, rem- oved a speech impediment, Mr. Rehnquist engaged in a physical struggle.

Although Mr. Rehnquist made a general denial in writing of being at the polls in 1964, his Senate supporters refused to allow him to be recalled and questioned about the allegations. Further, a fifth citi- zen of Arizona presented a petition to Mr. Rehnquist “planned and executed the strategy designed to reduce the number of Negroes and as many white voters as possible” and “trained young white lawyers and others to invade each black or predomi- nantly black precinct in Phoenix on election day.”

While Mr. Rehnquist again made a general denial in writing of this allegation, he ad- mitted his chairman until he was a member of a Senate committee which actually carried out these unconstitutional practices. Again, there was no effort to recall Mr. Rehnquist and clarify the facts.

The Carwell nomination

When the Washington Post in 1970 op- posed the nomination of Bernard Carwell to the Supreme Court, citing amongst reasons, Carwell’s an anti-civil rights record that included belief in white supremacy, serv- ing as an incorporator of a Florida golf- course to keep it racially segregated, and harsh treatment of civil rights lawyers and plaintiffs who came into his court, as well as decision after decision against civil rights, Mr. Rehnquist came to Carwell’s defense.

In a editorial page, a way of “carrying the fact that to the extent the judge fails short of your civil rights standards he does so be- cause he is an anti-civil rights animus, rather than because he lacks the intellectual philosophy which consistently applied would render a conservative result.”

Judge Carwell’s record in civil rights cases cases, he insisted, “are traceable to an overall constitutional conservatism, rather than to any animus directed only at civil rights cases or civil rights litigants.” This identifi- cation with Carwell’s anti-civil rights de- cisions is, perhaps, the portent of things to come from Mr. Rehnquist.

The nominee’s expressed views on public accommodations law and school desegregation, which are indicative of his belief in harassment in Arizona, his identification with Judge Carwell make credible Arizona Senator Carl Hayden’s assertion that in 1964 Mr. Rehnquist told him “he was opposed to all civil rights laws.”

Certainly Mr. Rehnquist’s denial should be met with some reserve, especially since he took a stand with Senator Campbell present.

—THE RENHQUIST RECORD ON CIVIL LIBERTIES

It is difficult to see any deep sense of obligation to any other group other than his own on his record on civil rights, it is just as hard to discern any obligation to a strict construc- tion of the Constitution or the Bill of Rights in his record on civil liberties.

Mr. Rehnquist observed the Supreme Court at first hand as a law clerk to Justice Robert Jackson in 1952 and 1953. He came
away from that experience with an abiding horror of the Court and its interpretation of constitutional issues.
In an article written in 1987 for the U.S. News & World Report, he confirms the liberal point of view of the Court, which he said was characterized by "extreme solicitude for the claims of the Communists and other political dissenters." He expounded that theme in greater detail in an article he wrote a year later for the Bar Journal, observing in his opening sentence, "Communists, former Communists, and others of like political persuasion have won important victories during the October, 1956 Term of the Supreme Court of the United States, culminating in the historic decisions of June 17, 1957."
Commenting on that sentence in an article in the New York Times (Nov. 23, 1971), William V. Shannon had this to say about the criticism on the part of its employees as it continued to raise its sights against Congress, the rights of witnesses before Congressional and state legislative committees and a free-speech case.
"They were written by Justice Harlan, a distinguished conservative. Was Mr. Harlan 'soft on Communism'?" (It is ironic, Mr. Rehnquist thought, if Rehnquist had been nominated to fill Mr. Harlan's seat.)
Here is a further sampling of Mr. Rehnquist's views on major civil liberties issues:
**Asymmetric Surveillance**

 Asked by Senator Sam Ervin (D., N.C.), "Does a serious constitutional question arise when a government agency places people under surveillance for exercising their First Amendment rights to speak and assemble?" Mr. Rehnquist said, "No."

**On freedom of speech**

Mr. Rehnquist does not see it as a right of workers. "The government as an employer has a legitimate and constitutionally recognized interest in limiting public criticism on the part of its employees even though that same government as sovereign, has no similar constitutionally valid claim to limit dissent on the part of its citizens."

On May Day arrests

In a speech to a state university in North Carolina, two days after the May Day demonstrations, Mr. Rehnquist defended the mass arrests of thousands of innocent persons as the exercise of "qualified military law"—a nod to the Court doctrine in the hands of the police.
Mr. Rehnquist denied using the phrase in civil liberties cases, but said, "In the area of public law...obstruction cannot be tolerated, whether it be violent or nonviolent obstruction. If force is required to enforce the law, we must not shrink from its employment."

**Invasion of Cambodia**

Mr. Rehnquist has defended Mr. Nixon's invasion of Cambodia last summer as a proper use of the President's authority as Commander-in-Chief. He maintained that the President under the Constitution can order the invasion of another country—enough to "neutralize" another country—necessary to protect American troops. This plea for unlimited Presidential power is as dangerous as it is unprecedented. When he wrote Congress, his view was that the President Truman's seizure of the steel mills during the Korean War. Mr. Justice Jackson, whom Mr. Rehnquist once served as a law clerk, rejected the contention that under the commander-in-chief clause of the Constitution the President has the power to do "anything, anywhere that can be done with an army or navy." Yet Mr. Rehnquist, ironical,

**Subversive activities control board**

Mr. Rehnquist has said the Board was almost defunct since Mr. Rehnquist took the reins in 1971, with the board having no real power, and that the board has no real power.

**A LACK OF CANDOR**

On several occasions during the Senate committee session in which he testified on his nomination, Mr. Rehnquist was less than candid in his responses.
1. Pressed to explain his views on certain civil liberties issues, he declined to do so, saying it would violate the attorney-client relationship with Attorney General John Mitchell and the President. Nineteen members of the Catholic University Law Faculty attacked this position in a letter to Senator James Eastland (D., Miss.), Chairman of the Senate Judiciary Committee.

They say he is "a lawgiver withholding from the Committee which must initially pass upon his qualifications and dispositions, the power to "in legal form" a frank expression of his political and legal philosophy. The attorney-client privilege prevents him from saying it is "for the protection of, and belongs to, the client. It is peculiarly inappropriate for a government attorney to invoke the privilege with respect to advice he has given to government servants (whether President, Attorney General or Deputy Marshal)."

2. Asked during the nomination hearings to discuss if he had represented anyone else, Mr. Rehnquist could think only of two things: he had represented some indigents during the time he practiced in his office and a person he had served on the Legal Aid Board there.

But attorneys know that when they are designated by the court to represent indigents it is a no-cost service. There is no voluntary choice involved. As for the Legal Aid Board, Mr. Rehnquist served on it in 1967. Mr. Rehnquist responded before the Legal Aid Society where he represented the Bar Association.

3. Mr. Rehnquist has not clarified his connections with Ariozona for the America. Written interrogatories to Mr. Rehnquist in the Senate investigation of the Pentagon Papers, Mr. Rehnquist claimed he played a restricted role. After his hearing, in response to written interrogatories from some members of the Senate Judiciary Committee, he revealed that he had called The Washington Post and asked them not to print the leaks.

5. Asked about his role in opposing the desegregation of the Phoenix public schools, the Senate Judiciary Committee with an attack on busing. But that was an evasion for the issue in Phoenix in 1967 was not busing, as response to written interrogatories from some members of the Senate Judiciary Committee, he revealed that he called The Washington Post and asked them not to print the leaks.

WHAT IS THE TRUE NATURE OF JURISDICTION?

On the basis of his views on civil rights and civil liberties, in the light of his championing of the broadest possible powers for the federal government it is difficult to believe that, as a member of the Court, his "sole obligation would be to the Constitution and to the American people."

William Shannon, in his New York Times article offered this view of what might be expected:

"The Rehnquist record is not that of a true conservative. The Reagan Administration was an ideological weapon with combative impulses and strong commitment to a harsh, narrow doctrine concerning government and individual. It would be an ironic turn of events if this Goldwaterite doctrine so overwhelmingly rejected by the voters [in 1984] should be implemented after the November elections."

Mr. MOSS, Mr. President, I would like to be heard on the nomination now before the Senate. I regret I have not taken part in the debate up to now. Like so many other Senators, I have been engaged in so many matters, which we have tried to follow this debate as best I could from reading the reports in the news-
papers and listening to my colleagues on occasion. However, I expected there would be such a large interest in putting the matter into the case as to whether the Senate is now, when we are right up against the voting time on the nomination before us.

I do compliment the Senator from Indiana on his testimony before the Judiciary Committee who filed minority views for delving into this matter, and other Senators like the Senator from Massachusetts, and the Senator from Wisconsin (Mr. Nelson), who have given much attention to this matter.

A nomination to the Supreme Court and the confirmation by the Senate is the most important appointment in a president's and senatorial prerogative. Because a Supreme Court Justice is in a virtually unparalleled position in our society to interpret laws to have an impact on the most pressing legal, social, ethical, political, and policy questions facing Americans, it becomes of utmost importance for each Senator to determine whether a nominee meets certain minimum standards of quality before submitting that name to the Senate. Each Senator must take into consideration, therefore, the personal character, the ability to interpret the law, the political views, and the judicial philosophy of the nominee.

In that connection, and with the research I have had an opportunity to do, I do not believe the nominee measures up to the qualifications that this body should require of a person to serve on the Supreme Court bench of the United States. Because I was concerned from the beginning about this problem, I have sought information from those in my State who are practicing law or teaching in law schools or otherwise deeply involved with the workings of our court, and particularly the Supreme Court.

I have received a number of letters from those who are concerned about the question who expressed their views on the qualifications of Mr. William Rehnquist to become an Associate Justice of the Supreme Court of the United States. Many of those letters have concerned over Mr. Rehnquist's attitude on the pressing problem of racial discrimination and what is felt to be callous insensitivity on his part with regard to human rights. It is particularly significant is the number of letters I have received from distinguished professors at the University of Utah College of Law, urging my vigorous opposition to Mr. Rehnquist's nomination.

I would like to quote very briefly from two or three or four of those letters. One is from Prof. Arvo Van Alstyne. The quotation I take from his letter is as follows:

And, as Hamilton indicated in No. 78 of the same volume, the judicial role is most important is safeguarding human liberty in cases where the government of the United States is being moderated by political power. I.e., in cases involving the interest of minority groups. The record shows Mr. Rehnquist in this connection appears to be highly questionable; as late as 1957, he appeared to have been quite insensitive to the legitimate needs of minorities in this country.

2. Mr. Rehnquist's views on vital matters relating to the problem of crime in our society appear to be anarchistic, emphasizing the need to short-circuit constitutional rights (e.g., 4th Amendment rights) in order to make law enforcement more effective.

Since the Senator has raised the question of Mr. Rehnquist as an `strict law-and-order' advocate, when he announced his nomination, it seems he would come as a signal of Senate approval of a more repressive stance toward the crime problem. Yet as you have frequently pointed out, the problem of crime is a far more complicated than the "law-and-order" forces appear to be willing to admit. Mr. Rehnquist's position in this connection suggests that he lacks the range of vision and balanced judgment necessary to effective adjudication of cases, which is a vital role of the law.

His confirmation would be one more step away from a realistic attempt to deal with the roots of crime, rather than with symptoms—a step which may be politically profitable to the President but is potentially disastrous to the nation.

Mr. Rehnquist appears to be wanting in balanced judicial temperament. His willingness to take extreme positions, bordering on the Supreme Court, in respect to such matters as nondiscrimination in public facilities in Phoenix or the desirability of permitting wiretapping and searches of other kinds within schools, do not provide assurance that he would be able to exercise balanced judgment as a member of the Court. The present sensitivity of a man with the wisdom, objectivity, and artfulness of Mr. Justice Harlan. And when I read Mr. Rehnquists's Senate's hearings and his known record, I am convinced that Mr. Rehnquist is far from being that kind of man (although Lewis Powell may well prove to be a worthy successor to Justice Harlan).

4. It seems quite clear, from what I have been able to ascertain, that Mr. Rehnquist is not a "strict constructionist" in any meaningful sense of that term. On the contrary, he appears to regard constitutional language to serve whatever he regards as desirable political ends. In this sense, it seems quite probable that he would be an "activist," i.e., perfectly willing to use judicial persuasion if confirmed. I regard extremism of the right to be just as improper, in a Supreme Court justice, as extremism of the left.

Mr. Owen Olpin, professor of law at the University of Utah writes:

I feel strongly that the Senate should not confirm Mr. Rehnquist's nomination. I can neither care for him, nor can I regard his views as desirable political ends in this time. He is undoubtedly bright and intellectually capable. He has, however, indicated conservative views in matters of national and civic rights which would be highly dangerous in these times.

John J. Flynn, professor of law at the University of Utah writes:

You must weight Mr. Rehnquist's qualifications in regard to what is best for all of the citizens of this country. In my view, Mr. Rehnquist does not measure up to either standard. It is my firm hope that you will agree and vote no on his nomination to the United States Supreme Court.

The PRESIDING OFFICER. The Chair asks the Senator from Utah to suspend so that the Chair may inform the Senate that the nomination has been received in accordance with his request, that he has 2 minutes remaining.

Mr. MOSS. Does the Senator wish to reserve those 2 minutes?

Mr. BAYH, No.

Mr. FANNIN. Mr. President, how much time does the Senator from Utah desire?

Mr. MOSS. I would like to have about 3 minutes more.

Mr. FANNIN. Mr. President, I am happy to yield 3 minutes to the Senator from Utah.

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

Mr. FANNIN. Mr. President, may I ask first how much time I have remaining?

The PRESIDING OFFICER. The Senator from Arizona has 22 minutes remaining.

Mr. MOSS. I thank the Senator from Arizona for his generosity.

Mr. E. Wayne Thode, professor of law, University of Utah College of Law, states as follows:

I think each Senator has an obligation to determine for himself whether the judicial philosophy of a nominee for the Supreme Court will result in serving the national interest or the State. If my information is correct, then I think Mr. Rehnquist would ill serve the nation. We would not walk backward along the path that has been slow but steadily developed by the Supreme Court and the Congress during the last twenty years.

Mr. President, I find myself in agreement with the thinking of these dedicated legal scholars from my home State of Utah. I, too, find the record of Mr. Rehnquist almost totally lacking in evidence of a balanced, dispassionate approach to legal and social problems. This record is not that of a true conservative. Rather, it is replete with manifestations of an aggressive and combative impulses and a strong commitment to a harsh, narrow doctrine concerning government and the individual. He has consistently accorded the narrowest interpretation to Supreme Court decisions and constitutional concepts that protect individual rights and liberties. At the same time, he accords the broadest interpretation to opinions and concepts that sanction government restrictions on individual rights and liberties.

As the New York Times has said:

He neither reverts nor understands the Bill of Rights.

Mr. President, on the basis of Mr. William Rehnquist's frequently expressed and obviously deep-seated insensitivity to the Bill of Rights, I will vote "no" with great deal of personal satisfaction in voting for William Rehnquist whom I, in my short period of time in Washington, have had the opportunity to consider a friend.

I think, unfortunately, there are many men in the U.S. Senate who have not come to know the Rehnquist that I have come to know. I think one of the things that was brought out in a personal conversation with one of the Members of
the Senate the other day shows the kind of real Rehnquist that I know, and the kind of Bill Rehnquist that I have had association with. We were discussing our families not too long ago when another Member of the Senate said to him:

I asked the PTA that you were listed as one of the individuals to take calls from parents in the PTA on a poll.

I looked at him and said:

For crying out loud, Bill. Don’t you get enough telephone calls day and night with our PTA? I call you yourself to telephone calls from all the parents of the PTA to take a poll in their school.

He said:

Well, we have been involved in PTA for many, many years, and somebody has to do it.

I consider him this kind of fellow. I would say in all fairness that I think the Supreme Court is getting an outstanding student of the law, an outstanding student who has compassion for the law.

And indeed, in her column in the Star this afternoon, that Mary McGrory quoted the distinguished Senator from New York (Mr. Javits) as saying that he had trouble with what he called “Rehnquist’s qualifications for the law.” I think it is unfortunate for that kind of remark to be made, because martial law is a part of the law in the United States. As a matter of fact, it is not a Rehnquist remark. In fact, in its context it might be well if it were, but it is not. It is found in the Practical Manual of Martial Law published in 1940, and its author was Frederick B. Weiler, who was the special assistant to the Attorney General of the United States under President Roosevelt.

I would say I think we have twisted all of these things a little bit in regard to one’s philosophical approach. I can only say I think William Rehnquist is a welcome choice for the Supreme Court of the United States—a man who is a distinguished individual all over.

As I said in my long remarks yesterday, in my last paragraph, I hope that the Senate will indulge me to digress for a moment and say that it comes as a matter of great pride on my part to say that it is the first time that I have ever had the occasion to be on the floor of the Senate and participate in the vote on a candidate for the Supreme Court of the United States whom I consider a personal friend.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. FANNIN. Mr. President, I yield the distinguished Senator from Michigan such time as he may require.

Mr. GRiffin. Mr. President:

As we have heard in our local PTA that you are preparing to decide the fate of the members, I feel that we are now in the history of the Senate.

For our action will mark a turning point—a point of beginning again—in building and maintaining the kind of relationship—the kind of relationship between the Court and the Senate that was envisaged among the several branches of government that was envisaged by our Founding Fathers.

Mr. President, although I disagree with the position of the distinguished Senator from Indiana with respect to this nomination, I will not, as the debate closes, that I commend him and those who were associated with him in examining very closely and carefully the qualifications of this nominee. In doing so, I think I take offense to a service, and I think that the considerable period of time spent debating and considering every possible argument has been in the interest of the Senate in the interest of the Supreme Court.

Events subsequent to October 1, 1968, have clearly established that that date was a turning point.

Since there have been nominations for the Supreme Court. Two were rejected. Three have been confirmed. We are about to confirm a fourth.

But the important point is that in each case the Senate was not only after a careful and searching examination of the nominee’s qualifications, his background and experience, and even his judicial and political philosophy.

Mr. President, it was by the Senate debates preceding the adoption of our Constitution, Alexander Hamilton argued that the Senate’s power of “advice and consent” would not be an important factor in the selection of Supreme Court Justices.

Mr. Hamilton was wrong.

During the first 150 years after the adoption of the Constitution, the Senate rejected 20 of 81 nominations to the Supreme Court—a rejection rate of nearly 25 percent.

Between 1894 and 1968, however, the Senate confirmed 43 of 44 nominations. Some might say that Presidents during that period selected only nominees of the highest caliber. But I believe it would be more accurate to say that during that long period Congress surrendered and abandoned its constitutional responsibility of advice and consent.

In 1968, when it rejected the nomination of Mr. Fortas for Chief Justice, the Senate suddenly reasserted itself, and reawakened to its responsibility. Since then the Senate has rejected two nominations, and I believe that it is safe to say that the Senate’s stand has influenced the selection of other nominations.

Even though some individuals—including some Presidents—may have suffered because of the Senate’s insistence on the exercise of its constitutional powers, I believe that this process has produced justices of the highest caliber.

I believe that the men selected—Chief Justice Earl Warren, and today Mr. Rehnquist—have brought and will continue to bring to the Court intellectual strength, the highest standards of character and propriety, and, yes, a sorely needed philosophical balance.

I believe that William H. Rehnquist understands and respects the majesty of the law and that his performance on the Court will serve to justify the confidence of the President and the Senate. I shall be proud to cast my vote for him.

I thank my colleague for yielding.

Mr. FANNIN. I thank the Senator from Michigan.

Mr. President, I yield myself 5 minutes.

Mr. President, the investigations have been made, the questions have been raised and answered, the debate has been lengthy if somewhat repetitious. We now are nearing the hour and a half, significantly, and you will vote to confirm William H. Rehnquist to be an Associate Justice of the United States Supreme Court.

Now that all the evidence is in, it is clear that Mr. Rehnquist should be confirmed overwhelmingly.

Mr. Rehnquist certainly has the intellectual credentials. As an undergraduate student and as a law school student, Mr. Rehnquist was outstanding. He was graduated from Stanford “with great distinction” and was a member of Phi Beta Kappa. He received masters degrees in political science from Stanford and in political science from Harvard, earning his law degree at Stanford.

President Nixon has stated that Mr. Rehnquist has “one of the finest legal minds in the whole Nation.” In the past few weeks since his nomination this conclusion has been overwhelmingly seconded by his former professors, his colleagues in private practice and in public service, and significantly, from those who have been his legal and political adversaries through the years.

Throughout his career this relatively young man has demonstrated again and again that he has exceptional intellectual and professional competence.

One of his former professors has called William Rehnquist “the outstanding student of his law school generation.”

All of us know the scholarly achievements of Mr. Rehnquist are not always translated into practical application. In the case of Mr. Rehnquist, however, his achievements after law school were equal to or superior to his most excellent performance in the classroom.

As an attorney in Phoenix, Ariz., for 16 years Mr. Rehnquist built himself a most admirable record and reputation as not only a brilliant lawyer but as a man of the highest personal integrity.

The president of the Arizona State Bar Association summarized it well in a statement to the Senate Judiciary Committee.

Howard Karman said:

I have known Mr. Rehnquist professionally for a number of years. After his nomination by President Nixon, I talked to a great many people in the labor bar, Republicans and 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 re-
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fected in the unanimous endorsement
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 excellence, integrity, and
devotion to the ends of justice."

Mr. President, the question boils down
to this: Will you believe the testimony of
men who have known Mr. Rehnquist in-
timately both as a friend and an adven-
sary, or do you choose to believe the in-
nuendos of persons who set out with
preconceived ideas to make a case
against Mr. Rehnquist regardless of the
facts?

Will you believe John P. Frank, the
Phoenix attorney who is considered to be
an expert on the subject of judicial
nomination? Speaking of Mr. Rehnquist, Mr. Frank told reporters:

He's splendid. He's going to make a good
Supreme Court Justice.

My only disagreement with Mr. Frank
is a matter of degree. I think Mr. Rehn-
quist will make more than a good Su-
preme Court Justice. He will make a
great Supreme Court Justice.

Mr. President, let us look at what some
other Arizonans have said about the
Rehnquist nomination.

Governor Jack Williams described
Mr. Rehnquist as a "real scholar—an
outstanding attorney." Vice Chief Justice
Jack D. H. Hays of the Arizona Supreme
Court noted that Mr. Rehnquist is a
very outstanding young man—a tremen-
dous legal scholar." Former Arizona Su-
preme Court Judge Charles Bernstein
stated:

I couldn't think of a better choice ... he
has an extremely well-balanced philosop-
hy ... a sense of feeling for human beings,
especially for the little man.

Gary Nelson, attorney general of Ar-
izona, 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:

When Bill has expressed concern about any
law or ordinance in the area of civil rights, it
has been with the objective of main-
tenance of individual liberties of which he
is a staunch defender in the tradition of the
late Justice Black.

As the hearings and the letters to the
Judiciary Committee on this nomination
make clear, the tributes to Mr. Rehn-
quist from his fellow Arizonans go on
and on. It is also clear that the tributes
have come especially from those who have
worked with him. Among these is As-
sistant Attorney General in the Office
of Legal Counsel. The principal area of
expertise of this Office is in matters of con-
stitutional law. As Senators know, the
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 Justice Department. This
gives informal opinions and advice to
agencies within the executive branch of
the Government. In short, Mr. Rehn-
quith has had a hand in all the legal
work of the President's law office.

Although these may not be the same
group of people who wrote in praise of
Mr. Rehnquist, a number of them are
to whom he is extraordinarily grateful.

Mr. President, I want to point out that clerg-
y and academia have also joined in praising
Mr. Rehnquist. Indeed, Mr. Rehnquist
has a wonderful family who have been a very important part
of his life, and he is an ideal father. He
will be an outstanding Associate Justice
of the Supreme Court.

Mr. President, William Rehnquist has
the education, the legal experience and
expertise, the intellectual ability to serve
as a great Justice. I urge the full Senate
and I urge that we give him a substantial vote of confidence as he undertakes this awe-
some responsibility.

I reserve the remainder of my time.

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

Mr. BAYH. Mr. President, will the
Senator yield to permit me to withdraw
my request for the cloture vote today?

Mr. FANNIN. I yield.

Mr. SCOTT. Mr. President, I ask unan-
imous consent that the time hereof
may be dispensed with in the run-
ning of the debate on the cloture
motion and the vote on the cloture motion
be now withdrawn and dispensed with.

Mr. BAYH. Mr. President, although I
have seen some proud moments in
the Senate, I must say, with all due respect
to my colleagues, that I do not feel that
this is such a moment. I do not say this
just because the position of the Senator
from Indiana is about to be repudiated
and the nominee rejected. I say this be-
cause I believe his views and his views
are identical to mine. I am concerned
about this nomination being voted on after
a relatively short period of consideration
compared to that with respect to the
nominee who was rejected by the Sen-
ator from Michigan and twice turned
down by the Senate.

We have not had time to answer all
the questions; and thus, in the spirit of
clarity, this is not one of the Senate's finest
hours.

But I am more concerned about the
fact that there are millions of Americans
who quite properly look to the Senate
and to the Courts as bodies dedicated
to protect human rights and individual
rights. I wonder, in the depth of my
heart, just what they will think when they read the final out-
come of the vote. We have placed on
the Court a man who testified against
letting black people in drugstores and in
schools and was unwilling to outlaw
segregation. A man who supposedly has
urged an expansion of the power of the
executive branch at the expense of the
rights of individuals.

These millions of people may be
alarmed at the outcome. Mr. President.
That is a needless tragedy. But I hope
they will take heart from the fact that
there are still some in this body who are
willing to stand up and fight for the
rights we believe in.
one who opposed Mr. Rehnquist's confirmation. Among them were the AFL-CIO, the UAW, the ADA, the NAACP, and the Leadership Conference on Civil Rights.

Lawyers and law professors across the country were also active. Just in the past few days more than 270 law school professors at 26 law schools wrote and called to express their opposition to Mr. Rehnquist, and the ACLU voted to oppose this nominee, the first such decision in its history. I believe we can all take heart from this show of public opinion. Some people still do care about preserving the freedoms of the Bill of Rights.

Mr. GRIFFIN. Mr. President, will the Senator yield to me?

Mr. BAYH. I have no time remaining. I would be glad to yield.

Mr. FANNIN. I yield 1 minute to the Senator.

Mr. GRIFFIN. The Senator from Indiana made reference to the Senator from Michigan and the time that was used in debating the nominations. I take it that he was referring to and that he would be referring to the Fortas nomination.

Mr. BAYH. Yes. I was referring to the Fortas and Thornberry nominations. If one considers the amount of time from the time the nominations were sent to the Senate, there is no comparison between the two situations.

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

Mr. FANNIN. I yield time to the Senator.

Mr. GRIFFIN. To keep the record straight, let me remind the Senator from Indiana that the cloture vote with respect to the Fortas nomination came after only 4 1/2 days of debate. If the Senator will check, I believe he will find that there has been about the same amount of time devoted to debate on this nomination. Of course, except for the unanimous-consent agreement, to which the Senator from Indiana did not object, we could have had another day of debate on this nomination.

Mr. BAYH. As the Senator from Michigan is all too well aware, he has suggested that we had a filibuster here from the first day. He stood right where he is now and accused the Senator from Indiana, and those of us who are concerned about Mr. Rehnquist, of filibustering, before the debate was 12 hours old. The first cloture petition was filed after 1 1/2 days of debate—a debate in which Mr. Rehnquist's supporters refused to attend, and a second cloture petition was filed the very next day. The Library of Congress advises me that such a tactic is totally without precedent in Senate history.

Mr. BAYH. In the Fortas nomination, it was a filibuster against the motion to take it up. We were not even allowed to take it up.

Mr. HRUSKA. Mr. President, will the Senator yield to me?

Mr. FANNIN. I yield.

Mr. HRUSKA. On the score of the time that has been involved in this debate, the Record shows that debate started on this matter and there was ample time for all Senators to participate. Some 12 or 14 Senators, starting on November 2 and ending on December 1 devoted approximately 260 columns of commentary on the thoughts they had favoring Mr. Rehnquist. On the other side there were more than 200 columns in the Congressional Record devoted to that subject, but in opposition to Mr. Rehnquist from November 5 to December 3, and that is separate and apart from the time during debate which started on December 4. So there has been a good deal of time devoted to it, which would not appear to be an unduly short time allowed for the purpose of debate.

The VICE PRESIDENT. All time has now expired.

The Chair reminds members of the galleries that the rules of the Senate prohibit expressions of approval or disapproval upon announcement of the vote.

Mr. SCOTT. Mr. President, I ask unanimous consent that I may have 1 minute now, notwithstanding the expiration of the time, for the purpose of making an announcement regarding the photography.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. SCOTT. Mr. President, pursuant to Senate Resolution 197, 92d Congress, the official photograph will be taken of the Senator in session immediately after the vote on confirmation of the nomination of Mr. Rehnquist.

Senators are requested to remain in their seats until the announcement of the vote for a series of pictures which will be taken and which will consume approximately 8 minutes.

The VICE PRESIDENT. The hour of 5 p.m., having arrived, under the unanimous-consent agreement, the Senator will now proceed to vote on the question, Will the Senate advise and consent to the nomination of William H. Rehnquist to be an Associate Justice of the Supreme Court of the United States?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MANSFIELD (after having voted in the negative). On this vote I have a partner with the distinguished Senator from Illinois (Mr. Percy). If he were present and voting, he would vote "yes"; if I were at liberty to vote, I would vote "nay." I withdraw my vote.

Mr. BYRD of West Virginia. I announce that the Senator from New Mexico (Mr. Anderson) is necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. Bennett) and the Senator from South Dakota (Mr. Mondale) are absent because of illness.

The Senator from Illinois (Mr. Percy) and the Senator from Maine (Mrs. Smitr) are necessarily absent.

If present and voting, the Senator from Maine (Mrs. Smitr) would vote "yes."

The record of the Senator from Illinois (Mr. Percy) has been previously announced.

The vote was announced—yeas 68, nays 26, as follows:

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NAYs—29

Bayh | Hartke  |
| Brooke | Hughes  |
| Case   | Humphrey |
| Church | Inouye   |
| Cranston | Jackson |
| Cranston | Jarvis   |
| Gravel | Kennedy |
| Harris | Magnuson |
| Hart   | McGovern |

NAYs—29

Andersen | Mondale |
| Bennett | Percy   |

NAYs—29

The nominations was confirmed.

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

The VICE PRESIDENT. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. SCOTT. 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.

MESSAGE FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. Metcalfe) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on Labor and Public Welfare.

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

The Chair wishes to remind Senators, as the minority leader has just announced, that photographs will be taken now and Senators should, therefore, please remain in their seats during that period.
MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed the bill (S. 2691) entitled "An act to extend and amend the Economic Stabilization Act of 1970," with an amendment in the nature of a substitute.

The message also announced that the House insisted upon its amendment, requests a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. Patman, Mr. Barret, Mrs. Sullivan, Mr. Russ, Mr. Gerlham, Mr. Long, Mr. Winkell, Mr. Johnson of Pennsylvania, Mr. J. William Stanton, and Mr. Brown of Michigan were appointed managers of the conference on the part of the House.

ECONOMIC OPPORTUNITY AMENDMENTS OF 1971— VETO

The VICE PRESIDENT. Under the previous unanimous consent agreement, the Chair lays before the Senate the President's veto message on S. 2691, the Economic Opportunity Amendments of 1971. Under the agreement, debate is limited to 2 hours, to be equally divided and controlled by the majority and minority leaders or their designees.

(For President's veto message see page 46057 of the Congressional Record of today.)

The Senate proceeded to reconsider the bill.

ORDER OF BUSINESS

The VICE PRESIDENT. The Senate will be in order.

Mr. MANSFIELD. Mr. President, may we have order in the Senate?

The VICE PRESIDENT. The Senate will be in order. Who yields the floor?

Mr. BYRD of West Virginia. May we have order in the Senate?

The ACTING PRESIDENT pro tempore. The Chair will try to get order. Senators will please be in order. It is impossible for the floor to be in order. The Senate will please be in order.

Mr. NELSON. Mr. President: The ACTING PRESIDENT pro tempore. The Senator will please suspend while the Chair attempts to obtain some sort of order. I would like to hear the speaker. The Senate will please be in order.

Mr. NELSON. Mr. President, I assume the time taken to secure order will not be charged to our time.

The VICE PRESIDENT. I ask unanimous consent that the time begin running now and I ask unanimous consent that I may yield to the Senator from Mississippi for the consideration of a proposal on which he says there is no controversy, without it being deducted from my time.

The ACTING PRESIDENT pro tempore. The time is in order.

Mr. MILLER. Mr. President, reserving the right to object, I am sorry. I did not hear the request.

Mr. NELSON. I ask unanimous consent that I may yield to the Senator from Mississippi for 3 minutes without the time being deducted from either side.

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

AUTHORIZED FOR AN ADDITIONAL DEPUTY SECRETARY OF DEFENSE

Mr. STENNIS. Mr. President, I ask unanimous consent that the Senate proceed to consider the amendment submitted by the Armed Services Committee with a view to strike out all after the enacting clause and insert in lieu thereof the following:

That section 136 (a) of title 10, United States Code, is amended by striking out "heights," where it appears, and inserting "heights or" thereof apace.

Sec. 2. Section 5315 (13) of title 5, United States Code, is amended to read as follows:

"(13) Assistant Secretaries of Defense (9)."

Mr. STENNIS. Mr. President, the sole purpose of this bill is to provide for one additional Assistant Secretary of Defense. All else has been stricken from the bill. It passes with the amendment passed out of the Senate committee by unanimous vote. It has been cleared in all quarters. It is needed.

I move passage of the bill.

The ACTING PRESIDENT pro tempore. The bill is open to further amendment.

If there be no further amendment to be proposed, the question is on agreeing to the committee amendment.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The bill was passed.

The title was amended so as to read: "An Act to authorize an additional Assistant Secretary of Defense."

ECONOMIC OPPORTUNITY AMENDMENTS OF 1971

The Senate continued with the reconsideration of the bill (S. 2691) to provide for the continuation of programs authorized under the Economic Opportunity Act of 1954, and for other purposes.

Mr. NELSON. Mr. President, I yield myself 10 minutes.

Mr. President, the Senate has before it this afternoon an ill-advised veto that flatly rejects carefully considered and desperately needed social legislation. Last year at this time it was the veto of the Employment and Manpower Act, part of which was designed to provide public service employment for the jobless.

PRIVILEGE OF THE FLOOR

Mr. President, I ask unanimous consent that William Spring, Richard Johnson, John Steinberg, and John Scales have the privilege of the floor during this debate.

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

Mr. BLEE. Mr. President, may we have order? It is impossible to hear the Senator.

The ACTING PRESIDENT pro tempore. The Senator is correct. The Senate is not in order.

Will Senators take their seats and those who desire to converse retire to the cloakrooms? Will we please have order in the Senate?

The ACTING PRESIDENT pro tempore. The Senator will suspend until the Senate is in order.

The Senate is not yet in order.

The Senator from Wisconsin.

Mr. NELSON. Mr. President, to repeat, last year at this time it was the veto of the Employment and Manpower Act, designed to provide public service employment for the jobless. This year it is the extension of the Economic Opportunity Act, including a major child development program for the Innovative Legal Services Corporation.

Last year the President's message made it perfectly clear that the President had read and did not understand the legislation he was rejecting. In fact, it was only 6 months later that he signed an Emergency Employment Act which provided public service employment almost identical to that in the bill he had vetoed a few months earlier on the ground that it provided dead end jobs.

I might say parenthetically that I do not blame the President particularly for that. I blame his advisors. Obviously, the President did not know then what was in the bill, nor does he know now. The people who wrote the messages have misled the President in the drafting of the veto.

I believe the President has again been gravely misled by those who advised him to veto the poverty bill this year, for I cannot imagine that any person who reads this legislation could comment on it in such wholly negative and mistaken terms as this veto message does.

There runs through the language of the veto message attacking the proposed child development program the insinuation that the program would weaken the American family. The President says that there are "familial weakening implications" in the program, that it is "the most radical piece of legislation to emerge from the 92d Congress;" that it would put the "National Government—on the side of communal approaches to child rearing over against the family centered approach;" and that there is a "respectable school of opinion that this legislation would lead toward altering the family relationship.

I believe that it is not only the case that the President did not cite what that "respectable school of opinion" was and he in no way delineates which provisions of this bill had "familial weakening implications."

It would seem to me, after Congress and both Houses had spent months and months and months on the proposal, he would at the very least specifically delineate what is wrong with it, which he failed to do.
I might point out that the White House Conference on Children and Youth specifically recommended a child development program as the highest priority.

Mr. President, there is nothing—I repeat nothing—in this bill that would weaken the family relationship. There is nothing—I repeat nothing—in this bill that would take the job of an official on child rearing. There was no testimony before the committee that this bill held any such danger whatsoever.

It could be legislation by the National Council of Churches, the U.S. Catholic Conference, the National Council of Negro Women, and the League of Women Voters, and for one second—support legislation which included such dangers? Obviously not. Needless to say, if such legislation were proposed, I myself, and the other sponsors of this legislation would be the first to oppose it.

But the legislation has been attacked. It has been attacked in a series of hysterical rightwing charges, and these are the charges that the President's spokesmen made to cover his misleading, unfortunate veto message.

One rightwing headline declaird a story about the bill, stating, "Big Brother Wants Your Children." A story in another periodical was titled, "The Measure Threatens to Destroy Parental Authority." A columnist, who should know better, implied that the bill would have to be considered in the context of a "Sovietization of Society."

Mr. President, these charges are worse than irresponsible. Is it to these hysterical charges that the veto message refers when it says, "I believe that there is a reasonable school of opinion that this legislation would lead toward altering the family relationship?"

I wish the President, or any one of his Secretaries or admirers, would name one responsible authority to whose opinion the President makes reference.

Mr. President, it is unfortunate that there are members of this society who are so apt to misrepresent the needs of the Nation's desperate needs that they resort to irresponsible scare charges. However, it is worse than irresponsible for the administration to dignify these charges as an official message to the Congress and to imply that the 63 Senators who voted for the conference report on child development and OEO legislation just a few days ago, on December 2, would have any part of proposals that could in any way weaken the American family.

I think the President's advisers know it, but the President does not.

The veto message also implies that there is no documented need for the child development program. They ought to take note of the fact that the President himself, in his conference on Children and Youth said that a child development program is the highest priority of the conference. How could anybody put in the President's speech the statement that there is the need, when their own White House conference came to the totally opposite conclusion?

Mr. President, in the course of hearings on the OEO bill, which stretched over 19 days from March 23 to June 18, the committee spent 7 full days on child development under the leadership of the distinguished Senator from Minnesota. The amendment, having had ample documentation on both the need for and the soundness of the legislative approaches in this bill. Interestingly enough, perhaps the most persuasive witness of all was Edward Zigler, Director of the administration's Office of Child Development.

Well, you can bet your hat that the President and his advisers did not discuss the views of Dr. Zigler, who appeared in favor of the proposals. Dr. Zigler testified that there are right now 5 million preschool children of working mothers, page 849, volume III, committee hearings. He further testified that there are only 650,000 slots in child care centers of all kinds available for these children.

Mr. President, we are not talking about taking children out of the home and into child care centers; we are talking about the children of working mothers for whom some provision—often terribly inadequate—will enable them to work and support their families.

The PRESIDING OFFICER. The Senator's time has expired.

MR. NELSON. Mr. President, I yield myself 5 minutes more.

If I understand according to H.EW's own statistics on day care were provided for all 5 million preschool children of mothers who now work the cost would be $6 billion. The legislation would provide a grant of eventually providing adequate child development services for all children, but it authorized only $2 billion as a start to meet the need to provide adequate child development programs to the children of poor and near poor parents. Mr. President, I cannot believe that if the President himself were fully aware of the evidence that he has accumulated, of the long months of negotiation between the two Houses of Congress and the conference and the administration he could possibly have characterized this legislation as "irresponsible." That was the veto message.

The veto message charges that the administrative arrangements of the child development legislation are unworkable. The fact is, the "delivery system" is based on the judgment that programs for our children ought to be designed and run with the participation and approval of their parents at the local level. This is the same principle that underlies the local school system. Who can quarrel with that? They simply extend the system under which the Headstart program has been successful. Just as Headstart guidelines require that committees of parents serve as boards of directors for child development centers, so the child development legislation provides for 3 levels of committee membership, half of those members must be parents, to oversee each program. Just as Headstart provides for prime sponsorships at the community level, the legislation would have established Child Development Councils at the city level responsible for judging applications and evaluating the operations of the various centers.

Most Americans agree that the actual education of their children should not be left to the Federal level, or even at the State level. The State capital is usually hundreds of miles away and poorly equipped to cope with the day-to-day activities in local communities. No, Americans do not trust their children's early education to either the States or the Federal Government. They trust their schools to local communities that is just where our child development legislation put responsibility, with the parents and at the local level.

Over a period of weeks the conference negotiate with the administration and worked out a sensible compromise on the difficult point in conference: the fee schedule. The Senate bill provided free services for families earning at the Bureau of Labor Statistics lowest adequate budget level, $6,960 a year. The House version left the level of free services to the discretion of the States, Education, and Welfare with the understanding that it would be the same as the level for receiving assistance under the welfare relief legislation—that is, $4,320 for a family of four.

Under the conference agreement, free child development services would be available to families having two children and an income of $4,320. Between $4,320 and $6,960, a family could be charged modest fees.

The veto message characterizes the earmarking of funds in the legislation as administrative procedure. The administration is against it because "it locks up executive into supporting and continuing programs;" "it denies administrative discretion to the executives of OEO." This is a most amazing argument for the administration to send to the Congress. Are the elected representatives of the Congress not entitled to have something to say about how appropriated funds are to be spent?

I have been in this argument, as others in Congress have, for a long time, with the previous administration and with this administration, on the earmarking of funds. What is needed—Democratic and Republican—really wants is for Congress to appropriate a great big bushel basket of money and send downtown and say, "Spend it as you please." I would think that all Members of this body would agree that Congress has the responsibility to say how money is to be spent. However, in this bill we give them more flexibility as to how the money is to be spent in this program than in any other program that I am aware of.

Are OEO executives to have complete discretion in the expenditure of Federal funds without receiving the approval of Congress? Just as OEO developed the Headstart guidelines require that committees of parents serve as boards of directors for child development centers, so the child development legislation provides for the conference committee membership, half of those members must be parents, to oversee each program. Just as Headstart provides for prime sponsorships at the community level, the legislation would have established Child Development Councils at the city level responsible for judging applications and evaluating the operations of the various centers.

Let me remind the Senate how accommodating the Congress was to enhance the discretionary powers of OEO executives. We gave the Director of OEO 25 percent flexibility in transferring funds from one program to another. The legislation which the Congress passed and
the President has now vetoed provides that as much as 25 percent of any earmarked amount can be taken away from any such program and used as the Director of OEO wishes.

Is it the case that any other program that Congress does that with? And, in fact, the 25-percent transferability is exactly the amount of flexibility that the administration was begging us to give them last year. And this year they gave them the full 25-percent transfer authority they asked for. Now the President is vetoing the bill on the grounds that it is not flexible enough.

What is the real purpose of that?

I can understand that the OEO executives would like 100-percent flexibility. They are surely confident that they could spend the funds more intelligently than the Congress. They would like no limitations. They would prefer to be free of congressional direction.

Although 25-percent flexibility apparently is not sufficient to satisfy the OEO executives on the one hand or the Federal department which has any flexibility at all in shifting funds from one program to another. The Office of Educators is able to transfer funds from one program to another. Funds for health programs cannot be shifted from one category to another. Yet in the OEO legislation we gave 25-percent flexibility. And even that right is 25-percent flexibility than we give any other department, they are not satisfied.

It is ironic that while the legislation in one part of the message is characterized as "disingenuous reactionaries." The message is referring here to the fact that the congressionally approved legislation provides for earmarking of funds in certain programs. In fact, Congress in this legislation earmarks precisely the figures the administration requested for nearly all of these programs.

It is just exactly what they wanted, with some minor exceptions, which they do not like because they do not believe that Congress ought to have any author- ity. And it is the problem with this administration in domestic policy as well as in foreign policy. They would like to run everything in the same way that they run foreign policy. They would like to run wars and domestic programs without consulting Congress. They would like to spend the whole Treasury without consulting Congress if we would let them.

One of the things they did not like was that we earmarked money to feed the hungry. They wanted to cut off the program. So the President and his advisers are vetoing a bill because we are trying to feed the hungry children; that is what it is all about.

Listen to this:

The only exceptions are programs which the administration wished to cut back sharply. One of these was to feed emergency food and medical services program. We earmarked $625.5 million for EMFS in the previous economic opportunity bill. Last year the administration asked for $4 million for EMFS. But this year the OEO budget proposed to phase out the program.

That is what this administration stands for. Only, they can give $3.8 billion to the biggest corporations in America on the 7-percent tax credit; they can give it to them in the accelerated depreciation allowances. Oh, they shed tears for the rich, the wealthy, the powerful, and give them $9 billion a year in tax reductions. But to give $625 million to the hungry, that is another matter. This is their concept of the free enterprise system. The little kids earn a living like they ought to earn it, like the General Motors people earn a living. If they cannot make it, too bad.

That is what this is all about. We earmarked $625.5 million for emergency food and medical services in the previous economic opportunity bill. Last year OEO actually spent $45 million for emergency food and medical services. But this year the OEO budget proposed to phase out the program. Witness after witness testified before our committee without refutation from the administration, anybody in this Congress, or anybody else in America, that the program was needed. They testified that this program made the difference between starving children and children in food in hundreds of counties across the Nation.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. NELSON. I yield myself 5 additional minutes.

The administration wished to cut that program out. Congress said "No" four times. How many times do we have to tell those people in the executive branch that we want to help the hungry and the poor, and not just the wealthy in this country, as they seem to want to do?

Food for the hungry is too important to be eliminated for mere budgetary convenience. Is this the kind of program that the drafters of the veto message had in mind when they spoke of "programs that hurt the poor but don't mean much to anyone else." The bill which passed the Senate and was sent to the President earmarked funds for emergency food at last year's level. OEO's budget request also proposed eliminating that program. The Congress did not agree to go along with that but instead we earmarked at last year's level.

Is this administration telling us that if Congress says there is going to be an emergency food and medical services program, and appropriates the money, and that there is going to be an alcoholism program, and appropriates the money, that we have no right to do so? Have we passed a bad bill because they do not want to do that?

Well, if this Congress is going to defend any program we have the constitutional power. I think we must assert the authority to authorize programs and appropriate the money. I think this country ought to understand from anybody in this economic. This is in this administration, and who their heart bleeds for, and who will help, and who do not care about. They support the rich but they do not shed a tear for the poor.

Neither did Congress go along with OEO's budget request that the rural loan program be eliminated and the special credit for low-income farms reduced. So the bill we passed earmarked funds for a consolidated rural loan and community economic development title at exactly last year's level. In the case of local initiative community action funds the Congress did not go along with reducing the previous year's funding level by $14 million, and so we earmarked funds at last year's levels would have been asked for.

Everybody knows that this administration wants to kill the community action programs because, for the first time, the poor in this country have control of their community action funds. They want to try to do something about their plight, and they do not like the poor to have control of anything in this country.

In fact, the problem that the Agency faces is that administration's commitment to fighting poverty has been scaled back. That is what the problem is. While the OEO spent $890 million for projects in fiscal year 1971, the administration asked for a cutback of $2.5 billion to $790 million, for fiscal year 1972. It is ironic that during a year when the number of poor people in this country increased sharply from 24 to 26 million that the administration asked for a cut back on the modest funds for the poor in the OEO. The same year in which the number of poor persons increases by 2 million they cut out the budget for the poor by $100 million. The administration cut back the 7 billion cut to all the biggest corporations in America—the biggest tax cut for corporations in the history of the Republic. This tells us more than anything else what this administration stands for.

The veto message criticizes the provisions of this legislation which provide that the administration must receive congressional approval before transferring Office of Economic Opportunity programs to other agencies. The veto message states that the flexibility to shift tried and proven programs out of OEO to other agencies must be taken away. In fact, the bill simply requires Congress to approve such changes.

As the Senators know, a substantial number of Office of Economic Opportunity programs have been "spun-off" to other agencies.Manpower programs, authorized in this legislation, have been delegated to the Labor Department. The Headstart program is run by Office of Child Development in the Department of Health, Education, and Welfare. The vetoed legislation itself would provide for an independent corporation to operate the Headstart program. Congress has been willing to work with proposed transfers of programs to other agencies when these proposals can be justified.

With the committee strongly believe that Congress ought to judge the value of any further cutting back on the operational responsibilities of the agencies. We are interested in the development with the future of local community action agencies. It is essential for their continued effectiveness in developing innovative programs at the local level that they have the support, financial, technical, and
moral, of an independent poverty agency
here in Washington. Local community
action agencies, personnel and board
members around the country are very con-
cerned about any proposed shift in con-
trol of poverty programs. A coalition of
some 90 non-profit organizations, led by
the National League of Women Voters
and the Urban Coalition and including most
major union, church, and civil rights or-
ganizations testified before our com-
mittee in opposition to the idea of
turning community action agencies en-
tirely over to local authorities. In re-
sponse to these objections and the fears
at the local level, Mr. Philip V. Sanchez,
the new director of the OEO, assured the
Labor and Public Welfare Committee
by letter dated October 5, 1971, that:

The administration will effectuate these
changes—spin-offs—only in the event of ap-

proval by Congress of the specific legislative
proposals outlined and not by the transfer of
program authority, executive reorganization,
administrative delegation, or any other
means.

Thus, all the Congress did in S. 2007
in regard to spin-offs, was to write this
declaration into the legislation so that
very local programs can have control
and where they stand with the Federal
Government.

So they have the President reciting as
one of the reasons for vetoing the bill
to Congress its permission to perform
functions without consent of Congress.
He considers that outrageous; whereas, his representative, Mr. Sanchez,
came before the committee, saying that
they had no intention to transfer any,
functions. So what is his complaint?

I would at least suggest that the peo-
ple who have the responsibility for
writing the veto message might go to the people who have
the responsibility for administering
the program, so that the veto mes-

A substantial majority—and a bipartis-
ian majority—of the Senators believe
that if the Legal Services Corporation
will carry on a vigorous program in de-

In my view, this was a totally inde-
sensible action, and the President’s veto
message is among the most irresponsible
statements which I have encountered in
15 years of public life.

I do not believe the American people
will accept the hysterical charge that this
is radical legislation or that the bill
will replace the family with communal
caring.

I do not believe that the American Bar
Association, National League of Cities,
Academy of American Pediatrcians, Com-

mon Cause, National Education Association, or the League of Women Voters, which supported this legislation from its introduction, are radical groups.

Nor do I believe that the 83 Senators from both sides of the aisle, including the Republican national chairman, who is the distinguished Senator from Kansas, as well as the distinguished minority leader of the Senate and the distinguished assistant minority leader, are men of radicalism.

I believe that they voted to support a carefully drawn and well constructed program to meet an urgent need for adequate day care. The simple truth is that this bill would improve child development opportunities on a voluntary basis to the children of both poor and working parents.

President, Erik Erikson, the great child psychologist, once said that the most deadly of all possible sins is the mutilation of a child's spirit." I believe that sin is being committed in many different ways, millions of times every day, to American children throughout this land.

In the nearly 8 years I have served in the Senate, I believe I have worked as much as having faced the children of poverty and disadvantage as any of my colleagues. I have seen the faces of cheated children—destroyed almost before they had a chance—in the migrant camps of Florida, Texas, and California. I have seen them on Indian reservations in the West, the East, and in Alaska. I have seen them in ghettos in New York by the hundreds, in Minneapolis, and just two blocks from where I represent. I have seen those tragic faces on children—destroyed before they ever had a chance—in the pockets of rural white poverty and rural areas around this country.

The President charges that this program represents fiscal irresponsibility. Yet we now invest only 10 percent of the Federal budget in children and youth although these young people are 40 percent of our population and 100 percent of our future. If we can afford a $8 billion tax break for business and industry this year, as the administration proposed—we can afford to invest $2 billion in our children.

Among the most serious and misleading charges is that the need for a child development program of this character has not been demonstrated. That was not the conclusion of the President's own 1970 White House Conference on Children, who voted as their No. 1 priority the need for a comprehensive, family-oriented child development programs including health services, day care and early childhood education.

That is not the conclusion of an impressive group of professional colleagues who have experienced in serving the needs of children—including the National Association of the Education of Young Children, Child Development Institute, the Child Welfare League of America, the National Education Association and the Day Care and Child Development Corporation of America. And that is not the conclusion of this admin-

istration's own top officials in the field of children's needs. When I asked Dr. Edward Zigler, Director of the Office of Child Development at HEW, about the need for day care during Senate hearings on this legislation, he said with respect to preschool children:

If you talk to a group of working mothers who clearly need day care for their children, you are talking about 5 million children . . . . There are 375,000 available for some 650,000 of them so you are talking about a need there for from 4 million to 4½ million roughly.

Dr. Zigler has made the point, and I agree, that not all of these 4 to 4½ million children are without adequate child care. Although they are not in licensed day care facilities, some of them are benefiting from high quality child care in their own homes or in the homes of neighbors. But it is quite clear that many of these children are receiving purely custodial and mind-numbing care, and that some are even left alone to look after the house.

Programs are clearly needed to provide new or improved day care opportunities for these children. To pretend that this need does not exist—as the President suggests—is a great disservice to the children.

The President contends that this program would diminish parental involvement with children. Yet it is specifically designed to have maximum parental involvement. It leaves the major responsibility for the operation and control of child development efforts in the parents of the children these programs serve.

The bill the Senate has approved 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. These parent-governed boards—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 program.

And it expressly states that:

Nothing in this title shall be construed or applied in such a manner as to infringe upon or unduly restrict the rights and responsibilities of parents or guardians with respect to the moral, mental, emotional or physical development of their children.

The President argues that there is a question of availability of qualified people to staff child development centers. That is precisely the reason this legislation contains greatly expanded training authority for professionals and para-professionals and uniquely begins with a 6-month headtime for training and planning before the actual programs would begin.

The President further contends that the bill contains an insignificant role for the States.

The bill unquestionably puts a priority on local administration wherever a locality is, in the determination of the Secretary of Health, Education, and Welfare, capable of providing high-quality, comprehensive services. We place this priority on local administration precisely in order to assure that these programs will be accessible and responsible 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

Governors as well as other public and private nonprofit agencies, may serve as prime sponsors where localities do not apply, or where the Health, Education, and Welfare Secretary finds that a locality is incapable of providing comprehensive services.

Moreover, States can administer programs for migrant children, programs in areas where a city or county is not adequate, and programs for preschool children, or programs under the Secretary's additional 5-percent reservation for model programs.

These roles, and the Secretary's responsibility to determine whether localities are capable of administering programs, are spelled out in the bill, and clarified by a colloquy between Senator Byrd and Senator Javits during debate on the conference report. (See CONGRESSIONAL RECORD of December 2, 1971, pp. 44117-44118.)

As Wilbur J. Cohen, dean of the University of Michigan School of Education and former Secretary of Health, Education, and Welfare said in a recent telegram to us supporting the child development program in the conference report:

In my opinion, and from my past experience, I believe that the various provisions of sections 512(2)(b), 513(9), 517(8)(4), 584, 585, 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.

Finally the President suggests that this legislation somehow was based "in the absence of a great national debate on its merits." The facts just do not support that conclusion. Both the House and the Senate passed this bill and passed the conference report on it. This action—by elected representatives of the public—came after over 30 days of congressional hearings at which over 200 witnesses testified.

Moreover, this issue has been the subject of numerous public discussions, conventions, conferences, and studies. The 1970 White House Conference on Children considered this issue, and the delegates to that Conference voted development day care as their top national priority. The Joint Commission of the Mental Health of Children recommended a program of the nation as one of its top priorities for children.

And Project Headstart, which has now been in operation for over 5 years, and on which this measure seeks to build, has been led by the executive branch, and the public ample opportunity to review and assess child development efforts. 
December 10, 1972

CONGRESSIONAL RECORD—SENATE 46203

Mr. President, I cannot fully express the sense of despair and frustration that I feel over this veto. This was not a radical bill. The radical thing to do is to continue to permit these children, by the millions, to be destroyed the way they are destroyed in America today. That is the radical thing to do, because it destroys the promise of America. It makes a mockery of the American creed. It does an enormous, incredible, and sinful injustice to these children.

That is what this bill was all about. It sought, through parenthoodally controlled, locally controlled, publicly administered programs, to deal comprehensively with the needs of these children in the first 5 years of life.

Almost without exception, parents, experts and child specialists said that for many of these children, unless they are helped in the critical first 5 years of life, the chances of getting them full life chances in America thereafter are remote, indeed.

The same time again Congress and the President have been advised to do so. The recently concluded White House Conference on Children, by an almost unanimous recommendation, put it as it is in the priority to establish a comprehensive, family centered and family controlled child development program for preschool children. The recently concluded work of the Joint Commission on the Health of Children recommended a similar program.

Representatives of labor, of religious and civil rights groups, of child care associations, the League of Women Voters, others, have stood before this body on the long list of civic organizations ever to join in a major piece of social legislation, all said that this country must have a comprehensive child development act.

Not only that, but this bill enjoyed the strong bipartisan support from the Senate. Many Republicans as well as Democrats stood together for the first time to try of itself a mechanism for a Legal Services Corporation—and why? The bill passed by the Congress permits the President to name all 17 members of the Corporation, but he must name 11 of them from lists submitted by bar and client organizations. The President wants wholly unrestricted power to name all the members of the board. These are the very groups for rejecting a thoroughly bipartisan compromise on composition of the board—a compromise which embodies the all major elements of the President's original request.

The bill simply tries to establish an independent legal services corporation. That proposal was based on the findings and recommendations of the Ash Commission, which sought to reorganize the executive branch of the Government.

It was supported by the American Bar Association. It was supported by the American Association of Law Schools. It was supported by the American Bar Association, Section of6 attorneys, Democratic and Republican, conservative and liberal, across the land. Its objective was to bring justice to the poor, for the poor, by the poor, without political interference, to have the same right and access to the courts to assert their legal responsibilities as do the rich, the business, and corporate entities, and the Government today in America.

The legal services program has been one of the most successful of all the OEO programs. It is one of the least expensive. But it is a serious trouble for just that reason, because whenever the legal services program has brought a lawsuit asserting the fundamental legal right of individuals to the political, economic, and social forces have sought to cut off funds, to jeopardize and corrupt the program, and thus to make a mockery out of our system of law and justice.

The President's position is to establish an independent Legal Services Corporation. As with the child development program, the legal services proposal was developed by a bipartisan basis.

And I believe the House-Senate conference was almost unanimously in favor of the compromise on the Legal Services Corporation which was contained in the bills passed by the Congress last night.

And the President says that even if the child care program were excluded from this bill, and even if the Legal Services Corporation were further modified to meet his objections, he would still veto it. He would veto the extension of OEO itself because he objects to provisions barring further removal of OEO programs by the President without approval of the Congress. The administration representatives swore to the Congress that the administration does not wish to remove any programs from OEO unless it is the program of last resort. In this bill. Again this seems to me very poor grounds to reject major legislation, adopted on a bipartisan basis by two Houses of Congress.

The President's veto message, in my opinion, is one of the most irresponsible statements that I have seen in my many years of public life. It is a hysterical statement. It claims that this is a piece of "radical" legislation. It makes the right wing charge that this legislation was designed to establish "communal child rearing" and to weaken family ties.

Just to illustrate the case, First of all, the child care program is entirely voluntary. There is not a single bit of compulsion anywhere in the bill. Second, child care centers would be run by the parent group that has the need for the program. This administration wants child care run by remote bureaucrats in State welfare departments. Based on everything we have seen, that will only help to destroy the effectiveness of the program.

I was pleased that during the course of debate on passage of this bill and on the conference report—and if we look at the record it will reflect what I am about to say—that although the Senator from Colorado opposed this proposal on the record, he rejected the argument that it was irrational to try of giving help to the poor, or to encourage communal child rearing.

That is an irresponsible, hysterical, cruel, and false charge. I am sickened to see something so outrageous incorporated in an answer that is given to the President of the United States.

Most disappointing of all, the tone of the President's veto message plays on the irrational fears of the people of this country's farthest right wing. Perhaps it may be politically expedient for the President to appease that tiny segment of our society. But I do not believe the American people will condone this highly political veto—and the President is responsible to all of us.

In view of the President's attack, it is more than ironic that his own family assistance plan would require impoverished families to place their children in low-cost warehouses—operated by a Washington-based bureaucracy—while the parents work.

The President's message manages to express support for their day care centers for the children of welfare recipients who are forced to work, while roundly condemning the provisions of voluntary, quality day care for both the poor and working families.

This bill is designed to build on the family, to strengthen the family, and to make the family the sole determinant of who belongs to its children. It may reflect what has happened in the Soviet Union. I think remote State control of child rearing is terribly wrong. Mr. President, what comes close to what is going on in the Soviet Union, day care centers run by State welfare bureaucrats or the administration, or comprehensive child development run by the parents whose children are in the program? It would be our mis-Nixon program which raises fears about what will happen to those children.

I do not like the idea of remote-controlled, cold, custodial warehouses for children even if they do more damage than good. I think, when we deal with children in the first 5 years of their lives, that we have to be very careful and very sensitive. And, above all, we must let parents decide what they want done with their own children. That is what we sought to do in this bill.

I do not know whether we can override the veto, but I am convinced that even if we lose here tonight, this issue will not go away. Legislation like this is needed if the children of this country are to have a chance. Legislation like this is needed if we are ever going to be able to say that every child is treated justly in America.

Legislation like this is needed if we are ever going to stop committing the deadly sins of all possible sins—mutilating the spirits of children throughout this land.

I hope we will override the veto.

The PRESIDING OFFICER. Who yields time?
Mr. DOMINICK. Mr. President, I yield myself 5 minutes on the time of the Senator from New York.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 5 minutes.

Mr. DOMINICK. Mr. President, I sat here during the speech of the Senator from Minnesota, of whom I am very fond, and the Senator from Wisconsin (Mr. Battenberg), and must say that I have not heard finer oratory in my life. It is evident that although I must confess that I think it was not relevant to the veto message, I think it is necessary to try to set some of this record straight.

The Senator from Wisconsin was, in effect, saying that the President of the United States is not interested in improving the health care for the people of the United States. I am here today providing for the welfare of the impoverished. One of the things the President's veto message points out, among others, is that under his administration, participation in the Head Start Program has nearly tripled and the dollar support for child nutrition programs has doubled.

Both of the Senators who serve on the same committee I do, know very well, and the budget they were talking about in the budget on almost every health program that has been proposed.

We just finished passing a cancer bill today which was initiated originally by the President's budget committee and the message the President said that he would put more money in a cancer program which would establish a plan designed to find a solution to that dread disease that threatens so many families in the United States.

Mr. President, the oratory is impassioned but it cannot cloud the fact that we are, indeed, discussing the Finance Committee for a considerable period of time.

The administrative ineffectiveness that S. 2007 promises is best exemplified by the testimony of Jules Sugarman, a former Director of Project Head Start, the bill said you cannot have effective prime sponsorship with anything less than 100,000 people. In the conferences we reduced it to 5,000. President Nixon said it would be satisfactory to have as many as 7,000 prime sponsors that the administration would have to monitor and provide technical assistance for. And in the process of dealing with that, it has to deal with the Child Development Council which has responsibility over the prime sponsors.

Mr. Sugarman pointed out that the checking of Head Start in the House could not possibly find or train personnel adequate to handle a program of this magnitude.

Additionally, Secretary Richardson, both before and after the bill, made it clear that Congress reitered his concern about the potential manageability of the child care components.

I have no doubt in my mind that when we work to turn the OEO into an empty promise which will neither fill the pockets of the children's needs nor reach their parents' expectations, President Nixon must oppose the Child Development Act. This is the type of legislation that has been in the past continuously through the years. It is, indeed, a legislative life. Such as the veto comes as a surprise to no one.

Mr. President, and foremost, the $2.1 billion Child Development Act attached to S. 2007 creates an unmanageable administrative rat hole - a rat hole which says, parents, that if we do it gradually we can find and train the proper type personnel to effectively care for our children. The end result will be a system beneficial to the children involved, and to the families of children, both poor and lower middle income.

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

Mr. DOMINICK. Mr. President, I yield myself an additional 2 minutes.

The PRESIDING OFFICER. The Senator is recognized for an additional 2 minutes.

Mr. DOMINICK. I might say to my friends that reasonable fee schedules can be arranged whereby those who can pay a little for the support of child care can participate in an operation that should just restrict it to the very poor. But S. 2007 creates a totally unworkable fee schedule which is so extensive that middle income families can participate in the ultimate detriment of many poor families.

Mr. President, I have just one more comment and I will then stop. I pointed out once before that I thought it was wrong to try to turn the OEO into an operating agency and, by earmarking funds and attaching a nontransferability clause like section 10, we have reduced the ability of OEO to initiate or develop any program in an innovative way.

I said it in the committee, I said it in my supplemental views, and I said it again in opposition to the conference report. For another reason that the President gave for veto, I would urge the Senators to sustain the veto and give us an opportunity to consider the matter after full and complete consideration and report a bill that will be a better and far more workable bill next year.

I ask unanimous consent that the entire of my statement be inserted in the Record at this point.

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

By Senator DOMINICK

I urge my colleagues to vote to sustain President Nixon's veto of the Economic Opportunity Amendments of 1971 for reasons I have explained. I pointed out the dangers and the ineptitude of the veto. I also pointed out the benefits for the children's needs which went unremedied throughout the legislative process despite warnings which I, among others, made as one child care policymaker to Committee views to the Committee Report, warnings which I later reiterated in urging defeat of the Conference Report which had been by only two Senate minority conferences and one House minority conference.

The proponents of the legislation failed to heed or completely ignored protests from the House and reservations of responsible members of both houses of Congress from the very inception of their bills and organizations can effectively compromise or remedy the defects of this legislation jeopardized and ultimately killed a moral and child care program, the administration's poverty program. President Nixon's dissatisfaction with this legislation was expressed in his memorandum which had been made continuously throughout the entire legislative life. Such as the veto comes as a surprise to no one.

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member family with a family income below $9800 per year).

Congress just approved the Conference Report of the Small Business Act of 1958, which contained provisions encouraging the poor to pay for child care services and then deduct as much as $400 per month from earned income as a business expense. The amendment created the new category of allowable business expense expressly for the poor. Small businesses that rent or borrow child care facilities were allowed to expense the cost of the child care services because they normally use the standard deduction method of determining their business income. The Senate must resolve their dilemma of both encouraging the poor to spend money for private child care services and encouraging them to utilize free government-subsidized child care. At the very least the Senate must consider the total impact on the Treasury of process of determining the child care amendments and the $2.1 billion additional expense of the child care portion of S. 2007.

The PRESIDING OFFICER, Mr. CRANSTON, Mr. President, how much time remains on my side?

The PRESIDING OFFICER. The Senator has 20 minutes.

Mr. CRANSTON. Mr. President, I yield 10 minutes to the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina has 10 minutes.

Mr. HOLLINGS. Mr. President, I will be brief in my remarks. The Senator from Colorado talks about oratory. Well, H.R. 1 is a discommodification of this question to try to take every sensible and tried and true program—such as the food stamp program—and throw it out.

When he recommended his welfare reform program, he did away with food stamps. He tried to do away with the prescription feeding for expectant mothers and young minors under the age of 6. He tried to do away with the school lunch program.

Every time he turns around, he tries to undermine on the one hand and propose on the other.

He finally learned about cancer. But he is just learning about health distribution. We just completed the conference on the supplemental appropriation, in which we tried to retain $63 million for the nurses in capitation grants. The administration had been opposed to it and requested nothing for nurses capitation.

While we were meeting, the former Secretary of HEW, Mr. Finch, was over at the White House talking to the senior citizens' group. Next yelling, man, they will have a healthful America. Health is going to be the No. 1 issue, and what we really need is to get a good health service delivery system by increasing the number of doctors and nurses.

This kind of contradiction and double-talk is what is wrong with the veto. This bill is not a commune. This bill is not a mold- ing of young minds, and it is not being molded.

The greatest fallacy is in counting the families. We say there are nine head here, eight head here, and 10 head there. When we come to health, we must remember it is a children's problem. Not one and two; it is children. Mr. President, when you come to hunger, we have had a multitudinous every hunger bill of the person 15 million hard-core hungry, not the 26 or 27 million in poverty, but I mean 15 million suffering from malnutrition. And the children are being hurt the most.

In my remarks, I will draw this picture from California that Dr. George Brakes found they are losing $30 billion to the economy as a result of malnutrition in America, and since California has 10 percent of the population, it is losing $3 billion to that economy.

It is a children's problem any time there is talk about poverty.

And the problem is like a multiple injury in an automobile accident—a person with a broken arm, broken leg, broken neck and fractured skull. Many injuries causing suffering to one person, many factious, that will lead to recovery and one hospital to furnish care.

You have health, you have housing, you have training, and rehabilitation. You have hunger. And the best place to take a child is not in the hospital, but in the child development centers. Everybody knows that. We hear charges that their minds will be molded. Well, how are they being molded now? They are being molded by the despair, the lack of instruction, the lack of food, and the lack of health care.

The idea that they are in some family and getting some training is completely fallacious. They would be brought into society for the first time by this program. Leave them alone and they will not know how to turn the page of a book. I have heard all those cute jokes about the TV, the little baby, and the color TV.

Nonsense; these children come to the first grade and they do not know how to turn the pages. They stay in the first grade, finally are promoted and then repeat the second grade because they are too big for the class, and they are back in the ghetto; and soon they are getting into trouble and ending up in jail.

We are paying $5 billion a year, and the President talks about a $32 billion extravaganza program, it is a Mickey Mouse message. He gives his reasons. He said, first, there is no need. By the way, he adds later on there is a need—I have been working on it with H.R. 1.

Mr. President, if you want to know how long he has been working on it, he said, "I have been working on it for 2 years.

He finds, No. 1, there is no need. He goes one way and then another and tries to evade the program and the issue.

The public school is a moldy program to get down to the problems of the people and the state, and compounded over the many, many years. The centers are run by parents, like a great American institution, when the public school system was the PTA. Who said that is communal living? What is called that communal living? That is the kind of program we have from 6 years on up. What is the matter from 1 up to 6?

Mr. MONDALE. Mr. President, will the Senator yield?
Mr. HOLLINGS. I yield.

Mr. MONDALE. The difference is that we wanted to keep the control locally just as in the local school system, and in the hands of the parents in those communities, and the administration wants day care centers run by the State welfare department.

Mr. HOLLINGS. Exactly, giving the power back to the people, control at the local level.

I say to the Senator from Minnesota we found out in hunger that there is a lack of money. We have not yet gotten the food stamp program to all the people in America who are eligible. Only about one-half of those eligible are receiving it.

We have the school lunch program. Agriculture says it now feeds 7.1 million—it is really about 8.3 million. Carl Perkins said it was 8.9 million. So we are still missing about 2.5 million, young kids for the school lunch program.

In that hunger conference he said by next Thanksgiving they would all receive it, and he keeps vetoing, vetoing, vetoing. There is a famous little couplet by Plato about the politician making his own little laws and sitting attentively making applause.

He is trying to create the welfare mess. Look at the programs on welfare, on food stamps, on prescription feeding, on commodity feeding on school lunch, on the health care—and the comprehensiveness of all these. They are being vetoed and turned out. Now is the time to act. Now in the ghetto get at the root of the problem; we can save the children; we can save the American taxpayers money. But the President vetoes and refuses to act.

You cannot save that mother. We have worked on her. She has the greatest load in society. But we can save her children and put them to school. You find a mother has nine children, and expects to have the 10th, and cannot find the father, and they say, "We are not going to do that. We are going to cut off all aid to the children; we are going to punish her and the child." And that child is going to come, and we are going to pay for it in mentally retarded children. I do not know what it costs in Minnesota. It costs $124,000 in South Carolina.

We are paying in spades in America and that is why it goes up and up.

Congress finally comes through with a comprehensive approach that has been tried and found true, and then the President comes along and gives us double-talk in his message, saying, "There is no need for it; but too, I am doing it and have been for 2 years."

This Government and this President is not doing what needs to be done. Let us see if we can get some government and some President who will.

Mr. President, I wish I had more time, but I know the Senator from California is pressed for time.

I hope we overcome the veto.

Mr. CRANSTON. Mr. President, I yield 2 minutes to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HUGHES. Mr. President, I intend to restrict my comments to a section on the bill on which there has been no controversy in this body, at least since I came to this body and since we have been debating the issue.

But in this bill is included a segment for reaching the alcoholics in the lower classes of America, for reaching the narcotic addicts in the lower classes of America, two areas in which there has been unanimous agreement by a vote in the Senate on the size of the matter and the necessity of reaching the goal we are seeking.

It is important to point out that these are line item requests in this bill, the reason for it being that the programs would be last year later or experimented with or started unless they were drawn in that fashion and they were forced to make commitments in that way.

I was privileged to hear last night the Attorney General of the United States make what I thought was a little known speech in relation to alcoholism in New York City, in which he said the hour had finally arrived in America when we should start to look upon alcoholism as a crime and treat alcoholics as sick, which they are, and that they should not be handled in the jails and prisons of this country, but in health care centers and hospitals of this country.

Yet alcoholism is one of the greatest creators of poverty in this Nation, putting people in prisons and mental hospitals.

Their children are emotionally disturbed and so are those down the line.

We are in a transition period in the field of alcoholism. It is my hope this will be the last year. There will have to be matched funding in OEO because of the new institutes to deal with this problem. But it is essential that new starts be started in this country in this field.

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

Mr. HUGHES. Mr. President, will the Senator yield to me for 1 additional minute?

Mr. CRANSTON. I yield 1 additional minute to the Senator from Iowa.

Mr. HUGHES. Mr. President, it is essential to understand the American Indian alcohol problems incorporated in this bill where up to 80 per cent of the young Indians on the reservations are in trouble with the law because of alcohol-related problems, where the suicide rate is the highest in the Nation because of the alcohol relationship to the problem.

If I had the time I would go into the problem of narcotics. All one would have to do is to walk the streets of the city of the Senator from New York, to walk the western and south side of Chicago, Los Angeles, and every major city in this country, and have men and women begging for the opportunity to get on a program any place where they can be helped.

And yet our answer has been a punitive approach, where there is no solution in a prison, and we have offered no way out. It is no way to begin by vetoing a bill which has the hope of the beginning for the poor in facing these problems in America.

Mr. CRANSTON. Mr. President, I yield 2 minutes to the Senator from Utah.

Mr. MOSS. Mr. President, I have become convinced that consistency is no jewel in President Nixon's eyes. He about-faces so often—makes 180 degrees—changes his mind; he keeps not only himself in a whirl, but he keeps the rest of us, too. It is hard to know just what he does think, and where he does stand, on any issue on any given day.

Of his actions have been more capricious and illogical, however, than his veto of S. 207, The Economic Opportunity Act Amendments of 1971, because he objects that the bill contains the comprehensive child care program.

In 1969, the President told Congress:

"So critical is the matter of early growth that we must make a national commitment to the education of every child in the United States." He said the program promised an opportunity for a healthful and stimulating development during the first five years of life.

This is exactly what Congress was attempting to do when it added Title V child development program, to S. 207. This Title V concerned itself with meeting the needs of small children and the comprehensive care they need for full development. It sets up a program of all-day care for preschoolers of working mothers. It zeros in on the dangerous handicaps born of children of poor families. It provides nutrition, medical, dental, and services for these children, and psychological services for their parents in child care and development.

What was President Nixon talking about in 1969 if he wasn't talking about these things?

Now would the program established under title V forget the child once he reached school age? It also provides after school and vacation programs for older children, on the basis that the day does not end when the school's out bell rings at 3 o'clock. Those who would go home to locked houses because parents were at work would have somewhere else to go until the family come home.

Such services are available free to those with incomes of less than $4,300 a year—for a family of four—and a fee schedule would be established related to incomes with families with more resources.

It seems to me it is hard to quarrel with these objectives, nor to feel convinced that such a program is needed in this country.

But the President quarrels with himself when he vetoes this bill. The focus of H.R. 1, the Nixon-Mills bill on welfare reform, concentrates on reducing the welfare rolls. A mother can work if her young children who would otherwise be left at home alone? The President contradicts himself, by his own request to Congress.
He takes a position which is completely untenable when he vetoes a bill to establish just such services.

The samevituperation is repeated, that child care programs such as those envisioned under this bill would “alter family relationships” and lead to “communal approaches to child rearing against family-centered approaches.” I say, of course, the family approach is preferable, I would like to think that every child in the United States had a family circle and a family background which provides him with the wisest and most comprehensive care and development which anyone could desire. But the fact is that many children are not getting the sort of care, and particularly the child in the very poor family. This is one way to provide the deprived child a more equal start with the child who is growing up in more favorable surroundings. We have to accept things as they are—and work out from there.

Mr. President, the program envisioned in title V was hammered out by the Congress and is the result of committee consideration and work. It has wide support among groups who have devoted themselves for years to child care and development. Certainly it provides far more than just custodial care for a child in a day-care center—but why not?

The PRESIDING OFFICER. The Senator’s 2 minutes have expired.

Mr. MOSS. May I have 1 additional minute?

Mr. CRANSTON. I yield 1 minute to the Senator.

Mr. MOSS. To the criticism that the program will be costly, there is no answer but “yes, it will.” The bill authorizes the spending of $2 billion a year for 2 years. The programs will be far more universal, for the very reason that many, many families are quite able to give to their children all of the care and attention and guidance they need in their young lives. The mothers at home all day to give of their time to the children. For those children who are not getting this care—such a program will be a godsend.

Mr. President, I shall vote to override the veto. I yield 3 minutes.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President, I yield 10 minutes to the Senator from Ohio (Mr. TAYLOR).

The PRESIDING OFFICER. The Senator from Ohio is recognized for 10 minutes.

Mr. TAYLOR. Thank the Senator from New York for yielding.

Mr. President, at the outset let me say I have listened with great interest to the debate thus far, and I am disappointed in it in that I think it is an attempt to make an emotional appeal, an appeal to sentiments that I think are demagogic. I do not believe that there are any men in this body who do not feel for the child. We all feel for the deprived children, in our society today. It does not help particularly in coming out with a good result, an effective result, to rely upon this type of appeal.

But we have also the type of oratory, and so is oratory, but I do not think the children will be helped by either. I do not think the poor will be helped by either. The problem is to try to come out with an effective program to do something about these problems in our country, and particularly in the child in the very poor family. This is one way to provide for the deprived child a more equal start. This, I think is one to which we ought to give careful attention. I think we should be working toward such a program. I believe it should be done, but it should be done correctly. But the only way we are going to do it correctly is to do it a small amount at a time, and not hold

out vast, enormous promises of a $20 billion program that is going to solve all the problems of children in this country, but it is just not going to happen that way.

The frustrations and disappointments of the poverty program we are familiar with. Will all know of its failures. However, some of the community action programs were of tremendous benefits. The Headstart program has been a program of benefit in many ways. The legal services is a good portion of the bill. Experience has shown that this portion of the bill is laboring to spin off that program into one of legal services throughout the Nation.

There are many technical problems in the bill that I could go ahead and explain.

Let us go very quietly through the veto message, because the veto message has not been read. Let me point out some of the objections the President raised against the bill:

First, neither the immediate need nor the desirability of a national child development program of this character has been demonstrated.

Secondly, day-care centers to provide for the children of the poor so that their parents could work, and the welfare rolls of the Nation are already provided for in H.R. 1, my workfare legislation.

Where is H.R. 17? Why has that not moved? It has been locked up in the committee of this body and the other body. It provides for 400,000 day-care programs. While it is faulty, nevertheless, progress has been made, and the bill provides for a realistic number.

There has been much talk about children and the poor.

Certainly we want to take care of them. We should take care of them first.

This bill does not take care of them first.

This bill does not extend a priority for them in this program. The concept of this bill—though the author of the child development section, the Senator from Minnesota (Mr. Moss), from the very beginning of this debate, and in the discussion, and in the legislation, has never once been willing to admit that he so conceives of this program—is that of a universal program, a program without any restrictions. It is a program providing an equal amount to all children of this Nation whose parents wish to provide it to them.

He does not deny that, to his credit, because that is the basic concept on which he has worked. There was a little discussion awhile ago about the PTA’s in this country, and how it would be throwing the matter back to the PTA’s if we passed this legislation.

Quite the contrary is true. One of the biggest objections to the bill came from those who are concerned, like the Representative from Minnesota, Mr. Quie, about trying to see that the schools are integrated and also kept to this program. That has been one of the principal objections to it.

It has been said that this program was originated by the local community and local direction. I know about the various provisions of the bill for bringing in the parents and others at the local level. But the fact is that the matter is that this program is going to be directed from Washington, the way it is now constituted. The reason is that the
money is going to come from Washington. If we want to do something for the children of this country on the local level, we ought to go to some source that is not with the States and the governments, so they could take on this responsibility.

Nothing is being done about that, and the Senator knows why as well as I. This program is going to be done by bureaucrats in the Department of Health, Education, and Welfare, who will set up the standards, and what is even more, they are not going to be able to make any progress, because the States, local, State, and county, all the local organizations, even if they wished to, because there is a priority written into the bill, so that the smaller the unit involved—and I might add, that is why the Senate control—there is the Senate control which the Secretary has to give to it.

I think if we look realistically at this measure, we will realize there is a serious job to do, but it is going to have to be done in a lot better way that it has been done in this legislation, and I, for one, will not go along with holding out tremendous false promises to the American people that we can pass this bill and starting on this program blindly, with billions of dollars involved in it, not knowing where we are going or where we are going to end up.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President, I yield 10 minutes to the junior Senator from New York (Mr. Buckley).

Mr. BUCKLEY. I thank the Senator.

Mr. President. Before proceeding with some remarks I have prepared, I should like to comment on a statement by the Senator from Minnesota (Mr. Mondale), in which he stated that he had said in his veto message that this legislation was designed to undermine the family, and designed to promote the communal rearing of children.

That charge is unfair. The President's complaint, as he expressed it, and certainly my own when I first learned of the legislation, was not that it was designed to undermine the family, but that it was designed to undermine the finest of motives—but rather that it was bound to have that result; and such a fear is not unreasonable, as I can readily demonstrate, if I may go so far, merely by quoting Dr. Edward Zigler of the Office of Child Development, who has expressed the same fear. I inserted in the Record on September 3 an article from the San Francisco Examiner which contained this interesting quotation from Dr. Zigler:

"This is a concept quite alien to the American ethos."

He then goes on to say:

"I am very apprehensive that this Nation may set up a network of warehousing for children."

The reporter then quotes Dr. Zigler as expressing the fear that day care centers, instead of supplementing the family, might eventually supplant it, or at the least, leastensitize American child-rearing customs.

I submit, Mr. President, that those who share the fears expressed by Dr. Zigler should not be characterized as having slandered responsible legislation.

Frankly, I am deeply gratified by the President's veto. And I know that many others are equally grateful.

It is unfortunate that certain worthwhile features of the OEO program had to suffer because they were joined in the same bill with poorly drafted and hastily considered child development legislation, and that the President's determination that the potential for harm in the bill far outweighs the potential for good.

The veto message is a remarkable statement—at once forthright, candid, principled, humane, and persuasive. It is neither petty in its criticism nor partisan in its motivation. Rather, it goes to the heart of the matter. It deserves the thanks of the rhetorical veil which has for too long obscured from Congress and the American people the full gravity of the child development proposal.

I congratulate the President for his candor, for his forthrightness, and for his penetrating insight into the central character of this legislation. Had the President been concerned merely with the administrative details of the bill, it might have been possible for him to seek further compromise to make the bill administratively workable and economically feasible. Fortunately, the President connected the issue for us with a substantial and as a result we have before us a thoughtful statement of principle that can act as a guide for all subsequent legislation in this field. This was not by any means an easy bill to veto; indeed, political considerations might have dictated precisely the opposite result. The President's action, I believe, bears the mark of courage and statesmanship. It deserves the thanks of the people and the support of the Senate.

The attempt will no doubt be made to characterize the veto as heartless and cruel, as a savage blow to the hopes of the Nation's children. The record, however, will not bear out this indictment. The child development title of this bill was fatally flawed from the outset. It was not even workable or administratively feasible, and prohibitively expensive, but went forward on the basis of a novel, untried, and, I believe, fundamentally misdirected psychological theory. The measure that finally emerged from conference bore all the marks of good intentions marred by the exigencies of haste. But, as the President said:

"We owe our children more than good intentions."

That statement, I think, says it all. It calls to mind the remark that Senator Healyburn of Idaho made on the floor of the Senate in 1911:

"If you introduced a measure here "Resolved, that the Congress of the United States is in favor of the eternal salvation of mankind," it would doubtless be passed because it was in favor of the eternal salvation of mankind."

Introduction, and because it was unworkable and legally impossible, unconstitutional, and so was it defeated."

I introduce a bill here for the protection of the children of the country and the title of it is "that the Congress of the United States is in favor of the eternal salvation of mankind," but I doubt that it will be passed because it is in favor of the eternal salvation of mankind.

President Nixon, fortunately, has gone beyond the title of the child development proposal, and from here on out it will no longer be possible for the proponents to imply that they and they alone care for the Nation's children. Those of us who oppose this measure yield to no one in our concern for the welfare of the Nation's children; with the President, however, we remain steadfastly wedded to the principle that the care of the children is irrevocably intertwined with the maintenance of a strong family life, and that any measure which threatens to undermine the authority and strength of the family cannot pass. We commend to the full redound to the benefit of children.

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

Mr. BUCKLEY. I cannot yield on my topic today.

Mr. MONDALE. I was wondering if the Senator can tell me what in this bill threatens family life.

Mr. BUCKLEY. I will yield at the end of my remarks.

That principle lies at the very center of the President's statement; and it ought to lie at the very center of our discussion here.

As the measure goes back to the legislative drawing board, I trust that the proponents will seek to remove from it those features which so many found so objectionable and that those features which can enjoy the support of all. At the very least, I would hope that new hearings will be held which will better reflect the nature and extent of the debate and consideration which characterizes professional opinion in the field of day care, and that the psychological and other risks of institutionalized child care will be discussed less comprehensively than its putative benefits. Virtually all will agree that day care is necessary for the children of irresponsible or delinquent parents, or for working mothers who are otherwise unable to make adequate arrangements for their children. But much of the best available professional opinion is highly skeptical about, and in many cases ardent opposition to, the idea of day care per se, especially for the very young. Accordingly, I would hope that in the months ahead, special attention will be paid to providing assistance to those children who need help, but in a manner that supports rather than undermines the role of the parents and the institution of the family.

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

Mr. BUCKLEY. I will not yield at this point.

I support the President's decision and trust that it will be taken as an occasion for constructive discussion and not as an occasion for partisan or ideological backbiting.

I urge my colleagues to consider most carefully the President's statement. I believe that they will find it in a more than adequate demonstration of why this measure was vetoed and why the Senate ought to sustain the President's action.

Mr. MONDALE. Will the Senator yield?

Mr. BUCKLEY. I now yield to the Senator from Minnesota.

Mr. MONDALE. On two occasions, the Senator has said this measure threatens
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to underscore the family. Will he refer to the provision he had in mind?
MR. BUCKLEY. First of all, I did refer to the fears expressed by Dr. Ziegler, who I believe was a star witness of the Senate's.
MR. MONDALE. And who supported expanded, comprehensive day care services.
MR. BUCKLEY. And who expressed the fears that, nevertheless, it might be converted, and that the forces put into motion might end up undermining the institution of the family.
MR. MONDALE. What is the reference for that?
MR. BUCKLEY. I gave the reference in the Record of September 9.
I also refer to section 501(a) of the bill which establishes the premise of parental inadequacy, which states that most of the Nation's children are, in effect, inadequately brought up, and, what is more, commits Congress to a policy based on that assumption.
MR. MONDALE. Would the Senator read the language to me that says families are inadequate?
MR. BUCKLEY. It implies that in many places parents are unable to handle their tasks. Further, we know that enormous social pressures will be brought to bear in the wake of such implications. In the words of the President:
For the Federal Government to plunge headlong financially into supporting child development would commit the vast moral authority of the National Government to the side of parents who are failing to perform a necessary function of family rearing against the family centered approach.
MR. MONDALE. Is that the best on which the Senator can base his charge that this threatens the family?
MR. BUCKLEY. I certainly do—that and the whole thrust of this legislation, and the pressures that we know will be brought to bear to encourage women to put their families into—I will use the word—substitution of communal living.
MR. MONDALE. Communal living? What section is that?
MR. BUCKLEY. I think we should be sophisticated enough in this body to understand that pressures are resulting in many communities that the kind of overreaching, all-inclusive care starting at the prenatal stage, that is envisaged by this legislation, is going inevitably to encourage the kind of group child rearing and development which has raised serious questions in the minds of very eminent psychologists and philosophers.

The PRESIDING OFFICER. The time of the Senator from New York has expired.

MR. JAVITS. Mr. President, I wish we could yield my time, but we cannot; and I now yield 5 minutes to the Senator from Maryland.

MR. BEALL. Mr. President, at the time the conference report on this measure was before this body, I expressed certain reservations about the measure now under discussion. I stated at that time that I supported an extension of the Office of Economic Opportunity. I thought this agency had done—and had the potential to do—some great good in fighting the poverty that was prevalent in sections of our country today.
I regretted that I had voted for the Senate, in its wisdom, had found it necessary to combine a bill to provide for child development with the extension of the Office of Economic Opportunity. I thought that these matters were of such significance and importance that they should have been considered separately, because I think they deserve separate consideration. I stated that some of my objections and misgivings about this bill such as the earmarking provision of OEO. I did not think we should earmark to the extent we did for such earmarking does not necessarily make a program fail. I was ready to con
tinue to support OEO, from its beginning, had the role of giving birth to new programs, and after such programs have proven successful they have been transferred or delegated to a department or agency. This practice has been followed in both the Johnson and Nixon administrations, and the present director should have this right.
I think that one of the great disserv-
tices we have done to government at the local and State levels arises from the duplication and inadequate coordination of programs. As a result, in many cases programs fall short of their objectives. So I felt that was a fault of the legislation.
I felt that there were pressures more than we could deliver. This per-
haps is one of the reasons we have so much social unrest in our country. We promise much, but deliver little. The President is quoted to say that he was not in the white house. I hope he is not, and I believe this has been helpful.
I felt that there were difficulties with the child development program, primarily with the way it would be adminis-
tered.

The intimation has been made here this evening that this veto may be political in nature. I should like to refute that. If I voted for Economic Opportunity into the Record a telegram which I received proved the point. I voted for the Record when the conference report was before the Senate. This telegram was sent to Chairman Perkins by the Governor of Maryland, who happens to be a member of the other political party. The Governor of Maryland wrote Republican Perk-

HOL. CARL D. PERKINS,
Chairman of the Education and Labor Committee, House of Representatives, Wash-
ington, D.C.

DEAR CHAIRMAN PERKINS: I have re-
ceived your telegram concerning S. 2007 and, although I share your desire to continue Headstart, JOBS, the Job Corps, and the other programs that I cannot ask the Maryland delegation to support the
till. You contend that S. 2007 leaves the States with a meaningful role in early childhood development, I do not agree. We in Maryland have put together a workable and effective State plan and early childhood development, this statewide approach would be effectively sabotaged by the provisions of this bill.
I would like to see the OEO programs con-
tinued, but I cannot support S. 2007 while it contains this feature so destructive of our comprehensive statewide program.

Since that time, I have had conversa-
tions with the Governor of Maryland, and he has reiterated his strong feeling and objections to this bill.
I think that child development is a very important subject. I am aware of the growing body of research on the importance of the early learning years. But, child development programs, in or-
der to be successful, are going to require the cooperation of government at every level. The Federal Government at the State level, and at the local level. So long as we have devised a program that excludes one level of government—in this case, the State level—I do not think the program will work effectively. Though I voted for S. 2007 when it initially passed the Senate, and the conference report, I will vote to sustain the veto.
I yield back the remainder of my time.  
MR. BAKER. Mr. President, I intend to vote to sustain the President's veto of the bill.

The issue is not, as I see it, whether one should for or against enlightened and proper care for the Nation's children, whether from poor families or otherwise. The issues are, rather, what does, in fact, constitute enlightened and proper care, and what the role of Government should be.
In the Nation's history, the nurturing of children has traditionally been a pri-
obligation of the family, with subsidiary roles delegated to religious and secular educational institutions.
Prior to undertaking a major pro-
gram of this kind, the full implications of the program should be given careful evaluation. Whatever we ultimately do in this area should act to reinforce the family unit and not sub-
stitute the judgment of Government for the judgment of the family as to what is proper and necessary child care.

MR. PEARSON. Mr. President, it was with mixed emotions that I learned of the President's decision to return with our additional funding for the Bill in the Economic Opportunity Amendment of 1971 recently passed by Con-

As my colleagues are aware, this legis-
lative emboldened three basically separate proposals. The first of these authorized a continuation of the Office of Economic Opportunity, as originally designed, for an additional 2 years. The second proposal created a National League Services Corporation to aid the poor in assuring their legal rights, and the third created a new title under the Economic Opportu-
nity Act of 1964 entitled, "Child Development Programs." Of the three, I least favored the child
against the conference report on S. 2067, the Economic Opportunity Amendments of 1971, and I believe the President has exhibited considerable wisdom in exercising his veto of the legislation. I will vote to sustain that veto.

I applaud the administration’s continued commitment of extending certain valuable programs of the Office of Economic Opportunity for an additional 2 years. And I believe there is need for a comprehensive child care program in United States, but I believe that it is a matter too important to be satisfied with what appears to me to be hastily-drawn legislation, or to be enacted as part of the Economic Opportunity Amendments.

The so-called Child Development Act should be considered on its merits as a separate and important matter. The children of the educated states, I believe, are entitled to such thorough consideration.

It appears to me that, as presently written, the comprehensive child development program of this legislation would create a new army of bureaucrats. As I understand it, it would make eligible for a direct aid program—bypassing any coordination at the State level—and for communities of more than 5,000 people.

Consequently, it would invite the participation of about 7,000 individual prime sponsors, contracting with the Government, to operate centers with each operating under his own concept or theory of what child development should be.

The net result of this would appear to be a management nightmare for the Government, and a bureaucratic nightmare for the taxpayer.

Because of these and other factors, Mr. President, I am pleased to support the President for his course in this matter and for his standing on principle.

Mr. BAYH. Mr. President, once again we are faced with a callous, heartless veto of important legislation which could have helped to correct the overdue reorganization of our national priorities. The President, in vetoing the Office of Economic Opportunity authorization and its historically inequitable day care for every American child, has struck a shortsighted and unnecessary blow at the children of this country.

I hope sincerely that the Congress will override this veto and in doing so demonstrate to the public and the taxpayers in the state that we are not a tax-paying nation.

As the author of the Universal Child Care and Child Development Act of 1971, the proposal of which I have incorporated into the vetoed legislation, I am particularly upset at the President’s action. The President challenged the legislation, but the American people, their responsibility, administrative unworkability and family-weakening implications of the system it envisions.” He is wrong and a careful review of the facts shows this.

Some people may resent mothers working, but it is no longer a question of whether they should work or not. American society needs them. More than 42 percent of all American mothers with children under 18 work outside the home—9 out of 10 to satisfy an otherwise unwritten economic need, such as basic support, medical bills, their children’s future education, and so forth. This means that 14 million American children have working mothers, including more than 5 million below the age of 6.

The tragedy is that eight out of 10 of these children are cared for through makeshift arrangements—because as a society we have failed to recognize that our children should be provided with the best opportunities for growth and development that we can provide. It is all well and good to say that we have no responsibility for children, but the fact of the matter is that we as a Nation do have a stake in how these millions of children with working mothers mature. If we are concerned about shaping the future of our children in the future in our increasingly complex society—citizens who will not be committing crimes, citizens who are not dependent on drugs, citizens who will not become taxpayers, then we have a responsibility to provide opportunities for our children to develop their potential to the fullest. Certainly it is in the national interest, as well as their own, that our children grow up whole, humane citizens who can function in a democracy.

We can afford this program because of the savings we will realize by not having to provide these children with future rehabilitative services. In addition, parents encouraged and enabled to work by the provision of child care services for their families will become taxpayers instead of “tax eaters.”

A program that decreases the number of future members of society who fail to become self-supporting and have to turn to welfare and who experience the blights and failures from current welfare role is an investment which will pay handsome human and economic dividends. Simply consider the fact that the cost of welfare and accompanying rehabilitative programs in this country amounts to over $30 billion a year. Or that crime—including Government expenditures to deal with the problem, actual losses of property, estimated losses of citizen productivity from crimes of violence, insurance costs, and other factors—costs us over $50 billion a year.

Surely it would be better to spend $2 billion a year on constructive programs to raise whole, functioning members of our society than to spend far greater amounts of money feeding the results of that very program—on welfare. But the past is what we have to face. Every time for constructive action has passed.

Mr. PACKWOOD. Mr. President, as a long-time supporter of child development programs both in Oregon and around the country, it is with a great deal of reluctance that I am today casting my vote.
to uphold the veto of S. 2007, the Economic Opportunity Amendments of 1971.

As a member of the Labor and Public Welfare Committee, which handled S. 2007, I followed the development of this landmark legislation with intense interest. Although I did not and do not concur with each and every provision in the version of the legislation finally approved, the nature of this legislative process and the small differences are laid aside in the furtherance of the larger overall goals and objectives being pursued. My reservations aside, I supported S. 2007, and I continue to support the major provisions of the legislative route. In Committee and twice on the floor—first with the original Senate version and next with the Conference version.

We in Congress have the responsibility to exercise our best judgment in setting forth ways in which this Nation will pursue agreed upon objectives. Likewise, the President has the responsibility to exercise his best judgment. A Presidential veto is never a decision taken lightly.

Difficult as the choice is, it is therefore my responsibility as the Chairman of the Committee on Appropriations of the Senate to give a fresh look at this legislation in the light of his strenuous objections.

Let my vote be interpreted as an appreciation for the Economic Opportunity program, which I have consistently supported, to the new Legal Services Corporation, which I have consistently supported, to the objectives of the subcommittees, to the substance of the legislation, to the dedication of Mr. Nixon, who has consistently supported, or to any other provisions of this bill. My record is clear in this respect. Let my position be understood simply that Congress owes a fresh look at this very complex and far-reaching legislation.

Mr. BELLMON. Mr. President, as the record will show, I voted to support the Economic Opportunity Amendments of 1971 when it initially cleared the Senate. I have long supported the social initiatives which the Economic Opportunity Act has made possible.

During my seven years as Governor, Oklahoma carried on a highly effective and progressive program under the able direction of Mr. Robert L. Hauth, who now serves as a member of my staff. I feel that OEO has been an invaluable segment of our governmental structure and I wish to do everything I can to see that it is preserved and strengthened.

However, since the passage of the bill and the additional $2 billion of the President's veto of Nixon, I have taken another look and I find that the objections the President raises are valid. The bill does convert OEO from an experimental to an operational activity. By so doing, the bill destroys much of the flexibility and the innovative character of OEO and thereby weakens the social experimental arm of our Government.

Mr. President, also I strongly support the concept of child development. There is a great need for additional Federal effort in this field. While the cost of the program is high, I believe that the benefits it would produce in our society are higher.

If the program can be separated from OEO and be redirected, with proper administrative safeguards, through one of the operational agencies, I would strongly support its reenactment.

But with the bill in its present form, I must vote to sustain the President's veto.

Mr. WILLIAMS. Mr. President, earlier this week, the chief administration spokesman in charge of the health, education, and welfare file of the American people spoke to an audience at the Rockefeller Public Service Awards luncheon and attacked "the propensity of politicians who promise more than they can obtain."

Yesterday, the President of the United States vetoed the Economic Opportunity Amendments of 1971 and made it clear to the American people that he is not interested in the programs of the Office of Economic Opportunity which represent a unique means of closing the gap that still remains and that the gap exists between the many who have too little and those who have enough. These efforts involve manpower training programs for our young people, emergency food and medical services, and local initiatives activities conducted by the poor themselves.

With the same act of penmanship the President has further delayed the creation of a nonprofit corporation for providing legal services to the poor. This was, at the outset, an administration supported program representing a bipartisan consensus that giving legal assistance to the poor is one of the most effective antipoverty efforts. And it is in this new corporation which would have insured that legal services would be independent from political influence as well as preserving the right of the legal services corporation to attract and consider to be in the best interests of its client.

And, finally, the President's veto has dashed the hopes and dreams of millions of American children. The Government will at last provide them with the assistance they need in establishing comprehensive child care programs. These programs have been designed so that what is called child care will enhance the opportunity to be rescued from poverty and so that the children could have a chance to broaden and expand their lives. The establishment of such programs, with the emphasis on local decisionmaking, parental involvement, and developmental rather than custodial services, has been identified as the top priority by the White House Conference on Children, a conference held under the auspices of the Nixon administration. The legislation was designed to provide free services to those with incomes below $4,400 per year, with a sliding fee to be charged those with incomes in excess of that amount. So this is a program fashioned not only for the poor but designed by the White House Conference on Children for families who can ultimately benefit from these high quality services.

Mr. President, there is no more important priority in the United States than to assure that we can bring every child out of poverty and into the great mainstream of American life. Our children provide us with the greatest hope for the development of this nation. That hope has now been let us down. The President has said that he does not care. I am at a loss to understand why. It is becoming increasingly clear that President Nixon will try to avoid the danger of promising more than he can deliver by choosing to deliver little if anything in response to the needs of this country.

Mr. President, I believe that in the President's veto of the OEO—child development bill was a cruel mistake. This action derails the most important piece of social legislation this Nation has passed. The bill contained funds for jobs, education, legal defense, family services, and, above all, day-care centers for children. It is a key bill. It would have provided an educational place for children of millions of poor and working families. I think Mr. Nixon will regret his veto.

For the fact is that now is not the time when we can be turning back on education and producing basic education programs to help families in need. When the number of poor people in America has increased for the first time in 10 years, when we have¾. million people out of work when we have hunger in depressed areas of the country, we need more than ever before an effective antipoverty system of social services.

I believe President Nixon has broken faith with the American people and their children by his veto. He has shot down the very programs he advocated earlier this year. He said he wanted a basic child care bill, he said he wanted to give OEO a new future under a new Director, and he said he wanted an independent legal services corporation. The Congress took his word. I support this legislation. I have supported OEO—and its various experimental programs—since its beginning in 1964. I am convinced that a basic child care care system is a way forward. It will help the child. It will help working mothers. It will help families, not hurt them as the President claimed.

I shall cast my vote to override the President's veto.

Mr. MILLER. Mr. President, I shall vote to sustain the President's veto of S. 2007.

It should be emphasized that, if the veto is sustained, the present activities of OEO will continue. The supplemental appropriations bill, which has just been passed and sent to the White House, will continue the funding of OEO until the fiscal year ends on June 30, 1972. There will be ample time for the Congress to enact a new bill in the meantime.

Although I supported the bill, as it passed the Senate, and also the conference committee's compromise bill, I must state that I have been concerned over the newly added child development program contained in the bill. It was for this reason that I also supported a motion earlier this week to strike those provisions with instructions to delete this from the bill. However, that motion was defeated.
The reason for my concern has been well pointed out by the President's veto message. This part of the bill simply represents premature action—and excessive action, as well—without being made a coordinate part of the health care reform legislation which is now pending in the Senate Finance Committee.

Headstart continues to perform valuable day care and early education services, and important experimentation and demonstration function which identifies new techniques for aiding child development. Under the Social Security Act as amended, Headstart is authorized to provide construction of child care centers which can be used for training child care technicians and developing child care programs in cooperation with the States. However, the most immediate need is for child care services to enable welfare mothers to take a job and break away from the welfare cycle. That is why an expensive but critical program of Headstart of this kind must include a program for child care services to meet the needs of welfare mothers and parents who may be classified as the "working poor." Our committee, including the author of this subject early next year, and I would guess that this part of the welfare reform bill will be relatively noncontroversial.

Welfare reform legislation is going to be costly at best, and in the present state of a serious budget deficit, we simply must put first things first. There has been a great amount of talk and activity on the floor of the Capitol. Child care services to meet the needs I have referred to must come first. Beyond that, we should have pilot testing programs in the area of child development before undertaking nationwide programs if we are to avoid waste, duplication of effort, and, perhaps, an undesirable impact on the family structure which is the backbone of society.

Mr. DOLE. Mr. President, I plan to vote to sustain the President's veto of S. 2007, the Economic Opportunity Amendments of 2007.

No one questions the objectives of this legislation. We all realize the importance of the needs of the young and the underprivileged. But, the structure of this legislation we have before us is unresponsive to its goals and the cost is prohibitive.

President Nixon originally proposed a National Legal Services Corporation to the poor that was independent and free of politics and included built-in safeguards to assure its operation in a responsible manner. The legislation before us clearly does not contain such safeguards.

The manner of appointing members to the board does in no way assure their responsiveness to the needs or the desires of the general public. A minority of the members would be appointed by the President while the majority would be selected from various professional, client, and special interest groups who have no major interest in the well-being of low-income populations before their own.

President Nixon today signed into law the Internal Revenue Act of 1971 which will reduce taxes. It would be irresponsible, at this time, to enact legislation that has the prospect of eventually costing the American taxpayer $30 billion annually.

We all support the goals of this legislation. But no structure of this legislation can be made responsive to its goals and the cost acceptable, it should not be passed.

Mr. GURNEY. Yesterday, over the cries of self-righteous critics, who tried to label him insensitive to the needs of disadvantaged Americans, President Nixon acted boldly in vetoing the Economic Opportunity Amendments of 1971. Mr. Nixon acted in the best interests of the American people by refusing to accept a measure which would have spilled defeat for the stated aims of the Office of Economic Opportunity, for the goals of the Independent Legal Services Corporation concept, and most importantly, which may have foreshadowed a drastic change in the very nature of the American family.

The questions of poverty, of individual rights and of child welfare are crucial ones to the American people. The Nation desires the concentrated, serious efforts of its resources and maintain Federal programs which will actually work; which will substantially relieve the inequalities that now exist in our judicial system in our Federal, State, and local welfare programs.

I am particularly concerned about the child development proposal. It remains unfathomable to me that such far-reaching and costly legislation dealing with such sensitive areas as the child-parent relationship could be viewed favorably by so many Senators with so little discussion of the possible consequences. The proposal for an all-inclusive program for child development strikes me as a very irresponsible, incomprehensible approach to several critical child welfare problems.

To provide all American children with the best medical care, proper nourishment, and quality education is a goal shared by the President, the Congress, and hopefully by the entire Nation. To pay $2 billion to give a possible 7,000 individuals an individual commitment to the Special Housing Fund across the country with a possible 7,000 differing ideas the capability to devise separate plans for the care and development of children, with little provision for the administration of the plan and with little consideration of priorities that have already been established by locally elected representatives, is certainly not a rational way to make this goal a reality.

As one of 17 Senators who oppose this radical departure from the traditions and ideals of American life, when the Senate voted on the Economic Opportunity Amendments Conference report last week, I am commending the President for assuming his rightful position of leadership by not allowing this measure to become law. I shall be further encouraged if the Congress reevaluates the economic opportunity legislation and ultimately offers realistic solutions to these critical problems—solutions that have some chance of really working.

The Senate should vote to override veto of S. 2007.

Mr. RANDOLPH. Mr. President, yesterday President Nixon commented what he considered its legislation of major importance—"an act of error of judgment." He eras not only months of painstaking effort by Members of Congress, their staffs and many concerned labor and private organizations, but also the hopes and dreams of millions of low- and middle-income families who are striving to make ends meet in this time of rising prices.

I am speaking of the veto of S. 2007, a bill that passed the Senate by a vote of 63 to 17, and which also received a substantial plurality of support in the other body. In vetoing this measure, the President eliminated the authorization for the Office of Economic Opportunity and the establishment of a new Legal Services Corporation. As I understand the President's motives, however, the broad range of millions of low- and middle-income families should be quite workable.

In his veto message the President attacked this legislation as "fiscal irresponsible," "an example of "aggressive ineptitude," and "family weakening implications."

Is it "fiscally irresponsible" to provide welfare and jobs for people who are barely surviving with a chance to get off the welfare rolls and to have their babies properly cared for?

Is a program "administratively unworkable" when cities, Headstart programs, community action agencies, child development experts, and labor organizations give their total and enthusiastic support to a national program they assure will be quite workable?

What are the "family weakening implications" of poverty and ignorance, of mothers who have little or no means of support, of children whose education usually consists of running with street gangs, and with dope pushers?

Quite apart from the poor in Appalachia and in the city ghettos, what about the family of the average, middle-class American, the forgotten American, in President Nixon's words, the blue-collar worker who is squeezed by high inflation, high taxes, high unemployment, and a paycheck which does not go far enough to make ends meet? Is this forgotten American, especially, that we should not forget. The vetoed legislation would help him in any way it would the very poor.

Mr. President, families which are comfortably situated need no child care. Their family structures may be stable and sound. But the millions of middle-income families need this bill. Because of the pride and dignity it will provide to those who can climb out of the welfare rut to become taxpayers rather than tax-takers, because of nutritional stimulation, the nutrition and the medical care it will provide to children, who are the hope of the future, America needs this bill.

I urge my colleagues to override the veto of S. 2007.

Mr. TUNNEY. Mr. President, the President's veto of the OEO bill can only be described as an irresponsible act and
a tragic example of the need to reorder our priorities.

In 1970 the Office of Economic Opportunity expended $759,865,454 in California. This money was used for VISTA, community development, assistance for minority groups, and other programs. Community action programs, Headstart, legal services, and neighborhood health centers.

The Senate on September 3, 1971, enacted a very comprehensive bill extending the life of the Office of Economic Opportunity for 2 more years. In addition, the Senate bill included the addition of several very important, new and innovative programs.

First, the Senate recognized the critical importance of early childhood care and included within OEO a comprehensive child development program. This proposal extends the needs of preschool children would be recognized for the first time and health care, proper nutrition, and education would be provided.

How can the President say that there are not sufficient funds for young children?

Second, we as a nation must insure that everyone has access to legal services. Legal services is one of the most important elements of a democratic state. It is inconceivable to me that the President would not want to enact legislation insuring that legal services are made available to all Americans, and particularly to the poor.

The President's veto of the OEO bill, coupled with his lack of leadership in the flight to save the California rural legal assistance program, demonstrates an alarming lack of concern over constitutional rights under the sixth amendment.

Third, the Congress established a new community economic development program. Under this program a major effort would be made to link private finances with poor communities in order to give these communities the resources for self-determination and solid economic and social progress. The President's veto of this program is a serious blow to poor communities endeavoring to break the cycle of poverty.

To defeat the veto of the OEO bill the President has apparently brought out into the open his long-rumored desire to abolish OEO as an effective antipoverty agency. I feel that we must override the President's veto and we must fight hard to save OEO and establish decisively that we will not abandon our efforts to eliminate poverty.

ECONOMIC OPPORTUNITY AMENDMENTS OF 1971—VETO MESSAGE
ORDERED TO BE PRINTED AS A SENATE DOCUMENT (H. DOC. 92-48)

Mr. CRANSTON. Mr. President, I ask unanimous consent that I may yield to the Senator from Alabama (Mr. Sparkman) in connection with a conference matter, and that the time not be taken from either side.

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

ECONOMIC STABILIZATION ACT AMENDMENTS OF 1971

Mr. SPARKMAN. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2891.

The PRESIDING OFFICER (Mr. STROMBO) laid before the Senate the amendments of the House of Representatives to S. 2891 entitled "An Act to extend and amend the Economic Stabilization Act of 1970."

Mr. SPARKMAN. Mr. President, I move that the Senate disagree to the amendment of the House on S. 2891; agree to the request of the House for a conference; and agree to the votes of the two Houses thereon; and that the Chair be authorized to appoint the conference on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. Sparkman, Mr. Proxmire, Mr. Williams, Mr. Cranston, Mr. Tower, Mr. Packwood, and Mr. Roth conference on the part of the Senate.

ECONOMIC OPPORTUNITY AMENDMENTS OF 1971

The Senate continued with the reconsideration of the bill (S. 2007) to provide for the continuation of programs authorized under the Economic Opportunity Act of 1954, and for other purposes.

Mr. CRANSTON. Mr. President, I yield 1 minute to the distinguished Senator from Massachusetts.

Mr. MONDALE. Mr. President, I want to make this point: This bill has been subjected, in the extreme right-wing journals of this country, to a totally vicious, dishonest, and irresponsible series of charges.

This bill does nothing except to build upon the family; it does nothing to encourage communal living. It is designed to strengthen the family and to give the children a chance in ways defined by the parents of those children and no one else. Any other charge to the contrary, such as those contained in the President's veto message, are absolutely and undeniably false. This measure is a difficult and complicated one but it should not have to bear the burden of totally groundless, outrageous and fearsome charges such as those.

Mr. JAVITS. Mr. President, with the consent of those who seek to sustain the President's message, I yield 5 minutes to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I rise to express not only my strong conviction that the veto of the Office of Economic Opportunity extension should be overturned but also my distress at the tone and substance of the veto message itself. It is a cruel Christmas present for the Nation's poor and the Nation's children.

The message clearly reflects this administration's total lack of corporate and commitment to the disadvantaged. It reflects once again a willingness to dismantle the remaining elements of the Cold War Economic Opportunity, an intimation that is present in its stabilization plans, in its incredibly inadequate budget requests, in its veto of this measure and in its threat to veto all other bills which he does not give the President a free hand to destroy the Agency.

Mr. President, earlier we heard some suggestions made by the Senator from Ohio indicating that everyone is in favor of helping the poor, and that we should not question the motives of the administration as it addresses itself to this problem.

I think we can question the motivation where we have seen a slush fund of $2 billion offered for Lockheed and other corporations, and we come forward in this legislation with $2 billion looking out for the children of this Nation. Administration, on the one hand, is prepared to go to bat for $2 billion for the big corporations of this Nation, but turns thumbs down on a $2 million child development program.

First, let me comment on the President's decision that the National Legal Services Corporation provision is unacceptable.

In reviewing the President's veto, on page 2, he states that one of the reasons he vetoed the program was that he believed the provisions did not provide adequate accountability and benefited special interests.

The legislation currently gives him the option of appointing all of the 17 Board members, but requires that he select from nominees sent him by Congress the one who is most concerned with legal matters in the land. Yet the President refers to the Judicial Conference of the United States, the American Bar Association, the Association of American Bar Associations, the National Bar Association, the Project Attorney Advisory Council, and the Clients Advisory Council as "special interests" who are not accountable to the public.

He has never appeared in the past to have any qualms in acting on behalf of special interests, for oil companies, for Lockheed, for the AMA, for the health insurance industry, for the corporate interests of this Nation. Yet when it comes to a provision that would merely have him select members from groups with the most direct concern for legal services for the poor; suddenly the President objects.

When he uses the word "accountable" he is not talking about an independent services corporation that is accountable to the poor or to the President. He is talking about a legal services agency that is accountable to the political whims of the White House. He wants to be able to control it completely in its reorganization and for him to sacrifice the "independence" that he has paid lip service to throughout this debate, and that is the only excuse for his opposition to this provision.
CONGRESSIONAL RECORD — SENATE
December 10, 1971

We found out what happens when an individual within the administration really looks out after the interests of the poor. Think about what happened to Terry Lenzner. They fired him.

The President talks about accountability. What we are interested in is a legal services program that will be accountable to the poor and not to the White House. I think it is ironic that these words should be used in a President's

Legal services has been the most dynamic and successful OEO program since its inception in 1965 and it has withstood threats to its existence from the State of California and from this administration. To assure its independence, the Congress has passed this measure, and I believe it is the best guarantee that the poor will have access to legal services and to appropriate institutions for the orderly resolution of grievances and as a means of securing orderly change, responsiveness, and reform.

Then I read your report for a veto on this basis except the desire of the President to have absolute control over legal services to insure the corporation will respond to his political command.

So we come then to the basic reason given by the President for his veto and that is the child day care section of S. 207. And here it is perhaps even more devastating. The President suggests that this President has in relation to providing services to the Nation's citizens.

Essentially, the child care provisions of S. 207 tried to do to low- and middle-income families of this Nation what sufficient income has always permitted the more wealthy to do. And that is to provide adequate and decent day care and child development programs for their children.

And the President's assertion he already has increased nutritional assistance and health services for children does not meet the need for day care services. It also is curious that he has made this argument since his requests for food stamps have always fallen short of the need and the August food stamp request of 28 million has way overshot the restricted eligibility, including eliminating 1.6 million children. Only congressional outcry stopped that from occurring.

Also, with regard to improved health services under Medicaid, the truth of the matter is that he delayed 2 1/2 years issuing Medicaid regulations to require health screening of children. And he still has not requested additional funding to improve those services.

But more important, the assertion that H.R. 1 will meet the day care needs of the children of this Nation is absolutely false. Pay Day Social and Judical care will be available under the President's welfare bill only to welfare recipients.

The family of four which earns more than this is not in most cases would be totally ruled out.

The President has evidently decided that only the very rich and the very poor shall provide the child care. I worked for passage of this bill because it offered a tremendous opportunity to help children in the 5.5 million low-income families headed by women who must work. And it held out hope to every family that has been denied adequate child care facilities, because only 700,000 licensed child care positions exist to meet the needs of the 6 million children of preschool age in this country.

Finally, let me say, in terms of earmarking, we find time and again that the President is prepared to drop the programs that I find are essential to meet the nutritional needs of the people of this Nation.

The total number of poor in this country has risen from 24 to 26 million, in the last year alone. Yet the administration requested $100 million less to meet poverty needs. This should not surprise anyone. The administration saw that the elderly poor had risen by 100,000 and their response was to request $3 1/2 million less for the Older Americans Act.

Without earmarking this administration would abolish the emergency food and medical program. That was their intention at the start of the session. Only through earmarking have we prevented that.

Mr. President, I think that when we are talking about a veto that addresses itself to the unmet needs of the poor, to serve the people, and to provide for the needs of the people, I cannot accept a Presidential veto that is based on political rhetoric.

Mr. President, I hope the Senate will exercise its good judgment and override that veto.

Mr. DOMINICK. Mr. President, will the Senator from New York yield?

Mr. JAVITS. I yield 10 minutes to the Senator from Colorado.

Mr. DOMINICK. I shall need only 5 minutes but will reserve the other 5 minutes for later.

The PRESIDING OFFICER (Mr. SPARKMAN). The Senator from Colorado is recognized for 5 minutes.

Mr. DOMINICK. Mr. President, this debate obviously is not going to go down in the annals of the Senate as one of its finest hours.

I have listened to the comments of the Senator from Massachusetts, the Under-Senate standing is that, along with me, voted against the Lockheed loan, but it was $250 million. It was the guarantee of a loan. It was not a $2 billion giveaway.

Mr. KENNEDY. Does not the Senator agree with me that the administration itself asked for $2 billion?

Mr. DOMINICK. I do not yield to the Senator from Massachusetts. We will have regular order here, or he will sit down.

The PRESIDING OFFICER. The Senator from Colorado declines to yield to the Senator from Massachusetts.

Mr. KENNEDY. The Senator does not want to answer the question.

Mr. DOMINICK. I have the floor. The Senator can answer on his own time.

Mr. KENNEDY. If the Senator will yield me some time—

Mr. DOMINICK. Mr. President, this portion of the debate is obviously not relevant to the vote right now. The question that we should look at, what does the actual veto message say? It hits all three aspects of the bill concentrating on child development and in the process says that the President is nothing wrong with our objective. That is part of the objective the administration has been seeking. It is legitimate for people to have the same objective but to have different methods of arriving at it. This has been the history of this country ever since I can remember. It seems totally wrong to me to go and say that, because we do not like the method by which something is done, we impede all kinds of motives to the person who is saying, "I want it done another way."

The next thing I think is important is to recognize that in the veto message it says the President has specifically set out some of the programs that he has been speaking to, in order to get into programs in order to try and provide for the needs of the poor. But, as the Senator from Ohio so specifically pointed out, there is no criterion to treat the poor first in the bill—not in the child development bill. Anyone can come in, poor, or otherwise, at all levels. It does not say it has to be the poor first.

Second, so far as the primary sponsor is concerned, the one that is required to be the prime sponsor, while the State may be a prime sponsor.

We argued about this in committee. We argued about it in conference and we argued about it in the conference report. The Senate conference report stated that what we are doing is to specifically referred to in Governor Mandel's telegram which the Senator from Maryland has just put in the Record.

Mr. President, all I am saying is: let us treat this logically. Let us not try to put all kinds of motives on it. Let us not have those few Senators who have not announced for President acting like they are running for it in this part of the bill.

Mr. President, I urge my colleagues to vote to sustain President Nixon's veto of the Child Economic Opportunity Act. The Economic Opportunity Act Amendments of 1971 for reasons I will soon enumerate—reasons which have impaired the legislation from its inception—reasons which went unremedied through the last Congress, I urge my colleagues to pass the legislation which I, among others, made as a cosigner of supplemental views to the committee report, warnings which I later reiterated in urging defeat of the conference report signed by only two Senate minority conferences and one House minority conference.

The proponents of this legislation failed to heed or completely ignored previous warnings and revelations responsible Members of both Houses of Congress from the very inception of this legislation. The steadfast refusal to compromise or remedy the defects of this legislation jeopardized and ultimately killed a most necessary 2-year extension of the administration's poverty program. President Nixon's dissatisfaction with this legislation merely culminated the sections which had been made continuously throughout this bill's legislative life. As such the veto comes as a surprise to no one.

First, and foremost, the $2.1 billion Child Development Act attached to S. 207 creates an unmanageable admin-
very least the Senate must consider the total impact on the nation of the loss 
Revenue Act amendments and the $2.1 billion addi-
tional expense of the child care portion of 
Perhaps more importantly, the above discussion indicates once again that on matters as critical and sensitive as the care and development of our children more extensive and coordinated legislative consideration is required.
President Nixon's veto statement con-
tains his view of an OEO program seek-
ting to—
Make the Office of Economic Opportunity the primary research and development arm of the Nation's and the Government's on-
goal effort to diminish and eventually 
OEO will be prohibited. Despite occasional setbacks, considerable prog-
ress has been made.
S. 2007 contains setbacks which may well prove fatal to this concept. Section 10 of S. 2007 prohibits the delegation or transfer of programs administered by the Director of OEO to the head of any 
agency through fiscal year 1973 unless a conforming provision of law is subs-
sequently enacted. This, however, allows the Director of OEO to develop and manage programs up to a point when it ceased to be developmental and com-
ceded to be operational the program was “spun off” to other offices in the 
executive branch through the exercise of the delegation authority contained in 
section 602(d) of the Economic Opportu-
ity Act.
Section 10 frustrates the whole re-
search and development concept of OEO and effectively relegates it to the status 
of any other executive operating agency. For the first time, a President and 
the Director of OEO will be prohibited from delegating matured individual projects 
without congressional control.
The language of S. 2007 further re-
stricts the true developmental aspects of 
our OEO program by locking specific programs into earmarked ex-
penditure levels. In the process of ear-
marking the $850 million in authoriza-
tions, OEO specified levels for 
local initiative, alcoholism, emergency 
food, and medical and community eco-

demic development so high that appro-
priations for two essential programs— 
comprehensive health and research and development 
will have to be reduced if 
the estimated budget is adhered to.
As with section 10, this earmarking 
serves not to further the poverty pro-
grams, but rather to relegate them to 
ordinary operating agencies.
President Nixon additionally cited the 
restricted accountability of the Legal 
Service Corporation Board under S. 2007 as being inconsistent with the interests 
of America's poor. I concur and urge the 
rewriting of the Board selection process 
to guarantee an independent and politi-
cally free legal service program.
Mr. President, this administration's 
commitment to the poor is not suspect. 
President Nixon's veto message reflects 
his sincere desire to create a meaningful 
effective program to honestly assist the 
Nation's poor. I urge my colleagues 
to give him that opportunity by sustain-
ing the veto and then working together 
for a truly effective poverty 

dent. Mr. President, I reserve the remainder 
of my time.
Mr. JAVITS. Mr. President, we are 
prepared to yield 15 minutes to the other 
side. I have already yielded 5 minutes. If 
the Senator from California will take 
the remainder of that time, I will yield to 
that Senator.
Mr. CRANSTON. Mr. President, will 
the Senator yield me 10 minutes?
Mr. JAVITS. Mr. President, I yield 10 
minutes to the Senator from California.
The PRESIDING OFFICER. The Sen-
ator from California is recognized for 10 
minutes.
Mr. CRANSTON. Mr. President, I rise 
to urge my colleagues to vote to override 
the brutal veto of the President on 
S. 2007, the Economic Opportunity 
Amendment of 1971, which passed the 
Senate by such an overwhelming margin 
Thursday of last week.
The fact of the President's veto of this 
valuable legislation is outrageous, but even 
more outrageous is his veto message which is an 
exercise in distinguishe rhetoric and po-

tific expediency.
With this negative act, the President 
has fulfilled the intention of so many in 
the poverty community that his overriding 
shortsightedness is and has been to kill OEO 
or at least reduce it to a totally ineffec-
tual agency.
It is true that OEO no longer operates 
many of the original war on poverty pro-
grams itself, and there is absolutely nothin 
big in this bill which would alter those 
degradations and transfers of Economic 
Opportunity Act programs which have 
already been made to other agencies.
Thus, the President's statement that un-
der this legislation OEO would become an 
operational agency is totally misleading. 
Rather than provisions of the vetoed bill 
would have required only that OEO hold 
out to what few operational programs still 
remain in order to give it some force and 

ticularity as an agency of federal 
responsibility.
This is but the first example of the 
falacious statements included in this ir-
responsible veto message.
Next, the President attacks congres-
sional action in the allocations of funds to be spent on various Economic 
Opportunity Act programs. This is an old 
saw for this administration, but the facts 
are that this bill permitted the Director 
of OEO to transfer up to 25 percent of 
the specified funding for any particular program, 10 percent higher 
those of law. What the President really seems to 
object to is any member's assertiveness 
role in the legislative and appropriations 
process.
As I understand it, under the Consti-
tution the Congress has at least equal 
legislative responsibility, and I have al-
ways thought that it was the principal 
legislative branch of the Government. 
Apparently, the President disagrees. He 
not only wishes to exercise totally un-
checked executive branch power—as is 
evidenced by his rejection of any signifi-
cant congressional role in the field of 
foreign and military affairs—but also 
thesis now to write the law without 
congressional participation.
His attitude in the veto message reminds me of that of the petulant child who threatens to and finally does pick up his marbles and go home when he does not have his way on every aspect of the marble game.

Congress has the constitutional responsibility of deciding on appropriations of funds for particular programs, and I believe my friend, Mr. Moinian, would agree with me that responsibility to ensure that those programs which our constituents tell us have proven effective are maintained, and that those that do not have proven effective be phased out from them. The administration plan risks squandering moneys on experimental and research programs whose principal beneficiary is often not the poor but the consulting firm. I strongly support the need for Federal stimulation of small business, but, unlike the present administration, I do not believe that every program should be converted to a private enterprise.

If the Congress had not seen fit, in its wisdom, to include earmarking in the economic opportunity act in the last several years, I believe there would be today no Legal Services Corporation, no food and medical program, no poverty, drug and alcohol programs, and perhaps no legal services program or VISTA program.

Next, the President objects to the Legal Services Corporation provisions in S. 2007 which he says do not provide for sufficient "accountability to the American taxpayer as a whole." What he means by this—and there can be no doubt about it—is political accountability to him as the President. His call for unrestricted Presidential appointment of all members of the Corporation's Board of Directors is a position supported by none of the extensive testimony presented at congressional hearings except for that presented by the administration, itself.

Mr. President, the kind of Legal Services Corporation "independent and free of politics," to quote the President's rhetoric, that this administration seeks is one that can be manipulated for narrow, partisan purposes through political appointees who owe their jobs entirely to the President.

It was exactly to avoid this kind of political pressure and harassment—characterized most clearly in the story of the California rural legal assistance program debacle, which began just 1 year ago, that we introduced the National Legal Services Corporation Act (S. 380). As far as I am concerned, and I have spoken to the principal sponsors of this legislation, both the Senator from Wisconsin (Mr. NIXON) and the Senator from Missouri (Mr. Moinian), the kind of politicized corporation the President wishes would provide greater opportunity for abuse than the present legal services structure at large.

For, under the President's puppet regime, there would be an appearance, although no reality, of impartiality behind which the administration could hide while engaging in the Hatchet work on legal services programs.

Mr. President, I am also astonished that the President should see fit to challenge the integrity of the organized bar and the legal profession in objecting to their continuing to play a major role in the overall direction of legal services efforts.

It is a clear and undisputed fact that without the initial support and nurturing of the organized bar and the legal profession there would never have been a legal services program, and that without their continued support and guidance an effective legal services program could not survive in this country.

Thus, I think it particularly appalling that the President attacks the organizations on the American Bar Association, the National Bar Association, the American Trial Lawyers Association, the National Legal Aid and Defenders Association, and the Association of American Law Schools by calling them "private interest groups" and describing their involvement in appointment of the board and in incorporating trusteeship for the new corporation.

The President concludes his verbal gymnastics regarding the Legal Services Corporation by calling for a corporation board which plans "income clients before the political concerns of either legal service attorneys or elected officials." This is said in the face of the incredible episode regarding CRLA personnel hired by the President for what has been proven beyond a doubt to be a political motive to mollify Governor Reagan.

Mr. President, I ask unanimous consent that there be printed in the Record at the bottom of page 9 of the December 10 letter to the editor of the Washington Post from Michael Kantor, executive director of Action for Legal Rights, Inc., who has performed an invaluable public service in assisting the Congress with regard to the legal services title in the bill. I also ask unanimous consent that the names and titles of the Advisory Board of Action for Legal Rights, Inc., be printed at the outset of this letter.

The PRESIDING OFFICER. Without objection, it is ordered.

Mr. CRANSTON. But the President saves the worst for last and reaches new heights in his shameful and shameless castigation of the child development program in the bill.

His implication that the child development legislation would "lead toward altering the family relationship," would employ "communal approaches to child rearing," and would give the "family-centered approach" and would generally "diminish both parental authority and parental involvement with children" is absolutely untrue. This red herring which the President hurls in from the reactionary gutter represents a scandalous sellout to right-wing radicals.

Mr. Nixon has sacrificed the welfare of hundreds of thousands of children and their mothers who would like to work toward a better future for the political expediency he finds in mollifying the right-wing harping in his party. It is a shame that he has once more listened to the bad advice which his domestic advisors foist upon him and has again not bothered to take the time to acquaint himself with the specifics of the legislation.

In fact, there is absolutely no provision in the bill or legislative history and surely no intention on the part of the 63 Senators and 210 Congressmen who approved this conference report to break up or weaken families or control the development of their children. I suspect the President must really know this.

In fact, the bill does exactly the opposite. The child development program would preserve parental control and strengthen the family unit in a number of ways: First, by permitting women in single-parent households, or single heads of households with children to keep the children in an educationally, nutritionally and physically healthy environment while they seek to earn money to provide more adequately for their families. The approach of keeping children in the chains of poverty by not providing them with the comprehensive services they need to break free while their parents try to earn their keep and to have more prescription to degrade and diminish the strength of the family unit. Yet, given the veto of this bill, this seems to be the administration's design for the family. Second, and I say from firsthand knowledge because I have personally read the amendments on this score. Parents in child development programs would have effective control of basic polices such as funding, and parental decisions at all levels of child development programming and would be urged to involve themselves directly in implementation of individual projects and programs.

It is of course participation by any child in these child development programs would be entirely voluntary; entirely up to his or her parents.

The complete inconsistency in the President's inane attack on the child development program is pointed up by the relatively positive statements he makes about the Headstart program, formed the very basis for the fundamental philosophy underlying the child development legislation.

Mr. President, what does the President say he is for? He clearly seems to be for "day care." What he wants is a system of warehouses for children, 9 hours during the "day" while their mothers work. That is his focus—on the mother working for the "day", not on the "child" whose fragile sensibilities are being developed.

Principally, he wants these juvenile warehouses to contain the preschool children of the welfare mothers he would require to register their work under H.R. 1. If a mother prefers to raise her pre-school child, rather than to take a meaningless, demeaning job—and unlike the President, I think there are such jobs—I have found that it serves a relationship between the child and the mother for that child to be stored in a custodial program for most of its waking hours away from parental love, interest, concern, and compassion? I wish the President could answer this question for me.

I believe that if the parent of a preschool child wishes or needs to work that child should be cared for in a-
CONGRESSIONAL RECORD — SENATE

December 10, 1971

W. Page Keeton, Dean, University of Texas School of Law.


Tom L. McMillen, The American University, Washington, D.C.

The Honorable Sol M. Linowitz, Washington, D.C.

Edward S. Lockhart, Dean, University of Minnesota Law School.

J. William McMillin, Lewis, Rice, Tucker, Allen and Chubb, St. Louis, Missouri.

Robert B. McKay, Dean, New York University School of Law.

Bayless A. Manning, Dean, Stanford University Law School.

Burke Marshall, Yale Law School.

Richard C. Maxwell, University of California School of Law, Los Angeles.

George Moore, Deputy United States Marshal.


Louis B. Pollak, Yale Law School.

Robert D. Raven, Morrison, Foerster, Holladay, Clinton and Clark, San Francisco, California.

Cruz Reynoso, Director, California Rural Legal Assistance.


Murray L. Schwartz, Dean, University of California School of Law, San Francisco.

Jerome Shestack, Schneider, Harrison, Segal and Lewis, Philadelphia, Pennsylvania.

The Honorable Sargent Shriver, Washington, D.C.

Robert L. Spangenberg, Director, Boston Legal Assistance Foundation.

Maynard Toll, O'Melveny and Meyers, Los Angeles, California.


To the Editor:

The President's veto of the Poverty Program, the new and crucial Child Development effort, and the National Legal Services Corporation marks a complete retreat by the Executive Branch of Government from the solutions to the crucial domestic issues of our time. In this context, the President insured, through bitter, misleading and ill-founded comments in the veto message, that the fight will continue to polarize at an ever increasing rate.

The implementation of the National Legal Services Corporation is an exciting attempt to strengthen and expand the CEO Legal Services Program. By making Legal Services lawyers independent from undue political influences, this Bill would have brought the poor a few steps closer to true equality under law. But our President-lawyer abandoned this long term need for short term political gain. The same President that called for an independent Legal Services Corporation has short circuited this effort and turned his back on his profession, the leaders in his own party, and the poor.

The President indicated in his message that he had three problems with the National Legal Services Corporation. One, the Corporation was somehow not accountable to the American people. Two, that the legislation passed by the House and Senate "differs crucially" from his original proposal; and three, persons, with a possible conflict of interests, ought serve on the Board of Directors of the Corporation.

The President stated that he only had full discretion in the case of the seventeen members of the Board. In fact, the President appoints all members of the Board in the Bill passed

Exhibit 1

GROWTH

Michael Kantor, Executive Director.

ADVISORY BOARD

E. Clinton Bamberg, Jr., Dean, Catholic University of America School of Law.

Lawrence E. Blades, Dean, University of Kansas School of Law.

James Brosnahan Cooper, White and Cooper, San Francisco, California.

Glenn Carr, Gerald Heber Smith Community Lawyer Fellowship Program.

Lindsey Cowan, Dean, University of Georgia School of Law.

John W. Douglas, Covington and Burling, Washington, D.C.

David E. Dugan, III, Director, Camden Regional Legal Services Association, Camden, New Jersey.

Jefferson Ham, University of Utah, College of Law.

Jacob Fuchisberg, Fuchisberg and Fuchsberg, New York, New York.

The Honorable Foswell Gipart, New York, New York.

William T. Gossett, Dykema, Gossett, Spencer, Goodnow and Trigg, Detroit, Michigan.

Edward G. Halbach, Jr., Dean, University of California School of Law, Berkeley.

Albert E. Jenner, Jr., Jenner and Block, Chicago, Illinois.

Earl Joffe, Jr., University of Southern California Law Center.

Frank N. Jones, Executive Director, National Legal Services Corporation.

William Josephson, Fried, Frank, Harris, Shriver and Jacobson, New York, New York.
by the Congress. Whereas the President's Bill did not insure the professional bar or clients would have had any economic force in the operation of the Corporation—the National Legal Service Corporation Act of 1971 insures that the Corporation is accountable to the Congress.

The President's discretion and power to appoint are fully protected in the Bill. The legislation does not force the Corporation to deal only with the American Bar Association. It does not permit the Corporation to deal only with the National Bar Association in the country, nor with a large number of state and local Bar Associations, labor unions, civic groups, and other groups who support the Corporation.

The President was concerned that persons on the Board might represent or be involved with only one or a small number of groups. The acts of most members of the Board may participate in any decision, action, or recommendation with respect to any matter which directly benefits that member or any firm or organization with which that member is currently associated.

The President, in the final analysis, has rejected the Corporation's services to the Poor as an instrument of the law to justify the unjustifiable. He has rejected a rational, responsible, accountable and effective proposal for political reasons. The need for the Corporation was born of the continuing interjection of the Program to a political litmus test. Access to justice should not depend on the color of your skin, the size of your bank account, or your political affiliation.

The Bill creating the National Legal Services Corporation truly represents an attempt to afford the poor more effective access to justice. I urge the Congress to quickly re-enact this statute as previously passed.

Sincerely,

MICHAEL KANTOR.

Mr. CRANSTON. Mr. President, I yield back whatever time I have remaining from my personal time.

Mr. JAVITS. Mr. President, does the time stand?

The PRESIDING OFFICER (Mr. HUSS). The Senator from California has 3 minutes, and the Senator from New York has 9 minutes.

Mr. CRANSTON. Mr. President, I yield my 3 minutes to the Senator from Minnesota.

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

Mr. HUMPHREY. Mr. President, it is incredible that the President would veto a measure designed to provide good care and education and health services for children.

This veto is a cruel, heartless blow to hundreds of thousands of American families.

No amount of bureaucratic explanations of this veto can deny the clear fact that this program is critically needed and that is was promised by the President. In February 1969 he called for a "national commitment to providing all American children an opportunity for healthy and stimulating development during the first 5 years of life."

The President has now violated that pledge. This veto must be overridden.

There is no political, economic, or moral justification for the President's action.

The child development program included in the comprehensive legislation to strengthen Federal antipoverty programs, that has been rejected by the President—represents a solid investment in the future of our children. In 1965 the President called it fiscally irresponsible, even though the final bill, as reported out of conference, limited free services to the children of families with an income of up to $4,230—the level requested and later accepted by the administration.

In addition to the scite of right-wing political groups, the President has criticized what he terms "communal approaches" to child care. But he is totally in error. In fact, the entire emphasis in the President's program is direct parental involvement from the lowest income level. Parent-governed boards—the child development councils and the project policy committees—will decide which projects to fund, and will approve the content, curriculum, and policy of each individual project. And there is an absolute requirement that participation be voluntary and that rights and privileges be scrupulously observed.

The President commits a profound disservice to the intelligence of the American people in claiming there are "family weakened" tendencies in this program, when the program is designed to care for the frightened children of low-income families. The Headstart program, on which the child development program would be built, has been praised. Its accomplishments have been applauded. In America, was launched to help these children overcome the educational, cultural, and health disabilities inflicted by poverty and social pathology.

I am amazed that the President could pronounce the child development program to be "plagued by administrative unworkability." The sponsors of this legislation have said that it may be necessary to have local administration of the program.

This program is, in fact, the only way you can assure maximum parental involvement and responsibility for these programs. This is the only way to assure that local administration of the program is directly planned and developed child care projects. That is the only way you can be sure that the money goes to the children.

The White House also together with the White House Office of Civil Rights in total involved in the program, in the program's implementation, the program's supervision, the program's budgetary obligations, the program's enforcement. That is the only way you can assure maximum parental involvement and responsibility for these programs.

And that is why the entire authorization of $100 million for the first fiscal year of this program is directed solely to planning and development, this year, to offer assistance to help insure the effective operation of projects.

Past statements from the White House suggest that the President's real concern is with the administrative role of the States in the child development program. But let it be made clear right now that under the legislation which he has vetoed, the States would have an important role. The Governor of a State is to review and comment on every child care project application. Five percent of the funds for this program are reserved for the States, and technical assistance and program coordination. And a State can be a prime sponsor of a child care program for which a community does not apply or is unable to assume responsibility.

The President's veto is a shameful act. He has turned his back on hundreds of thousands of children. In the face of an imminent threat to the development of food in poverty, to over 25 million, after a decade of steady and significant decline
in these figures, the President has undetermined a major legislative action by Congress to launch a second offensive against poverty in America. This veto must be overridden. It is a matter of compelling urgency.

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

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, I urge that the Senate vote to override the President's veto on the conference bill on the Economic Opportunity Amendment.

The President's action is extremely disappointing in terms of the Office of Economic Opportunity, community action agencies, the poor themselves, and the many working mothers and families who could have benefited from the comprehensive child development programs; it is particularly disappointing to those of us who have been working to simultaneously try to meet the administration's concerns with respect to each major issue.

Mr. President, I consider it important to review the essential element of the bill, with reference to the President's veto message, so Members will understand the basis upon which I urge that the veto be overridden.

First, the conference bill would extend the various authorities for the poverty program and OEO for two additional years, through June 30, 1973. This meets the request of the administration itself—which in broad bipartisan support early this year, I am pleased that the President has indicated that he still shares that objective.

But there are differences in opinion as to what the role of OEO should be:

The President emphasizes the Office of Economic Opportunity as an "incubator" for new ideas; that is, as the research and development arm of the Nation's effort to eliminate poverty.

This is an important role for OEO, but at least equally important is the role of community action agencies—which certainly enjoy the heart and soul of the program, as far as the poor are concerned and which the President's message completely overlooks.

In my opinion, this difference this caused the Congress to write into the law the two restrictions to which the President objected—the prohibition against delegation or transfer without legislative authority and of the earmarking of funds for programs which community action agencies conduct on the local level.

Second, the conference bill would add a new title under the Economic Opportunity Act, establishing a nonprofit corporation for legal services. This, too, was an initiative first advanced by the administration.

The President states that he is dissatisfied with the provisions for the appointment of the board of directors of the corporation which, in a number of cases, were submitted by "various professional, client, and special interest groups."

The President describes these "restrictions" as an "affront to the principle of accountability to the American people as a whole" and adds:

The sole interest to which each board member must be beholden is the public interest. The message to the President is that we represent the whole American people. The best way to insure this in the case of the constitutional way—to provide a free hand in the appointment to the one official accountable to, and answerable to the whole American people—the President of the United States, and it is for the Senate of the United States to exercise its advice and consent function.

In his message of May 5, 1971, to the Congress, proposing such a corporation, the President said:

"Even though surrounded by controversy, this program can provide a most effective mechanism for settling differences and securing justice within the system and not on the streets. For many of our citizens, legal services has reaffirmed faith in our government of laws. However, if we are to preserve the strength of the program, we must make it immune to political pressures and make it a permanent part of our system of justice."

Mr. President, the conference bill strikes a balance between these objectives and that of the executive prerogative.

The conference accepted the 17-member presidentially appointed board contained in the conference bill with the modification that in a number of cases the President's appointments are to be made from lists submitted by such respected organizations such as the American Bar Association, the National Conference of the States, and certain clients and project attorney's advisory groups. Each list is to contain from three to 10 names.

But, even in these cases the President has the clear right to turn down an entire list and request another one. This is made clear in section 904 (2) of the conference committee bill.

With respect to six positions on the board, the President may appoint public members completely free of the list procedure, subject only to the consent of the Senate.

Third, the conference bill established a comprehensive child development program as a new title V under the Economic Opportunity Act.

The President's message indicates that this is the "most deeply flawed provision" of the Economic Opportunity Amendments, stating that—

"The interest of Title V is overshadowed by fiscal irresponsibility, administrative workability and family-weakening implications."

Mr. President, let us examine his specific objections:

That "neither the immediate need nor the desirability of a national child development program of this character has been demonstrated."

To that the establishment of such programs—with emphasis on local decisionmaking, parental involvement and developmental, as opposed to custodial services—was identified as the top priority for the past decade by the White House Conference on Children, held almost exactly a year ago.

That day-care centers are already provided for in H.R. 1—the family assistance plan—and that centers under S. 2007 would be "duplicitive" and "redundant."

But H.R. 1 has not pleased the Senate, and the President himself has called for a 1-year delay in its implementation, as a part of his economic recovery strategy.

Moreover, the President was assured, prior to the veto, by me and a number of other Senators of continued support for welfare reform and for a separate child care quotient therein; in fact a number of us who cosponsored S. 2007 seek also to raise the amount authorized for child care under H.R. 1.

Moreover, at the administration's request, we wrote into this Conference bill provisions to insure that the Secretary of Health, Education, and Welfare, as a complement to the family assistance provision channel the greater portion of resources to the most needy and utilize a fee schedule designed to be consistent with that anticipated by the administration under the Family Assistance Act.

What we are seeking is a comprehensive system which may be the basis for a coordinated approach to efforts—which cover a broader socio-economic range—to those proposed under the family assistance plan.

Children, which are clearly needed; in the category low-income families alone, there are more than 3 million children under the age of 5, and another 4 million below the age of 14.

"Given the limited resources of the Federal budget . . . the expenditure of $2 billion—cannot be justified." Yet the United States currently devotes less than 2 percent of its gross national product to Federal expenditures for all child children and youth under 21 even though they make up nearly 40 percent of the population. As I have outlined, the need is substantial and it is time that we gave priority to children.

That the family assistance plan would bring families together in the sense that incentives for living apart would be substantially reduced.

But as passed by the House, H.R. 1 requires that mothers of children as young as 4 years of age work without any excusable clause if child care is not available.

While the conference report on S. 2007 is unique with provisions designed to ensure that responsibility for children continue to rest with parents and that parents contribute to and are involved in the formulation and conduct of programs to effectuate the federal goal.
effort unless the parent or guardian of such child is given an opportunity “as of right” to except such child therefrom;

Section 519 provides that nothing in the title shall “infringe upon or usurp the rights or responsibilities of parents or guardians with respect to the moral, mental, emotional, or physical development of their children.”

Section 515(a)(24) requires that comprehensive plans ensure that services shall be provided “only for children whose parents or legal guardians have requested them.”

Section 514 provides that prime sponsors must establish child development councils; half the members of which must be parents of children in the program. The councils have basic policy responsibilities with respect to program formulation and supervision;

Section 515(a)(11) requires that comprehensive programs provide for “direct parent participation in the conduct, overall direction, and evaluation of programs.”

Section 516 requires project policy committees, again with 50 percent parental membership;

Section 534 requires similar representation on special committees to be established for reenforcement standards to the Secretary.

That there is no “adequate answer provided to the crucial question of who the qualified people are and where they will come from to staff the child development centers.”

The conference bill provides an authorization in each fiscal year for training of such personnel. Moreover, also in keeping with the family approach, section 516a(10) requires that—

Programs will, to the extent appropriate, employ, paraprofessional aids and volunteers, especially parents, older children... in child development programs.

That the “legislation would create a new army of bureaucrats” by encouraging applications of communities with a population of over 5,000, as eligible applicants if the States are to be given the authority to relegate to an insignificant role.”

Mr. President, the conference bill, a colloquy which Senator Nelson and I engaged in when the conference report was considered, on the floor and an identical colloquy in the House, make it clear that the Secretary of Health, Education, and Welfare will have ample authority to turn down an application of a local unit... henceforth to the Secretary in order to guarantee the high quality of programs.

I ask unanimous consent that the colloquy, taken from the Congressional Record of December 2, 1971, be printed at this point in the Record.

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

Mr. JAVRIS. I yield myself 5 minutes.

Mr. President, before proceeding to a number of questions to the manager of the conference report, the Senator from Wisconsin (Mr. Hruska), chairman of our subcommittee which handled this bill, I think the questions and answers will be of great importance both to the Members who must decide how they will vote on the conference report, and to the nation.

My questions concern the selection of prime sponsors for child development programs.

It is my understanding of the conference bill that a State, a locality, a combination of localities, Indian tribal organizations, or a combination of Indian tribal organizations or other public or private nonprofit organizations may order the Secretary as a prime sponsor for the purpose of carrying out all child development programs upon meeting the requirements spelled out in the bill.

Mr. NELSON. The Senator is correct. Section 513 so provides. In the case of localities and combinations of localities there is a requirement that the units of general local government cover an area having a population of 5,000 or more persons.

Mr. JAVRIS. Am I also correct that in considering applications for prime sponsorship, which is called the “prime sponsorship plan”—the Secretary is required to act upon plans submitted by localities and combinations of localities, but he may designate a State as prime sponsor as to areas where localities or combinations thereof fail to meet the requirements contained in the bill?

Mr. NELSON. Yes. And that order of consideration applies to all sponsorship plans submitted by Indian tribal organizations, so that he must act first on its application, and can designate the State for the areas if the State fails to meet the requirements in the bill.

Mr. JAVRIS. Would the Senator from Wisconsin (Mr. NELSON) explain the prime sponsorship requirements that any applicant must meet?

Mr. NELSON. Yes. In reviewing plans submitted by localities, combinations of localities, and Indian tribal organizations, or States, the Secretary must make the judgment in each case that:

The plan sets forth “satisfactory provisions” for establishing and maintaining a Child Development Council meeting the requirements of section 514, section 515(a)(24); The plan provides that the Child Development Council shall be responsible for developing and administering the State’s child development plan, section 513(a)(3); The plan sets forth arrangements under which the Child Development Council will be responsible for monitoring, and evaluating child development programs, section 513(a)(4); In the case of States which are units of government, the plan provides for the operation of programs through contracts with public or private agencies, section 515(a)(3); The plan contains assurances that the Council has the administrative capacity to provide—either by itself, or by contact or other arrangements, the necessary equipment, and comprehensive child related family, social and rehabilitative services, coordination with educational services, health and other services, section 515(a)(6); The plan also includes “adequate provisions for carrying out comprehensive child development programs in an area to be served.”—section 515(b), (c), (d).

Mr. JAVRIS. With respect to the last requirements, in determining whether the plan includes “adequate” provisions for carrying out comprehensive child development programs, is it anticipated by the conference that in addition to the above factors, the Secretary may make a judgment as to the capability of the particular applicant to carry out the requirements of a comprehensive child development program? Mr. NELSON. The Senator is correct.

Mr. JAVRIS. By the term “comprehensive child development programs” do not the committee expressly contemplate programs of high quality providing the educational, nutritional, social, medical, psychological, and physical development services for children to attain their full potential?

Mr. NELSON. The Senator is correct. Sections 501(a)(2), section 517 and other provisions of the title make the meaning of that phrase clear.

Mr. JAVRIS. So there is a responsibility with the Secretary to satisfy himself that any applicant, whether he be a State or an Indian tribe or a State, has the administrative capability to marshal resources and to provide effectively or assure access to the educational, social, and other services needed to insure the comprehensiveness and high quality and standards for programs conducted under the title.

Mr. NELSON. Yes. The Secretary is to seek to determine whether any provisions planned for the development programs provide the actual or potential programs of employment and service that will have the practical effect of excluding a particular class of eligible applicants.

The Secretary’s determination of the particular facts on which his decision is conclusive if supported by substantial evidence. The conference agreement is explicit on this point.

Mr. JAVRIS. Therefore, if an applicant which is a locality, or a combination of localities, or an Indian tribe lacks the capability to carry out comprehensive programs or if the plan fails to meet the other requirements under the sections which the Senator has outlined, then the Secretary clearly has the authority to reject that application and to designate a State or other public or private nonprofit agency as prime sponsor, if it meets the requirements.

Mr. NELSON. Yes, and the requirements that would apply would be the same.

The Fullwood Orphans. The time of the Senator has expired.

Mr. JAVRIS. I yield myself 5 additional minutes.

In summary, then, while the conference bill reflects the judgment that the Secretary should look first to the States, it is in the interest of parental participation and other elements—the Secretary is not powerless to refuse to use a State which is not so granted and flexibility to make reasonable judgments to insure the comprehensiveness and high quality of care for children as long as he is prepared to support them with findings of fact.

Mr. NELSON. The Senator is correct.

Mr. JAVRIS. And is it also true that if none of the units of government, whether they be localities or combinations of localities, Indian tribal organizations, or the State itself qualify as prime sponsors, or in certain other specified conditions that he still has authority under the so-called provisions to fund directly, and State, as well as any other public or private agency, could qualify as a prime sponsor?

Mr. NELSON. Yes. Section 513 (J) and (k) so provide.

Mr. JAVRIS. And am I correct that even in those areas where a locality or combination of localities or an Indian tribe may be designated as prime sponsor, that the State is to have an advisory role?

Mr. NELSON. Yes. The conference bill authorizes the Secretary to utilize up to 5 percent of the funds provided for by each State for activities by States, in the nature of technical assistance to localities, combinations of localities, or Indian tribes, including assistance in establishing the establishment of child development programs?
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CONGRESSIONAL RECORD—SENATE

opment councils, encouraging the cooperation and participation of State agencies and the full utilization of resources, and development of sound methods in reviewing primary sponsorship plans and comprehensive child development plans submitted by localities, communities, and Indian tribes. Section 515(a) and section 515(b)(3) require that the Governor have the right to review primary sponsorship plans and comprehensive plans, respectively, with the right in each case, to submit comments to the Secretary.

Mr. NELSON. Although the Secretary would not be bound by those comments, would they be among the factors he could consider in making the determinations relating to primary sponsorship which we discussed earlier?

Mr. NELSON. Yes.

Mr. JAVITS. So one may reasonably conclude that under the conference bill the Secretary has the authority to significantly involve the States, in order to assure high quality care.

Mr. NELSON. The Senator is correct. That is the intent.

Mr. JAVITS. I thank my colleague very much. If he will bear with me for one further question, I report that the Administration requests $2 billion in appropriations for child development care for the first year in which it is fully spelled out—to wit, fiscal 1973; $1 billion for the second year; and $300 million for program and startup activities. It has been my understanding that the $2 billion authorization is intended as a test for increasing services as a goal we have established, without knowing what the total picture may be at the time of appropriation. Do we do this in the form of what may be available from other sources such as the family assistance plan, H.R. 1, if that should become law?

Mr. NELSON. The Senator is correct. The authorization is, of course, subject to the appropriation process and to the influence of various factors, as the Senator suggests.

Mr. JAVITS. I thank my colleague very much. I think that this colloquy—which I am sure will be repeated in the other body when this matter is acted on there—makes it absolutely crystal clear that the Secretary has very powerful discretion, including the discretion to use the States in order to put it into effect the best possible performance in the field of child development. It seems to me that is the essential substance of what we are considering.

It is for those reasons I urge the Senate to approve it.

Mr. JAVITS. Finally the President stated:

For the Federal Government to plunge headlong financially into supporting child development would commit the vast moral authority of the National Government to the side of communal approaches to child rearing over against the family-centered approach.

Mr. President, as I have documented, we have provided for a family approach; and this is enhanced by the communal approach reflected in the vetoed bill not by diluting the sense, but in the sense of community, which the President himself alluded to earlier this year.

In his state of the Union address on January 22, 1971, the President quite properly asserted that a large amount of the current frustration of the American people arises from a feeling that the forces shaping their lives have grown more distant and more impersonal. In response to their stated:

We hear you and will give you a chance. We are going to give a new chance to have more access to the decisions that affect your future—to participate in government—because we are going to provide more centers of power where what you do can make a difference that you can see and feel in your own personal community and your own personal life.

I submit that no matter is more deserving of handling at the community level than the matter of child development, for there can be the family-centered approach be carried out, if the Secretary of Health, Education, and Welfare establishes guidelines that the unit of government has the capability as an administrative matter.

Mr. President, therefore, I shall vote to override the President's veto, because I believe—unhappily—that the forest has been missed for the trees. I believe that the programs which we have legislated—and the President's veto message bears it out—are the very programs which the administration sought, to wit, a 2-year extension of the war on poverty, the establishment of a quasi-autonomous legal services corporation, and the establishment of the Headstart program. Indeed, Mr. President, if the words "child development" are objectionable, it is very significant that the President named his own office, OEO, to affect the Office of Child Development.

This very afternoon we made an important appropriation to it.

The objections taken, Mr. President, are such that perhaps would lie in the mouth of the President—and I do not say that personally—if he were not administering this law. But I fought—and I was one of those who put through a conference report to work this out so that the administration could deal with all the things which the President would regard as harmful or distasteful. For example, on the question of local sponsorship, it was made very clear here and in the House that the Secretary in his discretion—the President's own discretion—will give some kind of broadened responsibility in the hands of a State if he did not find the localities had the full capability to carry out the programs according to high criteria.

In my view, that would have resulted materially in an effective administration. Remember, it is the President's own mind also in respect to legal services to let the whole thing drop, because the President had to look at the nominees sent up to him by some organizations, which he could reject, and reject. Remember, he is the President, and nobody is going to insult him very long.

Second, it would have required a presidential appointment and confirmation by the Senate.

His other point—the only other big point—was earmarking. And, there for the most part we were simply going to do what he is going to spend now, and his own plans for OEO for the next year.

I think, Mr. President, a great opportunity to reorganize and make more effective a tremendous program of vital interest to the American people and particularly to the poor is being missed. If we do not override, I would omit some compromise I feel is emerging up part of it, trying to meet as many of the views as I can of the President, but consistent with the basic objectives and elements of S. 2007.

The bill itself had been signed because of the record we have made here as to what it means and how it should be administered, with the President himself administering it, it would be a glaring failure to implement the redemption of the President's own promises.

I do not feel frustrated; I do not feel disappointed, Mr. President, but I feel sad that the President has been advised that this is a tremendous opportunity for him to realize every good thing he has been saying.

Mr. President, for these reasons I urge that the veto on the conference report be overridden.

I ask unanimous consent that there be printed in the Record at this point a letter to the President dated December 7, 1971, from two minority leaders of the Republican Members of the Congress, indicating why we felt that signing this bill into law was in the administration's as well as the general public interest.

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

December 7, 1971.

Hon. Richard M. Nixon, the President,
The White House, Washington, D.C.

DEAR MR. PRESIDENT: We are writing to urge that you sign into law S. 2007, the Economic Opportunity Amendments of 1971.

We believe that the conferees, to which a number of us contributed as conferees, is designed to meet the Administration's objectives in a number of material respects:

First, the bill would continue the programs under the Economic Opportunity Act for an additional two years, through July 1, 1973, as you requested on March 19, 1971. We believe continuation will provide a stable framework in which the long term changes proposed by the Administration may receive further objective evaluation.

Second, it would establish a new title authorizing programs of comprehensive child development.

For three years, a bipartisan group in the Congress, with the assistance of interest groups spanning a wide range of concerns, has sought to implement "the national commitment" you made on February 19, 1969 "to providing all American children an opportunity for healthful and stimulating development during the first five years of life." On April 9 of the same year, you reiterated that commitment in another message to the Congress. We believe that your pledge to ensure childhood education is one of the hallmarks of a fair government administration and a major advance for education.

We submit that the differences between the Administration and various members of the Congress, as to the key technical aspects of the child development title have now been resolved with significant deference to the position of the Administration in each case. As stated by Secretary of Health, Education and Welfare Elliot Richardson in a letter to Congressman Ford on September 30, 1971:

"Our goal has been to provide free child care and preschool programs to children white at the same time providing for a school-readiness mix in child care facilities, with children from families above the $4,300 income level views anticipated maximum income at which
a family of four would be eligible for assistance (Reconciliation Reform), receiving care under a graduated fee schedule.

The Conference bill authorizes the Secretary of Health, Education, and Welfare to establish a graduated fee schedule for families above the $4,320 level subject only to minor limitations and restrictions. This portion of the bill is one of the very poorest families; the Conference rejected the provisions of the Senate bill which would have provided, in the early years, the income level of $8,620 for a family of four.

At this point, the chief obstacle in the way of the passage of this bill is the mechanism for the delivery of services, characterized by the traditional fight over the balance between states, cities and local communities. We have tried to reach the fairest possible accommodation of all viewpoints on this subject, but the conference believe that the Secretary of Health, Education and Welfare is granted ample flexibility and freedom to make reasonable judgments (as he is choosing a state over a locality to run a program if a decision can be supported with evidence of fact) to ensure the comprehensive, coordinated, and appropriate care for children that we wish to emphasize most emphatically the voluntary nature of the program. The Conference adopted the Senate position to this point: Each material provision of the bill contains the legal enforceable conditions that children's health programs shall be provided only for children whose parents or legal guardians have requested them.

Third, it would establish a non-profit corporation for legal services as you first proposed on May 5, 1971.

Again, there have been substantial differences between the Administration and the Congress, but these too have been resolved in favor of the Administration's position in conference.

The Conference bill adopts basically the provisions of the House bill which provides for a 7-year Presidentially-appointed board, rather than the Senate bill which significantly limited Executive prerogatives.

Also, the bill contains a complete prohibition against representation in criminal cases, as you requested.

Fourth, the bill contains a number of other authorizations for existing programs which are essential to encourage self-help efforts, reducing welfare dependency and poverty. These include programs for drug abuse, manpower training programs, the aged, and minority enterprise.

We therefore believe it desirable in terms of the Administration's interests and objectives that the bill be favorably considered and signed into law.

Sincerely,


The PRESIDING OFFICER. Who yields time?

Mr. NELSON. I yield the rest of my time to the Senator from Connecticut.

The PRESIDING OFFICER. Mr. MONDALE.

Mr. MONDALE. Mr. President, we all know there are hundreds, thousands, and millions of children who never have a chance, who are mangled and destroyed the first 5 years of life. This bill is the best of that kind, and the Senators today think of to undo the monstrous and immoral wrong that we now visit upon the lives of those tragic children.

Second, it is a fact that nearly one-third of the mothers in this country to-day with preschool children work for a living in this country and 6 million preschool children left somewhere at home, or elsewhere, while their mothers work. Yet there are only 700,000 licensed day care slots in the country. This proposal was designed to preserve, stimulate day care centers for the millions of children who are left somewhere when the mother works.

The President pledged a program of this sort. He has recently been White House Conference on Children listed this as its No. 1 priority, and I think now is the time to do our job. I hope we will override these objections.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. DOMINICK. Mr. President, will the Senator yield to me?

Mr. NELSON. I yield to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. DOMINICK. Mr. President, I am going to give him a brief answer. I think most of us have already made up our minds. The one point I want to make for the record is that from listening to those who are advocating the override of the President's veto I think civiliza-tion was going to crumble if this bill did not pass in the exact way it is now worded. I think everyone here knows full well we are going to pass an OEO extension. The crux of the matter is not the life or death of OEO but rather a reason-able and fair poverty program—a program which can not be accomplished without these compromise. The people on the other side are now asking us to override the President's veto have been unwilling to compromise on such points of enormous significance, enormous importance to the children in this country, to the administration of our Government, and to the credibility and the ability of the American people as a whole. Without such compromise the OEO extension might not serve only to widen the legislative credibility gap and increase constituent cynicism.

I hope we will sustain the veto so that we can work this bill out in a proper way.

The PRESIDING OFFICER. All time on the question has expired.

Under the previous order, the Senate will proceed to the question: Shall the bill pass, the objections of the President of the United States to the contrary notwithstanding?

Under article I, section 5 of the Constitution, the yeas and nays are required, and the clerk will call the roll.

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

The PRESIDING OFFICER. The Senator from Colorado.

Mr. JAVITS. I have a "yes" vote to a vote to override the President.

The PRESIDING OFFICER. That is correct.

Mr. JAVITS. And a "nay" vote to sustain the President?

The PRESIDING OFFICER. That is correct.

The Clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of Virginia (for Mr. President, on this vote I have live pairs with the Senator from Maine (Mr. Muskie) and the Senator from Oklahoma (Mr. Harris). If Senators Muskie and Harris do not present, I would vote "nay." If I were permitted to vote, I would vote "nay." I therefore withhold my vote.

Mr. BYRD of West Virginia, I announce that the Senator from New York (Mr. Nunn), the Senator from Georgia (Mr. GAMBRELL), the Senator from Alabama (Mr. GRAVEL), the Senator from Oklahoma (Mr. Harris), the Senator from Louisiana (Mr. Long), and the Senator from Maine (Mr. Muskie) are necessarily absent.

I further announce that, if present and voting, the Senator from Georgia (Mr. GAMBRELL) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT) and the Senator from South Dakota (Mr. MURDO) are absent because of illness.

The Senator from Arizona (Mr. Cotton), the Senator from Illinois (Mr. Percy), the Senator from Maryland (Mrs. SMITH), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The yeas and nays resulted—yeas 51, nays 36, as follows:

[No. 661 Leg.]

YEA—61

Byrd

Hollings

Montoya

Bentsen

Hughes

Moss

Bible

Snuffy

Nelson

Boggs

Inouye

Pastore

Brooke

Jackson

Pellet

Burdick

Javits

Proxmire

Cannon

Jordan, N.C.

Randolph

Case

Kennedy

Ribicoff

Chiles

McClellen

Schweiker

Church

Manafort

Spence

Chesnutt

Mathias

Starr

Eagleton

McClellan

Stafford

Fong

McGeer

Stevens

Hagerty

McGovern

Symington

Hart

McIntyre

Torrance

Harkie

McCollum

Tunney

Hardfield

Monette

Williams

NAYS—36

Aiken

Curtis

Miller

Allen

Dirksen

Packwood

Anderson

Domenici

Pence

Baker

Eldt

Roth

Beall

Eilder

Saxbe

Bell

Sarvin

Scott

Brock

Fannin

Stennis

Buckley

Giffen

Tift

Byrd, Va.

Gurney

Talmadge

Oak

Hartness

Thurmond

Cooper

Hruska

Tower

Cotin

Jordan, Idaho

Young

PRESENT AND GIVING LIVE FAIBS, AS I WAS PREPARED TO VOTE—2

Byrd of West Virginia, against.

NOT VOTING—12

Anderson

Gravel

Muskie

Bennett

Harris

Percy

Gambrill

Long

Smith

Goldwater

McGovern

Piper

The PRESIDING OFFICER. On this vote the yeas are 51, and the nays are 36. Two-thirds of the Senators present and voting not having voted in the affirmative, on reconsideration the bill falls of passage.
Mr. SCOTT. Mr. President, the policy of this administration toward South Asia must be understood. It is neither anti-Indian nor pro-Pakistan.

Americans through their administrations in the postwar period have felt a commitment to the progress and development of India.

India is the most populous free country in the world. It is the world’s largest democracy.

The American people in the postwar period have contributed some $10 billion to the progress and development of India.

Last year in this administration, India received from all sources $1.2 billion for development assistance. Seven hundred million dollars of that came from the United States.

In short, the United States has always recognized that the success of India’s democratic experiment would be of profound significance to many countries in the free world.

The issue today is not opposition to India but opposition to the use of armed forces across borders to change the political structure of a neighboring state.

There is no question that the events in East Pakistan since March 25 require a political solution. The position of the United States has been that any solution must be worked out between the people of East and West Pakistan. The United States has not supported the particular solution that was attempted in March. The United States has also recognized that events there—particularly the influx of refugees into India—imposed a substantial burden on India. We have recognized that it imposed a strain on the already scarce economic resources of India.

The United States has supported the country and created the danger of communal strife there.

U.S. STRATEGY

What has been the administration’s strategy? The United States has attempted two efforts simultaneously.

On the one hand, the administration has made a major humanitarian effort, first, to ease the suffering of those refugees who had already fled their homes; and second, to avert the possibility of famine in East Pakistan which could have created more refugees.

On the other hand, we have attempted to bring about a political resolution of the conflict that caused the refugees to flee their homes in the first place.

The United States recognized that the time required to bring about a political evolution would be longer than the time required to alleviate the immediate suffering of human beings and also might be longer than the Indian capacity to withstand the pressures generated by the refugees.

HUMANITARIAN

Nevertheless, the President directed an all-out effort to cope with the humanitarian problem; first, because of the simple human need to alleviate suffering; and second, the necessity to lessen the political pressures generated by the refugees.

As has been said, the administration recognized that the problem was essentially one of political evolution. There were limits on what an outsider could achieve in this field because the problem was fundamentally a political problem of Pakistan. The United States did not make any public declarations of its views on the kind of political settlement required, because the United States wanted to retain influence both in New Delhi and in Islamabad to bring about a political settlement that would enable the refugees to return.

RALPH J. Bunche

Mr. JACKSON. Mr. President, I know I share the feelings of peace-loving people the world over when I express my sorrow at the death of Ralph Bunche.

Dr. Bunche’s service to the United Nations proved how a true commitment to peace goes beyond a mere penchant for dwelling about peace. Indeed, his persistent and painstaking efforts outside the glare of publicity have become the standard for the great servants of the international community.

Bunche was the enduring theme of Ralph Bunche’s life. In his youth, he overcame the death of his parents and his own meager circumstances to pursue a distinguished academic career. As a professor at Howard University and then as a collaborator with Gunnar Myrdal in the classic study of black America, he made outstanding contributions even before becoming a diplomat.

During the Second World War he served as a political analyst in the War Department and then as head of the State Department’s office dealing with colonial affairs. He was directly involved in the initial planning for the United Nations.

Thus when he joined the United Nations Secretariat, he already had deep knowledge of countries soon to gain independence, and of the new world organization itself. His understanding and sympathy gained him the confidence of a new generation of leaders. This, I believe, was one of the reasons why he was used to play the major role in ending the fighting in postwar Palestine.

The Nobel Peace Prize he received for that effort was truly well earned.

In the years that followed, he continued to take on the most difficult of international problems. Because he never despaired, inculcable violence was averted. When his health began to fail, he still persisted in his vital work.

I would add but one final note. Though his work brought him international recognition, Mr. Bunche and his family all too often had to endure the slights of some of his fellow Americans. He understood this phenomenon for what it was, never allowing it to prevent him from going about his business.

He had the rare ability to see things the way they really were. He was consistently shrewd but not cynical, and he retained his faith in the basic goodness of man.

THE WORTH AND DIGNITY OF THE HUMAN BEING

Mr. FANNIN. Mr. President, too often in this fast-paced world where even the smallest tasks and operations of everyday life are blurred and confused, computerized and bureaucratized, the worth and dignity of the individual human being seems harshly and unfairly pushed into the background.

Too often we overlook or take for granted the distinguishing qualities which set one human being from another: the simple acts of compassion, the always available helping hand, the personal creed which calls for emulation.

Last week in Phoenix, Ariz., Mr. Thurston, an adult, died of a heart attack at the age of 45, and, in
his passing, Arizona and America lost a citizen who was a great respecter and defender of human rights and the dignity of the individual.

Mr. Johns, known as Johnny, was a reporter for the Phoenix Gazette, and was widely known and respected by all who knew him. His lives were enriched by his friendship.

Johnny Johns was an American who did not take freedom lightly, nor was he a passive observer. He was a combat marine veteran of both the Pacific campaign in World War II and the Korean conflict. He was a newspaperman's newspaperman, and he was a devoted husband to his wife, who, according to the author of the other piece is Mr. Paul Dean, of the Arizona Republic.

There being no objection, the items which were ordered to be printed in the Record for a following week:

THE MAN KNEW HIS POKER, Too
He loved to play poker—and he was pretty good at it.

The games in which he participated were of the friendly variety—nickel, dime, and two-bit stuff—mostly with friends. It was his one means of recreation after long hours of toll amid the curious or existing, or both.

I'll always remember the one time he came to the office on one of my infrequent participations. I hadn't played with the bunch more than a couple of times, so I didn't know how they bet.

He was dealing, and when I peeked at my hand, I knew I had two pairs. I opened, and two or three other guys called.

Then he stood pat—didn't want any cards at all. We all drew, but didn't help. You couldn't tell by his expression whether he had a full house, a straight or a flush.

Naturally I wasn't about to bet into a pot he had that good strength.

Then he tossed in a couple of quarters with all the confidence of a riverboat gambler.

I didn't call.

He scooped in the pot, grinned and showed his hand. He had two little pairs, much smaller than the two I had held.

I shrugged in my chair, and everybody laughed.

It wasn't too costly a lesson, but it was one that typified his skills.

He was a hard worker, a chap who knew the value of his time, almost as well as the professionals with whom he had daily contact.

Don't ask him a favor, and he'd go at it immediately.

I had occasion to ask him for one last week, and there wasn't a moment's hesitation when he replied:

"Hey, do you have a minute?"

He said he had been in Las Vegas and had sat in one of those steepe games where the house was playing.

"Those in the game were strangers."

"One of them," he said, "was an old woman who was using her pension check money. She was losing. If she bet you knew she really had 'em."

"Another guy was half drunk, and he was losing money right and left, swaying around in his chair."

"Two others were professionals. I could tell that you course took me but 15 minutes to find out how each of them operated, and at the end of that time I was down about $3."

"He sat and sat and sat, and at the end of a marathon session lasting several hours he came out ahead $3."

I forgot about him if he had pulled one of those monumental bluffs like he had worked on me.

He was lack and tall, and nobody ever wondered how he stood on any issue. He was outspoken in his own salty way.

I sat there and talked with him, friendly gatherings with nothing earth shaking accomplished.

Every once in a while he would come into the office with a sack full of poker regalia that had been left by his father's fields. He'd give it away.

His rank was only 10 feet mine, and he was my friend.

Perhaps this is not the best way to pay tribute to him, in my book a good poker player is a man's man.

Finally, though, Johnny Johns ran into something he couldn't bluff.

It was death.

Johnny Johns Made His Mark in Best Way
Man lives but man's mark is immortal. He scratches his life's crease.

Neither money earned, nor money spent, is a measure of life. Social position is the shakiest and most unreliable achievement. Power doesn't mean status, respect is often the erstwhile by-product of fear.

Only when a man has done his own best, and a man has gone done his stature become apparent. Maybe this is for the good.

Johnny Johns, an ordinary guy, a journeyman police reporter for the Phoenix Gazette, was bright enough to know all these things. He had a little man's hustle. He believed in the shakiness of appearance, but he had no scholastic accreditations on pieces of framed parchment. And he was modest enough to talk himself down.

Eight years ago I was a new hand in a new town. Johnny's byline was a Phoenix fixture.

"But I just do my job, pick up my check and go home," he told me. "I'm not a world beater, never will be, but I keep plodding along. If I take your time from me, it's your funeral."

Johnny plodded along until last week. He died of a heart attack, prematurely, at the age of 45. He was buried on blustery Wednesday. It was his funeral.

And this town, from municipal suites to Diamond Dells, wept. Bob MacVicker, now press secretary to Gov. Williams, was there. So was a tattered old guy breathing fumes he picks up down at the Tavern, a block away. What forgotten favors were being repaying?

Police Lt. Ed Langevin, the officer Johnny called 'Giancy', read an obituary he had written for the friend.

Paul Blubaum and Larry Wetzel, Phoenix police chiefs past and present, looked at Johnny's closed casket and played the poker hand the police photographer photographed his widow, Kathryn, had asked be placed on the casket.

They prayed in silent line with senior officers from the Arizona Highway Patrol, the Maricopa County Sheriff's Office and the Department of Public Safety. Johnny's goal, to bear were uniformed Phoenix police officers and a DPS captain. His graveside escort from the Marine Corps he had served on Iwo Jima and in Korea.

The newsman Johnny had worked with, and many crime reporters he had competed against, were there in solemn camaraderie. Sports writers. Retired police officers. Public relations men. City editors, supervising reporters, picture editors, columnists. Close family friends. Old poker playing buddies. One man said: "I didn't know him, but used to read his stories all the time."

This crowd filled more than 60 cars for the rainy, headlighted procession to Greenwood Memorial Park.

Maybe a few were there because Johnny had been cheated at his peak, harshly, unexpectedly. It could happen to us.

But nobody was there because their names, scribbled on mortuary sympathy cards, might be some comfort to a family.

They attended because Johnny had achieved. Johnny had died respected. Johnny had made his life's mark the best possible way. As an honest, competent lawman, as a loyal, good friend.

And few had really seen it before.

THE BLACK AMERICAN TODAY

Mr. HUMPHREY. Mr. President, statistics are now at hand to indicate the significant areas of progress achieved by the black people of America over the past decade. Fundamentally, these important advances are all of their own determination and ability—they are both the product and the foundation of black pride across our Nation. They also reflect the impact of laws enacted and implemented under previous national administrations during the 1960's, designed to firmly establish equal rights and opportunities for all Americans. And I shall always count it an honor to have been privileged to be directly involved in these legislative and administrative actions.

But what these figures also make abundantly clear is that we have a long way to go in realizing the hopes, the promises, and the laws of equal opportunity into full reality. I firmly believe that the Federal Government must make an absolute and sustained commitment to achieving that goal within the present decade. This will require national leadership—not the present uncertain approach of compromise and delay, and of promises that are not borne out by performance.

The need for decisive leadership is emphasized by the fact that for every statistical gain in the black community over the past decade, there has been a reported gain or widening black-white gap, or an offsetting rise in related problems. Significant improvements in median income and employment among black families since 1965 have been offset by an increased gap between the two groups in their actual dollar earnings, and an unemployment rate among blacks that is substantially higher than among whites.

A major increase in young adult black completing high school and enrolling in college still leaves the proportion of black teenagers falling behind their grade level at three times higher than among whites.
and black students accounting for only 7 percent of total college enrollment in 1970.

And while nonwhite employment in professional and technical occupations more than doubled over the last decade, blacks in the major high-wage industries still have only 1 percent of the total paying positions.

Despite significant gains in homeownership among blacks, and in the quality of that housing, black families are still occupying a disproportionate share of the substandard housing across America.

Real estate and real estate business activity rates have dropped sharply among nonwhites over recent decades. But while the proportion of blacks seeking a physician's services is similar to that among whites, black families far more frequently must depend upon obtaining these services in a hospital clinic. And the life expectancy rate for nonwhites has declined slightly over the past decade, and they have a higher mortality rate from illness.

Perhaps the most disturbing indicator is the sharp rise in family instability among blacks. The birth rate has continued to decline, but often children are born out of wedlock, and the mother must bear the full responsibilities of the head of household.

A second crucial problem area is evident in the statistic that there are only 320,000 nonwhites—less than 4 percent of America's business firms, and accounting for less than 1 percent of total business receipts.

But there has been a decided progress in the involvement of blacks in the electoral process, particularly in the South. Three out of five adult blacks are registered to vote today. And there are some 1,900 black elected officials serving in all levels of government.


Another important reference is the analysis by Michael J. Flax, entitled "Blacks and Whites—An Experiment In Racial Indicators," and published by the Urban Institute. Indicators on trends in minority involvements were drawn from various magazine articles.

Recognizing that statistical truth rests largely in the eye of the beholder, the effort has been made in this analysis to present only the more relevant indicators, at the risk of incompleteness, and to present a balanced assessment of progress and serious problems within the black community.

Mr. President, I ask unanimous consent that the summary analysis be printed in the Record.

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

1. POPULATION
   a. Over half of the Negro's black population (55 percent—down 7 percent) still lives in the South, but there has been a continued net annual out-migration from the South to 1970. About 80 percent of the Negro population is located in the North (up 5 percent, and 8 percent in the West (up 5 percent).
   b. The black population has grown at a faster rate (20 percent) than the white (15 percent), and now stands at 11 percent of total population in the United States. One-third of all blacks lived in the central city of a major metropolitan area—and blacks constituted more than half of the population of New York, St. Louis, Dallas, Los Angeles, Chicago, Detroit, Cleveland, Philadelphia, New York, N.Y.; Gary, Ind.; and Atlanta, Ga. The urban compaction of blacks has far outweighed their movement to the suburbs, while the white migration to the suburbs has continued to accelerate.

2. INCOME
   a. Median black family income has jumped 50 percent to $6,750. This rise brought the median income of black families up to 61 percent that of whites—closing the gap, in terms of race, from 1969 to 1970. However, the increment of earnings at different income levels and the non-white, the actual dollar gap, adjusted for inflation, between median non-white and median white families has increased from $2,251 in 1960 to $3,603 in 1970.
   b. The proportion of non-white families whose income purchasing power (in 1969 dollars) exceeded $10,000, rose sharply from 9 percent in 1960 to 24 percent by 1970—a 267 percent jump. The proportion of non-white families earning more than $10,000 rose from 2 percent in 1960 to 49 percent in 1969—an 181 percent jump.
   c. Over half of all blacks lived in poverty in 1969. By last year that proportion had declined to about one-third. The proportion of whites below the low-income level dropped from 18 percent to 10 percent over the same period. But in absolute numbers, this rate means that 5 times as many whites as blacks climbed out of poverty over the past decade, with the result that 33 percent of America's poor today are black, compared with 26 percent in 1960.

3. EDUCATION
   a. In 1970, 56 percent of all young adults blacks 25 to 29 years old high school, compared with 38 percent 10 years ago. By 1970, about 17 percent had at least one year of college. Although young drops almost doubled over the last five years, but it accounted for only 7 percent of total college enrollments in 1970. The proportion of blacks enrolled in college (one in six) is about half.
   b. Functional illiteracy (less than 4 years schooling) among blacks over age 45 stands at 9 percent, but it is less than 1 percent among blacks aged 14 to 24. But in 1970, only about 7 percent were black, 14 to 19 dropped out of school. And 1970, the proportion of black high school age students were two or more years behind the national grade (15.3 percent of males and 10.2 percent of females) was about three times that of white students.

4. WELFARE: FACT VERSUS MYTH
   a. In 1960, the majority of people below the low-income level received public assistance or welfare payments. In that year, about 45 percent of the low-income Negro families and about 25 percent white incomes families received public assistance.
   b. Six out of every ten Negro men, and five out of every ten white men, who were heads of households, were employed.
   c. 4.3 million non-whites (17 percent), and 6.5 million whites (4 percent), received public assistance.

5. EMPLOYMENT
   a. Over the last decade, total employment of Negro men and women increased 21 percent (or 1.6 million). But white employment increased 19 percent, or 11.3 million.
   b. While employment in professional and technical occupations more than doubled (131 percent). There were substantial gains in nonwhite employment in sales (77 percent), management (72 percent), clerical (121 percent), and crafts (67 percent) occupations.
   c. The number of non-white in private households, laborers, and service workers increased, but at the end of the decade about two-fifths of men and Negro and other races remained these occupations; their proportion is higher than for white men in these jobs.
   d. "Reports to the Equal Employment Opportunity Commission from the largest companies in the nine industries in which workers are hired show that the proportion of Negroes in the highest paid jobs as professional, technical, and managerial workers is far below their proportion in the total labor force. Even in the industries where Negroes are large part of the labor force, they tend to hold only a small share of the highest paid jobs in large companies. A "last hired-first fired" policy is fairly small, but in other middle pay level, occupations their share is generally higher.
   e. Blacks were 15 percent of all Federal Government employees in 1970, with 13 percent in 1965. However, they held only 3 percent of the higher grade, job positions. In 1970, the high grade classification Act. 4 percent of the highest grade postal field service jobs, and less than 10 percent of the Wage Systems (blue-collar type) jobs paying $5,000 over in 1970.
   f. The unemployment rate for non-whites as well as whites declined continually in the 1960s. However, the black unemployment remained double that of white. The sharp increase in unemployment in 1970 resulted in a non-white rate of 8.2 percent (versus 4.5 percent for whites). Non-white unemployment reached 29 percent (versus 13.5 percent white youth—a rate almost identical to that of Negroes in 1960). In 1970, the unemployment rate for Vietnam veterans of Negro and other races under 25 was 15.7 percent, and 7.5 percent for 25 to 39 years olds. Black, teenage unemployment in the depressed areas of America's largest cities was estimated to have reached 41.3 percent in the spring of 1971.

11 percent of higher paid jobs; 17 percent of lower paid jobs—In these nine industries where Negroes represent 8 percent of total employment.

Black, teenage unemployment reached 29.1 percent versus 13.5 percent white youth—a rate almost identical to that of Negroes in 1960. In 1970, the unemployment rate for Vietnam veterans of Negro and other races under 25 was 15.7 percent, and 7.5 percent for 25 to 39 years olds. Black, teenage unemployment in the depressed areas of America's largest cities was estimated to have reached 41.3 percent in the spring of 1971.
1970. This disparity was greatest in the nonmetropolitan areas, and in the South.

White women were younger than nonwhite mothers: Women over 40 years of age had more automobiles rose 3.1% between 1967 and 1970 (11.3%)—compared with a 2.9% rise in white females' age in the same period. Negro women who were white at the overall non-white rate (except for the 15 to 19 year old group) declined substantially between 1968 and 1969 (for example, from 17.6 to 16.4, or 10 per 1,000 unmarried non-white women aged 25 to 29 years), whereas the white rate rose from 16.1 in 1968 to 16.4 in 1969.

7. HEALTH

a. Infant and maternal mortality rates for both Negro and other races and whites have dropped sharply in the past decade. Non-

White infant mortality decreased 39% from 29.0 (1966) per 1,000 live births; and maternal deaths declined from 1.0 to 0.5 (per 1,000 live births). This mortality decline was even sharper in comparison with 1940: 7.6 non-white maternal deaths and 39.7 non-

White infant deaths, per 1,000 live births.

b. In 1969, the proportion of non-whites who made one or more visits to a physician was similar to that of whites. The percentage was 50.5 among families with an income range of $3,000 to $4,999 (vs. 56.6% of whites); but increased to 66.6% among non-

White families whose income was in the $7,000 to $10,000 range (vs. 69.8% of whites). However, non-whites were more likely than whites to have a doctor's office or clinic: Among lower-income families—21.2% (vs. 19.0% among whites); and among middle-income families—15.2% (vs. 13.1% of whites).

c. Non-white life expectancy for all age groups in the prime working years has de-

creased slightly in the period 1967-68, and the gap has widened slightly in comparison to the life expectancy of comparable white age-

groups. In 1960, a black aged 25 had a life expectancy of 43.1 more years—6.2 years less than his white counterpart. In 1968, this life expectancy dropped to 42.9 years, and the non-white—white gap age increased to 6 years.

d. In 1969, persons of Negro and other races had a higher incidence of disabling ill-

nesses than whites. Non-white restricted activity days averaged 15.7 (vs. 14.5 for whites); 7.2 bed disability days (vs. 5.9 among whites); and 7.1 work-loss days (vs. 4.9 for whites).

8. FAMILY

a. Fertility rates for all races have declined sharply since 1960. Though the non-white fertility rate continues to exceed that of whites. In 1968, there were 116 non-white live births per 1,000 women aged 15 to 44”—the lowest rate since 1960; while the white birth rate was 82.

b. The birth rate among women of all races and whites has dropped sharply, and the proportion of Negroes of all races in our society. The proportion is about 1 of every 3 Negro children expect to have fewer children than women now in their thirties.

c. The number of non-white families headed by women has increased sharply be-

tween 1960 and 1971—rising from 0.9 million to 2.3 million non-white families (compared to an increase from 1.9 million to 4.4 million white families). In 1971, almost 3 out of every 10 non-white families are headed by a woman—compared to less than 1 out of every 10 white families. Approximately half of all Negro women who are family heads are separ-

ately married or widowed.

d. While at family income levels of $10,000 to $15,000, nearly all children live with both parents, as do 91% of all families, and 94% of all white families. In this income level group, a woman was heads in 1969. Almost two-thirds of chi-

dren in families headed by Negro women were in low-income families in 1969.

9. ARMED FORCES

a. On March 10, 1970, blacks made up 10% of the Armed Forces and 10% of those serv-

ing in Southeast Asia, but 13% of those who died in Vietnam combat (January, 1965 through December, 1969).

b. In 1970, 2% of all officers in the Armed Forces were black, but 11% of the enlisted men were black.

c. 14% of all blacks drafted into the Armed Forces who were eligible reenlisted in 1970 for a total of 96,000 new black draftees and 23,000 of all new draftees; 9% of eligible white draftees. The reenlist-

ment rate for young servicemen, who had initially enlisted in the Armed Services, was also much higher for blacks than for whites.

10. VOTING AND PUBLIC OFFICE

a. About 7 million Negroes, or 61% of all Negroes over 18 years of age, who had voted to register in 1969—a 10% in-

crease over 1966, but a rise of only 1% in the total increase in non-white voting age population during this period. Basically, the black registration increase in the South was offset by a proportional de-

crease in the Northeast and Midwest. But over the same period, the percentage of whites registered to vote dropped from 72% to 69%.

b. Voter participation in Congressional elections by blacks, the slightly between 1966 and 1970—from 42% to 44%. The increase in the proportion of blacks going to the polls in the South was somewhat more signifi-

cant—rising from 39% in 1966 to 47% in 1970. White voter participation remained higher than for blacks in all areas of the country, but the overall rate remaining virtually stable at 56%.

c. There has been a significant increase in the number of Negroes elected to state leg-

islatures, and to local offices—particularly in the South. There were 10 new women in the South, which had 55% of the black population in 1970, had 28% of the black State legislators, and 58% of all black mayors, and 49% of other black elected officials.

d. Most of the black elected officials in the United States hold offices at the city level or hold law enforcement, and educational positions. Of States with the largest number of black officials are Michi-

gan, New York, Alabama, Illinois, and Ohio (all having at least 100 black elected officials).

11. MINORITY ENTERPRISE

a. Blacks today own only about 169,000 of their homes, and only about 5 million small businesses in the United States. Only 0.7% of the nation's businesses are owned by Negroes. The largest number of black officials are Michi-

gan, New York, Alabama, Illinois, and Ohio (all having at least 100 black elected officials).

b. Minority groups own about 322,000 businesses, or 3.4% of the total number of American enterprises. They ac-

count for only seven-tenths of one percent of the total business receipts in this country.

c. In 1969, there still only a handful of black-owned radio stations, black-owned TV sta-

tions, and only a few black-owned newspapers of any size.

d. In addition, black-owned insurance companies have been created in recent years; and there are still only a few minority in-

terest banks, which were organized for black consumers and for the benefit of the total receipts for all firms at $923 billion.

e. One black-owned investment firm (Davies and Bell) has been admitted to membership on the New York Stock Ex-

change.

f. 40 black-owned banks are expected to be in operation by the end of 1971, compared with only 7 at the end of World War II.

ERROR BY NEW REPUBLIC MAGAZINE IN REPORT ON ARMS SALES TO GREECE

Mr. DOMINICK. Mr. President, in reviewing the Recorders March 20, 1971, I came across an article inserted by the distinguished Senator from Ore-

The author, in reviewing the Senate's action on the Allen amendment to strike the ban on arms sales to Greece, indicates that the amendment was rejected 49 to 31. In fact, it was accepted 49 to 31. I point out this discrepancy, Mr. Presi-
dent, because in this vote the Senate reaffirmed its support for Greece and rec-

OED THE FEDERAL RECLAMATION ACT OF 1902

Mr. HARRIS. Mr. President, I invite to the attention of Senators a recent Fed-

eral court ruling of historic significance to this Nation. The ruling, made last week by the United States District Court for the Northern District of California, upheld a residency requirement of the Federal Reclamation Act of 1902 which has never been en-

forced. The requirement states that ab-

sentee landowners are not entitled to re-

cive federally irrigated water. The pur-

pose of the Reclamation Act of 1902—

which also includes a provision limiting federal irrigated land purchases to 160 acres, or 320 acres in the case of man and wife—was to assure that the benefits of Federal irrigation projects, paid for by taxpayers, would be accorded to economi-

cally viable homesteaders rather than land speculators or monopolists.

Unfortunately, because of corporate evasion and Government nonenforce-

ment of this law, millions of acres of the richest agricultural land in this country are now held illegally by large landowners in the West. The effect of Judge Mur-

ey's decision, if upheld, would be to break up the holdings of the large cor-
porations which now control almost two-thirds of the irrigated farmland in California's Imperial Valley. The Imperial Valley, with half a million acres of crops worth $250 million a year, is now homesteaded by tenant farmers with holdings of up to 12,000 acres—as United Fruit, Dow Chemical, Purex, Tenneco, and the Irvine Land Co.

Mr. Murray's decision is long past the time to end the billion dollar water subsidies that these giant corporations are receiving in violation of the law and at the expense of the independent farmer who is getting squeezed out. This suit is a welcome decision for one of those of us who stand against the monopoly of our land and water by a few giant corporations and who stand for the rights of America's independent family farmers.

Mr. President, Judge Murray's decision probably will be appealed. We must therefore ask, Will this administration stand on the side of the large corporations, or will it support itself at home? The administration's past record on this subject leaves me with little reason to believe the small farmer will receive adequate support. Again, as the Nixon administration has failed to act, the Justice Department has decided not to appeal an earlier court decision involving the Federal Reclamation Act which favored the large landowners.

Howard Turrentine, a Nixon appointee, ruled that the 160-acre provisions of the 1902 law do not apply to the Imperial Valley area in California. As a result, the Justice Department never explained publicly why it failed to appeal Judge Turrentine's decision. Mr. Peters, the west coast editor of the New Republic magazine, wrote an extremely interesting article on this subject in which he mentions the Justice Department's inaction. A concerned reader of the New Republic, Mrs. Stephen Stover, wrote a editorial in the Los Angeles Times expressing why there has been no appeal. The Solicitor General's response to Mrs. Stover is very revealing.

His letter states, for the first time to my knowledge, that there are no provisions for the Government's inaction, which means, in effect, a decision that the Government, and small farmers, "should not win" the case. Mr. President, I ask unanimous consent to have inserted in the Record at the conclusion of my remarks a copy of Mr. Barnes' article in the New Republic, entitled "Water, Water for the Wealthy," a copy of the Justice Department's press release concerning its decision not to appeal the decision, and a copy of the Solicitor General's explanation to Mrs. Stover of the Department's decision. I also ask, to be printed. In the Record, a copy of a letter to the Solicitor General from Prof. Joseph L. Sax of the University of Michigan Law School in which he challenges the Solicitor General's reasoning. Mr. President, I ask unanimous consent to have inserted in the Record at the conclusion of my remarks a copy of a letter to the Solicitor General from Prof. Joseph L. Sax of the University of Michigan Law School in which he challenges the Solicitor General's reasoning. Mr. President, I ask unanimous consent to have inserted in the Record at the conclusion of my remarks a copy of a letter to the Solicitor General from Prof. Joseph L. Sax of the University of Michigan Law School in which he challenges the Solicitor General's reasoning.

The railroads, land speculators and big ranchers who have always opposed the Reclamation Act's provisions, have never been able to persuade Congress to repeal them and, they've successfully got around the law of the land. The situation has varied from region to region. The railroads, to convince the Secretary of the Interior, Bay Lyman Wilbur, to sign a letter in 1933—days before the Roosevelt administration took over—expressing his opinion that Congress should bust the farmers out of the 160-acre limitation. Wilbur's last-minute ruling was elicted by one of his aides through a typical special-interest ploy: the aide, who shortly thereafter became a paid consultant to Imperial Valley growers, convinced Wilbur to sign the letter without consulting the Interior Department's Chief Solicitor, who believed in enforcing the 160-acre limitation.

Wilbur's letter was merely an informal opinion which it would be difficult to enforce. Using the letter as its rationale, the Imperial Irrigation District (which distributes water and electric power to the farmers) created a fee which it assessed its bounty upon landowners of all sizes and shapes, never forcing any one to sell his excess holdings. Today more than 1,000 irrigated acres in the Imperial Valley are held by owners of more than 100 acres, and two-thirds of it by absentee owners. Some of these absentee owners do not even own the land they rent. Although they belong to such agribusiness giants as Purex, United Fruit and the Irvine Land Company.

The concentration of rich, federally irrigated lands in the hands of a relatively few large landowners not only flies in the face of public policy, but it reduces the landowners' bank accounts to vast unearned windfalls, all courtesy of the federal government. The federal government pays the subsidies that accrue to the Valley's landowners is dastardly. First is the water subsidy, Hoover Dam, completed in 1935, cost $175 million; the All-American Canal carries water from the Colorado to the Valley, cost $30 million. Part of this mammoth in- vestment comes out of the taxpayers' pockets; the remainder is almost entirely repaid by electric power consumers in Los Angeles and other southern California cities. The taxpayers who paid for this work are asked to fork over more money to subsidize the same crops a year.

Their presence impedes the efforts to unionize farmworkers and keeps field wages below two dollars an hour. Then there's the agricultural subsidy. The same federal government that spends millions to make the Imperial Valley fertile also spends millions to keep those crops growing. Thus: 500 large growers receive $11 million annually in farm subsidies, while small growers must make out an existence on welfare payments totaling less than $8 million.

By far the largest windfall is in the form of "tax deductions" under which the Imperial Valley is worth, conservatively, $700 an acre more than the same land would be worth outside the valley. If a farmer has 100 acres thus gets a $70,000 bonus from the federal government, merely because his land is in the right place. The total land appreciation in the Imperial Valley attributable to the taxpayers' munificence exceeds a quarter of a billion dollars. In short, it's quite a bubble: landowners in a one-soilet dry bowl reaping millions at the public's expense on acres they never had to plant, much less cultivate. Yet the bubble is still intact. But it has been a precarious bubble, resting on the thin edge of nonenforcement of the law passed by Congress. And now it looks as if it's lost its legs and the bubble might burst. In 1964 Interior Secretary Stewart Udall declared that Wilbur's letter was a mistake, and that the Interior Department would enforce the 160-acre limitation in the Imperial Valley. The large landowners were stunned. They had been assured for years that the law was unenforceable, that the bubble was safe. But it couldn't last any longer, so the Interior Department could not hold on forever. But it couldn't last any longer, so the Interior Department could not hold on forever. But it couldn't last any longer, so the Interior Department could not hold on forever. But it couldn't last any longer, so the Interior Department could not hold on forever.
reversal. At that point the dispute became political: would the Nixon administration agree to a judicial decision involving a vital principle of agrarian democracy, millions of the taxpayers' dollars, and the important question of whether excessive acreage limitation can be imposed without unconstitutional congressional policy? Or would the Administration, as the large landowners urged, allow the court decision to stand unchallenged?

Politically the landowners now had some powerful friends: their Department of Agriculture, Sec. Charles M. Goodloe, who strongly opposes acreage limit enforcement; Democratic Senator John V. Tunney, who supported the landowners' interests when he was a congressman, and the Imperial Valley and continues to do so as a senator; Rep. Victor Veysey, the Republican who as a member of the Interior Department's Sol Luc, and not least of all, Richard M. Nixon, who assured Imperial Valley growers in 1949 when he ran for the Senate against Helen Gaskin Douglas that he would fight against acreage limitation.

At stake against this constellation of power, the small farmers and landless residents of the Imperial Valley—not to mention the hardpressed federal taxpayers—didn't have much leverage. Fed into, the National Farmers Union, and a few other organizations urged appeal of the district court's decision, but none of these were the eyes that Nixon listened to. When it became apparent that the Administration would permit the decision to stand, the persons in the Valley, mostly Mexican-American farmers, sought to carry on the argument before the same judge who originally ruled in favor of the growers. They turned them down on the grounds that because they were too poor to own land, they had no standing in the case. Thus 90-day period for filing an appeal expired.

Who in the Administration made the decision to preserve the Imperial Valley bubble, and how? Byrd in the Interior Department. Sol Luc, Mitchell Melich says his department—with the approval of Secretary Rogers Morton—recommended that no appeal be taken because "we agree with the Wilbur letter." Anyway, the Wilbur letter had been sanctified by 40 years of administrative practice: it was unfair for Udall to change the ground rules after that in the game, even if the ground rules ever changed, which Melich insisted they were not. Over the course of the decision, which apparently made the final decision not to appeal, officials have been more evasive than usual. Congressmen, as usual, looked responsibility for the decision, but refused to talk about the process. Other Justice Department lawyers involved in the case also refused to talk; they referred all inquiries to a public information spokesman, who of course had nothing to say.

The Administration's action—or rather conscious inaction—means that subsidized water, subsidized labor and subsidized crops in the Imperial Valley will continue to be monopolized by a few wealthy landowners. Moreover, the market value of their land will rise due to the threat of the acreage limitation being lifted, and small farmers who have a hard enough time keeping up with the inherited will be squeezed even more. Had the growers been required to sell their land in excess of 160 acres at pre-war prices, the appreciation brought about by the threat and the market value of their land might have brought it to the advantage of some of the less affluent residents of the Valley, and to the public itself.

Now, of course, the growers and speculators in other reclamations areas will use it to protect what they're already got, and will be ready to get their hands on larger holdings of both land and water. The Irrine Land Company, for example, which holds 10,000 acres in the Imperial Valley, owns 130 square miles in Orange County, an area that also relies on imported Colorado water. The 160-acre limitation or the residency requirement would instantly wipe out the speculative interests in the Southbound Pacific Railroad, Standard Oil of California, Tennesse and dozens of other giant landowners in the West. According to the Department says that its decision not to pursue the Imperial Valley appeal has bearing on these other vast holdings. Clearly, though, it does. It means that if the land profiteers need worry as long as Richard Nixon is in the White House.

PETER BARNES

DEPARTMENT OF JUSTICE

Solicitor General Erwin N. Griswold announced today that the Department of Justice will not appeal a U.S. District Court decision holding that land limitation provisions of reclamation law do not apply to privately owned lands in the Imperial Valley irrigation district of southern California.

Judge Howard B. Turfentine of San Diego issued the decision in March. The Department's 1967 suit against the Imperial Irrigation District.

The decision, made to the U.S. Court of Appeals for the Ninth Circuit was tomorrow. The Department of the Interior has recommended against an appeal.

In making his determination, Solicitor General Griswold stressed that his decision related only to the situation in the Imperial Valley.

"The decision does not in any way affect the Government's position with respect to reclamation projects in other areas where different facts are involved," he said.

At the request of the Interior Department, the Justice Department decided last week to seek a declaratory judgment that the 160-acre limitation applied to private land holdings in the Imperial Irrigation District.

OFFICE OF THE SOLICITOR GENERAL.
Washington, D.C., June 1, 1971.

MRS. STEPHEN L. ScHURER,
Manhattan, Kansas.

Dear Mrs. Stover: Your letter of May 28 has reached me this morning. Until it came, I had planned to write you on September 11th. I am, however, a little in a hurry at the moment, and I am writing to you on the subject of your inquiry to the Justice Department in the excess land case involving the Imperial Valley. I have read your letter and have been in contact with the Solicitor General's office.

As one who has written about the Reclamation Law, I was surprised to see your letter this morning. As I have written in the Reclamation Law, I was surprised to see your letter this morning. As I have written in the Reclamation Law, which provides that when land is claimed through a federal project, land holdings cannot exceed 160 acres. I am not at liberty to discuss this case.

The Solicitor General, in his letter, recalls the warning he received in law school, among them the danger in paraphrasing statutory language. My recollection of the Reclamation Law is:

"...there is a provision in the reclamation laws which provide that when land is claimed through a federal project, land holdings cannot exceed 160 acres. I am not at liberty to discuss this case."

As I have written in the Reclamation Law, which provides that when land is claimed through a federal project, land holdings cannot exceed 160 acres. I am not at liberty to discuss this case.

No right to the use of water for land in private ownership shall be sold for a tract exceeding 160 acres to any one land owner. I recall no general provision in the law that limits sales of water or land for a tract exceeding 160 acres. I have been informed by the Department of Justice that this interpretation is correct.

If you have any questions, I will be glad to have them brought to my attention by mail or by telephone.

With best wishes,

Erwin N. Griswold.
December 10, 1971

CONGRESSIONAL RECORD—SENATE

46229

I recognize that the Imperial Valley case was a complex one; but I think Mrs. Stover was entitled to a more accurate explanation.

Very truly yours,

JOSEPH L. SAX,
Professor of Law.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HARRIS (for himself, Mr. BATH, Mr. CRANSTON, and Mr. HART): S. 2689, providing for the creation of an Authority to be known as the Reclamation Lands Authority to carry out the congresional intent respecting the excess land provisions of the Federal Reclamation Act of June 17, 1902. Referred to the Committee on Interior and Insular Affairs.

THE RECLAMATION LANDS AUTHORITY ACT

Mr. HARRIS. Mr. President, I send to the desk for appropriate reference, for myself and Mr. BATH, Mr. CRANSTON, and Mr. HART, a bill designed to carry out the congressional intent respecting the excess land provisions of the Federal Reclamation Act of June 17, 1902.

Our predecessors in Congress, recognizing that the agricultural and livestock industries, wisely chose to make a public investment in irrigation when they passed this historic legislation in 1902, sought to assure that the benefits of Federal irrigation projects—which would literally transform desert wastes into some of the finest agricultural areas in the world—would accrue to small homesteaders rather than land speculators or monopolists. The Reclamation Act of 1902 provided that such homesteaders could receive federally subsidized water for farms of 160 acres or less, or 230 acres in the case of a man and wife, as long as they live on or cultivate their land. In 1928, Congress strengthened the 1902 act by providing that any Federal irrigation water project, for a time limited to 15 years, and land subsidies had to be sold within 10 years at represtimation prices.

Critics of the acreage limitation provision, both in 1902 and today, insist that huge farms are necessary for their efficiency. That is a myth. The giant agribusinesses are efficient only in siting farm competition and in tapping the Federal Treasury for subsidies. One hundred and sixty acres of prime irrigated farm land for a case of John, John’s wife, are more than enough to support a prosperous family farm.

Mr. President, the men who championed the Federal Reclamation Act of 1902 were visionary Americans. They understood that land and water, America’s greatest resource, were not boundless, and that they must be protected from the few who would monopolize their use.

Delegates to the irrigation Congress in the 1890’s, which sought to enlist the Federal Government in irrigation projects, repeated a warning given to Americans by the English historian T. B. Macaulay:

Your national safeguard lies in your bosom, in the public domain. You cannot buy your land, but you can crowd. The great need of the West is for more water.

But the time will come when this heritage will have been consumed, this safeguard will have vanished. Your land, your water, your crowded homesteads in Kansas and Mankato’s, and then will come the test of your institutions.

Congress in 1891 under Woodrow of Alabama, who was instrumental in the passage of the Reclamation Act sounded the same theme when he pointed to the decline of free land acres as the key to urbanization. In a statement supporting the Reclamation Act, which has a peculiarly modern ring, he said to the applause of the House of Representatives:

The farm boys in the East want farms of their own. They will come to us and claim them a place where they can go and build homes without being driven into the already overcrowded cities. The record elsewhere is no better. In the Pacific Northwest, federally dammed water from the Columbia River will soon flow to the vast lands held by Boeing Aircraft, Burlington Northern, Utah and Idaho Sugar, and Amfac of Hawaii.

Increasingly, the giant agribusinesses are taking control of American agriculture, and they leave no room on the land for the independent farmer and the family farm. The family farm is disappearing from rural America at the rate of 600,000 a year.

In my view, the Congress of the United States ever intended to subsidize Boeing Aircraft or Standard Oil in their farming ventures. I certainly hope not.

Mr. President, it is time to put an end to this outrage. At a time when 70 percent of our people are packed onto less than 2 percent of the total land, the consequences are an advance towards collapse because of overcrowding, unemployment and welfare, it is essential that we give people a chance to make a living in rural America. But America has no national rural policy for people. Instead, we have allowed vested economic interests, guided by nothing nobler than profits, to determine the future shape of this Nation.

The bill I am introducing today, the Reclamation Lands Authority Act, will correct the beginning of a national rural policy. The emphasis of that policy is to serve people and not the vested interest, not a few large corporations.

The bill, which has been introduced in the House, represents the views of all the California Congressmen, requires the Federal Government to purchase land as a preproject market price and to lease it or sell it at a postproject market price. This method is greatly preferable to a simple enforcement of the 1902 law. For in that case those purchasing that land, the people required to pay for it, could call for in the law could receive the enormous windfall now in the hands of the giant corporations.

The American taxpayer has paid for irrigation system that has made our land the breadbasket of the West. In turn, therefore, he should reap at least part of the gains.

The profits from the sale, lease or use of these lands are to be placed in an education, conservation, and economic opportunity fund. Seventy percent of the revenues from the fund are to be earmarked as grants for public education, following our historic heritage of financing education with land grants.

Ten percent of the funds will go into the agricultural college and the rest into thes educational opportunity fund. The remaining 20 percent of the funds shall be made available upon specific approppriation by Congress for the development of public facilities and services, for promoting economic opportunities of veterans and persons living in substandard conditions, for agricultural development and for the ecological benefis as Congress may authorize.

To administer this program, the bill creates a Reclamation Lands Authority as an independent agency under a board of three members, appointed by and responsible to the President.

The Authority is empowered to determine the uses for which purchased excess lands may be used, whether for Federal, state or public purposes, and is charged with attaching such conditions to any use of the land as "will preserve open spaces and agricultural greenbelts and into her respects preserve an environment of beauty, health and attractive quality for now and for the future.

The Authority is also charged with encouraging "effective regional, State and local land-use planning and proper regional and general adjustment in the areas where excess lands are located.

I think the bill, the Reclamation Lands Act, provides the chance for us to rekindle the spirit that made America the land of opportunity, the bill would help the family farmer, the veteran, and the economically disadvantaged from both our cities and
rural areas a chance to start all over again. It would enable us to finance public education, public health, and other needs with funds created by public water and land development. And it would mark the day when we would be able to make use of the land and water resources cannot be left in the hands of big business.

I am sure the enthusiasm of my colleagues will give this proposal the serious consideration it merits, and I welcome their cosponsorship of it. Furthermore, I would hope that the Administration would be able to perceive the potential of the proposal on this near the future.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the Record.

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

S. 2632

A bill to provide for the creation of an Authority to be known as the Reclamation Lands Authority to carry out the congressional intent respecting the excess lands provisions of the Federal Reclamation Act of June 17, 1902.

S. 2632

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 Reclamation Lands Authority Act." STATEMENT OF PURPOSE

Sec. 2(a) The Congress declares that it shall be the purpose of this Act to reaffirm the historic purpose of the Federal Reclamation Act, especially as it applies to the development and use of excess lands, and to make that intent and purpose operative in the national interest and the direct benefit of its citizens.

(b) The Congress further declares that it shall be the purpose of this Act to accelerate the complete use of such surplus and disposal of such excess lands as will improve the environment of the Nation through the use of these natural resources to provide resident ownership and operation of family-sized farms, to open new opportunities for veterans and to create open spaces, protect the natural beauty and quality of the habitat of all living things within Federal reclamation project areas, and to provide by the application of the net revenue from the sale or lease of said excess irrigated or irrigable lands to the demonstrated needs of public education and community improvement or for other purposes consistent with the historic purpose of the Federal Reclamation law.

Sec. 3. The purposes expressed in this Act and the proposed powers and others which may become imperative as the Nation faces its responsibilities and opportunities to create a healthful environment consistent with the ecological needs of the land entrusted to our care, there is hereby created by a body corporate to administer the excess lands resulting from the enforcement of the provisions of the Federal Reclamation Act of June 17, 1902 (32 Stat. 383) as amended and supplemented, to be designated as the Reclamation Lands Authority (hereinafter referred to as the "Authority").

Sec. 4. To administer the purposes expressed in this Act and enforce the laws pertaining to excess lands as prescribed in the Federal Reclamation Act of June 17, 1902 (32 Stat. 383), as amended and supplemented, the Authority shall be an independent agency of the Federal Government. The Board of Directors shall be subject to all laws pertaining to accountability and report. It shall be directed and its actions taken under the direction of the Secretary of the Interior, appointed by the President, and with the consent of the Senate, to be a member of the Authority, in such a manner as to provide an eighteen-year term for the designated Chairman, a five-year term for each of the other members. They may be reappointed. Their salaries shall be fixed by the President in keeping with the accepted standards of the salaries of important Government agencies. The Board shall organize itself and its operations, shall select one of its members to act as director, in keeping with Civil Service standards and practices and said employees shall be included in the schedule to share in all legal benefits of Federal Government employment and to be subject to such requirements as to ability and conduct as are thereunto contained.

Sec. 5. The principal place of business of the Authority shall be located at a place of accessibility within the region of excess lands which it administers.

Sec. 6. Immediately upon the passage of this Act into law, the Authority shall be provided by the Department of the Interior a listing of all irrigated and irrigable lands administered under reclamation laws, denoting specific compliances and failure to comply, declaring noncompliance as excess lands to which all titles, claims, access, entry, and control shall transfer to the Authority forthwith, to be sold, leased, or managed according to the determination and within the limitations of said law. The purchase, sale, or transfer of lands subject to reclamation law shall be provided the Authority at six-month intervals.

Sec. 7. The Board of Directors of the Authority shall have power and it is hereby conferred upon it, to adopt and enforce all rules and regulations necessary or required to effectuate the will of Congress as expressed in this Act.

Sec. 8. The Board of Directors shall have such powers as are conferred on Government corporations generally, and specifically shall have the power to enter any contract, transaction or conveyance in any manner permitted by law.

Sec. 9. Except as otherwise specifically provided in this Act, the Authority—

(a) shall have succession to its corporate name;
(b) may sue and be sued in its corporate name;
(c) may adopt and use a corporate seal, which shall be judicially noticed;
(d) may make contracts and enter into agreements as herein authorized;
(e) may adopt, amend, and repeal bylaws or provisions thereof; and
(f) may purchase, lease, or accept, hold and use such property as it deems necessary or convenient in the transaction of its duly authorized business, and may dispose of or personal, to which it has title according to its authority under this Act.

Sec. 10. The development of its powers and the operations of the Board of Directors shall select a treasurer and as many assistant treasurers as it deems proper. Board members and treasurers shall be bonded, giving such bonds for the safekeeping of the securities and moneys entrusted as are required by laws. Officials of subordinate officials as the Board shall determine.

Sec. 11. Any member of the Board may be removed from office at any time by the President, subject to the joint concurrence of both Houses of Congress.

Sec. 12. The powers of eminent domain residing in the Board by this Act shall extend to the acquisition by condemnation of real estate by the Board or the Authority as required by the Act. The Authority shall be entitled to the use of condemnation proceedings, the title to such real estate being taken in the name of the United States of America, the condemnation proceedings shall be conducted as if the Authority were the agent of the United States to accomplish the purposes of the Act.

Sec. 13. There is hereby conferred upon the Authority all of the powers now residing in the United States of America under the provisions of section 5 of the Federal Reclamation Act of June 17, 1902, section 46 of the Act of May 25, 1926, and all Acts amendatory or supplemental thereto or which apply to the limitation of size of farms to be served by and under provisions of Federal reclamation laws, for the purpose of purchasing and holding land for the purpose of reclamation.

Sec. 14. The Authority shall purchase all excess lands at reclamation prices which do not reflect the benefit of the Federal financing or construction. The proceeds from the sale, lease, or use of such land shall be paid into the "Education, Conservation, and Economic Opportunity Fund" which is hereby created to be used exclusively for the purposes of this Act and administered by the Secretary of the Interior for the purposes of this Act and administered by the Secretary of the Interior.

Sec. 15. The Education, Conservation, and Economic Opportunity Fund may be operated as a revolving fund for the purposes of this Act. Moneys in the fund equal to the cost of lands purchased by the Authority in excess of reclamation prices, together with such moneys as Congress may appropriate for deposit in the fund and the proceeds of sale of excess lands, shall be available to the Authority for further purchase of excess lands. Ten percent of the balance in the fund remaining at the end of each fiscal year shall be deposited to the Land and Water Conservation Fund already established by the Congress to be used for the purposes of Federal public lands and parks. This Act, and an annual accounting shall be made to the Authority by said fund and made a part of the annual report. Seventy percent of the balance in the fund available for use by designated agencies and purposes under this Act shall be made available for the benefit of public education and for such expenditures or allocations as the Congress may authorize. Such funds shall be transferred by the Authority to the Secretary of the Interior for the benefit of public education purposes. The remaining amount in the fund shall be used to provide funds to the Secretary of the Interior for the development of public facilities serving project areas, for advancing economic opportunities in areas in which the American Indian lands are located, to provide fundamental improvements in raw environment, for the development of healthful environments and communities, and to acquire lands or rights in the environs of scenic, scientific, and environmental and ecological benefits as Congress may authorize to be authorized from the fund.

Sec. 16. The Authority shall determine the uses for which purchased excess land may be sold, leased, or made available for public purposes, and shall attach such conditions at time of sale, lease, or public use as will preserve open spaces and agricultural greenbelts. In other public purposes for the environment of beauty, health, and attractive quality for now and for the future. In determining the uses of the lands purchased, the Authority shall give due weight to benefits to the reclamation fund and the advancement of economic opportunities for persons who have served the Nation in the Armed Forces and disadvantaged citizens seeking such opportunities in open spaces, open water, and coastal or inland waters. In the pursuit of these purposes, the Authority shall encourage agreements among the various agencies of land usage and environmental adjustment in the areas where excess lands are located.

To the extent permitted under this Act, the Authority is herewith author-
used to obtain lands excess to the direct needs of other Federal agencies of the Government which may be declared available, where such lands may become a part of the lands administered by this Authority. Such acquired lands shall be treated in the same manner as other excess lands of the Authority.

Sec. 18. The Authority may establish an Advisory Committee for the purpose of advising the Authority in matters of operation, and such committee shall, whenever necessary, confer with the Secretary of the Interior, the Secretary of Agriculture, or the Director of the Bureau of Reclamation, as the case may be, in order that the Secretary of the Interior may be apprised of developments in the policy and plans of the Authority in a confidential manner.

Sec. 19. There is hereby authorized for appropriation an amount as may be necessary for the payment of the secretary, or such other officer as the Authority may appoint, for the purpose of administering the Act, to be accounted for in the usual manner and to be subject to the same accounting practices as other Government agencies.

Sec. 20. There are hereby authorized to be appropriated for the purchase, lease, and use of land under the provisions of this Act, the Education, Conservation and Economic Opportunity Fund as are available and needed by the Secretary of the Interior to carry out the intent and purposes of this Act.

[In the U.S. District Court for the Southern District of California]
BEN YELEN, ET AL. VS. WALTER J. HICKEL.
(Partial summary judgment No. 69-128-Murray)

Before the court is a motion for partial summary judgment. The suit was filed under 29 U.S.C.A. 1961 to compel the Secretary of the Interior and lower level officials of the Department of the Interior to enforce the residency requirement of Section 5 of the Reclamation Act of June 17, 1902, 32 Stat. 259, 43 U.S.C.A. Section 423, against land located within the Imperial Irrigation District in California which receives water from the Boulder Canyon Project through the All American Canal. It is the government's contention that Section 5 has been superseded by Section 46 of the Omnibus Adjustment Act of 1897, 25 Stat. 649, 43 U.S.C.A. Section 423e, and therefore the residency requirement does not apply. For the following reasons, the court finds that there is no inconsistency in force and the residency requirement is a prerequisite to receiving water from the Boulder Canyon Project.

The ruling on this motion is a determination made as a matter of law and does not depend upon any factual showing by the moving party beyond the allegations in the pleadings. There was a previous motion for summary judgment and that motion was denied without prejudice and therefore there is no bar to the present motion. Further the government raises the issue of standing in determinative documents. For lack of standing to maintain a suit was dened at the same time as the previous motion for summary judgment, there is no need to rule on that question at this time.

The Boulder Canyon Project is authorized and financed by the Boulder Canyon Project Act of 1928, 45 Stat. 1037, et seq., 43 U.S.C.A., 617 et seq. Under Sections 12 and 14 of the Act (45 Stat. 1060 and 45 Stat. 1058) the project is governed by the June 17, 1902 Act and "Act amendatory thereof and supplementary thereto," 43 U.S.C.A., 617, 617m. The question which concerns the court is whether Section 46 of the Omnibus Adjustment Act has so changed the original

Footnotes at end of article.

"It is confidently believed that with the adjustment authorized herein the various projects will be put in operation and the losses sustained by the Secretary will be minimized and restored to the maximum of the realizable value of the projects.

The government points to no specific provision of the Omnibus Adjustment Act which repeals Section 5 of the 1902 Act. Nor do they contend that the 1926 Act entirely repealed the 1902 Act. It is a general rule of statutory construction that where there are two acts on the same subject, the effect should be given to both if possible. United States v. Borden Co., 306 U.S. 188, 198. Further, repeals by implication or by necessary implication of the legislature to repeal must be clear and manifest. Even when there is a positive repugnancy, the act of the new law and the old law, then the old law is repealed only pro tanto to the extent of the repugnancy.

Statutory construction of Section 5 and Section 46 reveals no repugnancy whatever. Section 9 requires that there is no right to water over 160 acres and no water shall be sold to anyone not occupying the land or residing in the neighborhood of the system of distribution whereby the Secretary will no longer sells to individuals, but to irrigation districts instead, and provides for a sale not contemplated in the original Act where water would be supplied through the irrigation district to private landowners of more than 160 acres in addition to settlers on public lands opened up for entry under the original reclamation law. This is an inconsistency in the application of the requirements of Section 46 as compared with those of Section 5. The latter merely provides for sale of excess lands over 160 acres for reclamation purposes and for project water. Section 5 requires that he be a resident to get water at all. A literal reading of the statute requires that the Act be held inapplicable to the part of Congress that the earlier statute would be repealed by Section 46. Since both can stand simultaneously, that is a construction that must be adopted. Witmore v. Mudge, 113 U.S. 217, 221 (1881).

The plain language of the Omnibus Adjustment Act of 1926 does not repeal Section 5 of the 1902 Act, nor is any legislative intent to do so exhibited in the Act's background. The basic purpose of the 1926 Act is expressed in 43 U.S.C.A. Section 423f, 44 Stat. 65 (May 25, 1926) as follows:

"The purpose of sections 422-423g of this title is to establish and authorize the reclamation projects and the insuring of their future success by placing them upon a sound economic basis, and the Secretary of the Interior is directed to administer said sections to those ends."

The true version of the bill H.R. 19249 prepared by the Committee on Irrigation and Reclamation refers to the reclamation policy of the government which has been a part of the soil and water conservation Act of June 9, 1902. The report points out that while the law had provided that the cost of projects should be paid for in full by the settlers but the government had been unable to do so in full and therefore it would be necessary to authorize the Secretary to pay the costs out of the money in the hands of the Secretary and to allow for the losses sustained. Then the report continued:

-Footnotes at end of article.

The purpose of the Act was put into action in the establishment of the Reclamation Service and the creation of the Reclamation Service. In the construction of the Reclamation Service, the government was given the power to pay for the amount due for the right water. See Title for Homesteaders on Reclamation Projects (Written by D. T. Bishop and J. A. K. Smith). H. H. S. 5545, 62nd Congress, 2nd Session. The water right certificate was property right of sorts even though the project was not completed. An Incremental value of the price of the private
land and as such was an asset which added to the mortgageable value of the land. See State v. De Wolf in Case Study in Federal Subsidy Policy, 64 Mich. L. Rev. 13, 1966, for a discussion of the exceptions to the mortgageability requirements of Section 11, which made it hard to be liquidated and reclaimed. This purpose of the Act is in line with the original anti-monopolistic and anti-speculative purposes of the original railroad acts, underlying the need to require water initially. See case law for water right applications in Department of Interior, Fourth Annual Report of the Reclamation Service 1914–1915, 338–276, which require affidavit of residence. It should also be pointed out that on August 16, 1917, Congress saw fit to suspend the residence requirement during World War I. See 40 Stat. 278. It would be strange indeed if Congress intended to eliminate the residence requirement for receiving water by imposing the Act of 1912, that it deemed it necessary to suspend the requirement. It is inconceivable that there was and is a continuing intent on the part of Congress to keep alive the anti-speculative and anti-monopolistic purposes of the Act as expressed in the residence requirement.

The government cites this opinion along with the contradiction in the resolutions of the residence requirement as evidence of the contradiction in the resolutions of the implement of the Act.

The residence requirement of the Act of May 15, 1922, 42 Stat. 541, is an expression of the need for the residence maintenance of the project, that is, to assist in the flow of water that will later become the 1922 Act, dispensed with the water right application in order to eliminate the possibility of the application for water right. A new applicant for water would be required to go through the district and to file an additional application to the Bureau of Reclamation could have made the process unnecessarily complex while only duplicating work which already had been done.

The application was used by the Bureau of Reclamation to enforce other provisions of the reclamation laws such as the residence requirement. (See Department of Interior, the Land Ownership Survey of Federal Through October 3, 1946, but the 1922 Act fails to refer to residence. The failure does not lend support to any interpretation that the Act is an express intent to eliminate the residence requirement or to change the national policy of the reclamation laws.

Section 5 of the Act of 1922 states that the Secretary of Interior is given authority to dispense with the application charged with enforcing the policy of reclamation law which is still in force. Compliance with this section, which is an expression of national policy, should have been secured by other means.

On April 19, 1916, the Department of Interior is given authority to dispense with the policy of the reclamation law:

"The residence requirement of this section (Section 5, 1902 Act) in reference to Federal lands is fully complied with if, at the time water-right application is made, the applicant is a resident of the land or within the neighborhood. After approval of the application further residence is not required of such applicant, and further proof may therefore be dispensed with. See Act of August 9, 1912 (37 Stat. 265), without the necessity of proving residence at the time proof is offered." See Kieferdorf v. C.I.R., 142 F.2d 723. However, Congressional re-enactment of a statute, including residence requirement or reference cannot give controlling weight to an originally erroneous administrative interpretation of a statute. See United States v. Missouri Pacific Railroad Company, 273 U.S. 82, 280. The re-enactment of a specific clause or statute after administrative or judicial interpretation is a matter of legislative policy. Fleming v. Moberly Milk Products Co., 196 F.2d 299. The Reclamation Act of 1902 was enacted after suppression of the arid lands in the West. This background resulted in a national policy of anti-monopolistic and anti-speculative which found expression in reclamation law. It is this policy which provides possibly the strongest rationale for holding the residence requirement in force. From its very inception reclamation policy has been to make benefits theretofore available to the largest number of people. The 1902 Act contained a 180 acre limitation, required that users be bona fide residents, required that the reclamation water right be an improvement to the land, and provided that rights to the water be limited by beneficial use. 32 Stat. 389, 390 (1902). U.S.C.A., Sections 372, 383, 431 (1964). These decrees were the starting point for beneficiaries of the Act. See Taylor The Excess Land Law-Execution of a Public Policy, 46 Yale L.J. 476, 494–58 (1937). The problem was to create a class of self-reliant family farmers. See Land Owners Ship Survey, supra, 61–75, 91.

Beneficiary policy, as expressed in the reclamation laws, is to provide homes for people. Homes are possible only where speculation and monopolization are not possible. The 1902 Act created the situation in which it reflects have been upheld by the Supreme Court in Ionahee Irrigation Dist. v. McCracken, 357 U.S. 275. The residence requirement in Section 5 is a second expression of that national policy. Its repeal by implication would be contrary to the express policy for which the Act was enacted. Early in reclamation history events showed that "under the private projects where residence is not required, the developments have been very large, largely due to the low price of the creation of tenant farms." See Department of Interior, 11th Annual Report of the Reclamation Service, 1911, Art. II, p. 206. It is necessary to enforce residence subverts the excess land limitation which Ionahee, supra, specifically upholds. Through the use of water, trespasses, and covenants and covenants that the purpose of the limitation is possible.

The resort to residence should be permitted to aid and encourage owner- operated farms requires enforcement of the reclamation laws in violation. See Sax, The Federal Reclamation Law in II Waters to Water Rights, supra, 211–214.

The fact that residence has not been required by the Department of Interior for many years shall not determine the outcome of the issue. The residence requirement is contrary to any reasonable interpretation of the reclamation law and is a basic purpose and intent of national reclamation policy. It is well settled that administrative interpretations of a statute must be based on a valid law. United States v. City and County of San Francisco, 310 U.S. 16, 31–32 (1940). Hence, the intent of the administrative interpretation is indicated that residence serves to dramatize the unfairness of relief in the past and points toward the need for increased access to the court in the future.

The Boulder Canyon Project Act, 45 Stat. 1040, 1928, 711, 717, provides that the Act shall be deemed consistent with water right to private owners shall be sold to any landowner who will be an actual bona fide resident on such land, or occupant thereof residing in the neighborhood of said land. . . . 48 U.S.C.A., Section 431.

That portion of the motion for summary judgment is determined that the majority of Section 5 of the Act of 1902 is therefore granted, which in effect is merely an interlocutory adjudication of the applicable law.

The posture of the case at this time is not such as the court can determine the other portions of the motion, and therefore reserves ruling thereon.

Done and dated this 22nd day of November, 1971.

FOOTNOTES

1. Section 5 of the Reclamation Act of June 17, 1902, 32 Stat. 389, 43 U.S.C.A. 431, provides that: "The entryman upon lands to be irrigated by such works shall, in addition to compliance with the homestead laws, reside within the breakfast area of the entry for agricultural purposes, and before receiving patent for the lands over which he has established residence, the charges are approved and made out to the tract, as provided in Section 4. No right to water is authorized under the ownership shall be sold for a tract exceeding 10 acre to any one landowner, and no one landowner shall own more than 10 acres unless he be an actual bona fide resident on such land, or occupant thereof residing in the neighborhood of said land, and no such
rights shall permanently attach until all payments therefor are made. The annual installments shall be paid to the receiver of the lands and water rights situated in the district in which the lands are situated, and a failure to make any two payments when due shall render the forfeiture of all rights under this act, as well as of any moneys already paid thereon. All moneys collected shall be paid into the reclamation fund. Registers and receivers shall be allowed the usual commissions on all moneys paid for lands under this act.

Section 46 of the Omnibus Adjustment Act of 1926, 44 Stat. 649, 43 U.S.C.A. Section 721, provides:

"No water shall be delivered upon the completion of any new project or new division of a project until a contract or contracts in form approved by the Secretary of the Interior shall have been made with the irrigation district or irrigation districts or the United States for the payment by the district or districts of the cost of constructing, operating, and maintaining the works which they are in control of. The United States, in such case, may provide for the cost of such work if necessary, in any event not more than forty years from the date of public notice hereinafter referred to, and the execution of such contract or contracts shall have been confirmed by a court of competent jurisdiction. If the cost of such works is not paid in the manner provided, the contract or contracts shall be determined by the Secretary of the Interior in accordance with the terms thereof. A court of competent jurisdiction shall hear and determine any dispute or controversy resulting from the failure to pay such sums."

Support within the United States for our ratification of the Genocide Convention has been broadly based. Among the groups that support the Genocide Convention are the National Council of Women of the United States, which claims to represent five million women in this country; the Leadership Conference on Civil Rights, which is composed of 125 groups active in the area of civil rights; six sections of the American Bar Association; and the Ad Hoc Committee on the Human Rights and Genocide Convention. The latter group was formed in 1964 and presently contains 53 ethnic, religious, labor, and women's groups.

All of these organizations recognize the need for the Genocide Convention. They recognize the need for the United States to be a party to it. The support of the United States, the most democratic country in the world, will do much to help make this treaty a success and prevent a recurrence of the horrors of Nazi Germany.

Mr. President, I ask unanimous consent that there be printed in the Record the following statement from the Genocide Convention:

MEMBERS ORGANIZATIONS

American Baptist Convention.
American Civil Liberties Union.
American Ethical Union.
American Federation of State, County and Municipal Employees, AFL-CIO.
American Federation of Teachers, AFL-CIO.
American Friends Service Committee.
CONGRESSIONAL RECORD — SENATE
December 10, 1971

I opposed the bill in committee and on the floor of the Senate for two reasons:

First, because it represents the wrong response to our economic troubles. With a quarter of our plant and equipment lying idle and 5 million of our workers without jobs, the need is for increased purchasing power. Yet this bill does little to stimulate investment in the long run. Its investment incentives will not increase investment substantially in the near future.

Second, because it results in an enormous permanent loss of revenues to the Federal Treasury. If Federal expenditures for the next 10 years, the revenue loss is about $11 billion. This is totally unjustifiable since what the economy needs is a temporary stimulus. And of course the funds being handed over to the corporations will be unavailable to finance high priority domestic programs such as welfare reform and aid to education.

You recall, Mr. President, that last year I voted the OEO bill because of the child care section. One of the reasons he gave was the cost of this new program.

The choice of priorities should be clear: either cut the OEO program by $11 billion in 1972 so that automobiles can be a little cheaper and so that the corporations can be given the largest tax cut in American history, but we are unwilling to spend $5 billion a year of that to provide comprehensive child care.

But aside from this question of priorities, there is a somber warning in the budget forecast.

Treasury sources now put the deficit in the unified budget for fiscal 1972 at $30 to $35 billion. Even if the economy were at full employment, the deficit would be in the neighborhood of $10 billion. The tentative estimate for fiscal 1973 is for another full employment deficit of $8 billion.

Mr. President, the economy will be running large deficits even after it returns to full employment. We will have to find some new source of Federal revenues. There is already considerable speculation in the press that to meet this need, the Administration is preparing to propose a “value-added tax”—which is nothing more than a regressive sales tax.

Substitution of a value-added tax for a major part of the corporate income tax would represent a big step backward in tax fairness. Yet this may well be what we are headed for. In that event, we can look back on the Revenue Act of 1971 as the legislation that made a value-added tax inevitable.

It should be emphasized that our fiscal crisis is not due to new programs. We will have to find the same overall tax increases that we did last year. We will have to find a large deficit at full employment simply by continuing with our present programs.

Yet the administration has ambitious plans for new initiatives. The effort to raise the welfare program will cost at least $5.5 billion more; revenue sharing will be at least another $5 billion. And now President Nixon says he is prepared to spend “a great deal of money” to make schools less dependent on local property taxes.

Many of these proposals are highly desirable. Welfare reform should be of the
CONFIDENTIALITY OF TAX RETURNS

Mr. MATHIAS. Mr. President, I am very much pleased that the conference on the revenue bill agreed to retain a modified version of my amendment to protect the privacy of taxpayers. This amendment will prevent the unneeded use or disclosure of the information furnished by taxpayers to tax preparation firms. This is an important step forward in securing the confidentiality of this very personal information and protecting American taxpayers from embarrassment, harassment or other unforeseen consequences of the often necessary act of seeking assistance in filing their tax forms.

The conference language on this matter is in some respects even more comprehensive and tighter than the original language approved by the Senate. My original amendment prohibited any use or disclosure of information from tax returns without the taxpayer's consent. The conference version prohibits such use or disclosure under any circumstances and provides for a logical exception that information provided for a Federal return may be used for the preparation of State and local returns.

The conference version does amend the Secretary or his delegate to make exceptions to this prohibition by regulation. Given the sweeping language of the provision, I believe this clause is appropriate—so long as it is used very sparingly.

For example, it was certainly not my intent, nor, I believe, the intent of the conference, to prohibit a firm in the business of preparing tax returns from tacking its services upon consumers or clients as part of an ongoing business relationship. It would be quite proper, in my view, for such a firm to communicate with its customers to offer them continuing basic the same types of tax preparation services which the firm had provided in past years. The regulations to be published by the Secretary should specify that this type of communication is prohibited, and I intend to urge the Secretary to issue temporary regulations to this effect without delay.

On the other hand, I will also remind the Secretary that one of the considerations prompting me to offer this proposal was the possibility that tax preparation firms with access to computer time might be tempted to use taxpayers' financial histories for other purposes, such as the marketing of other types of financial services. Another danger which I foresee was that the names and addresses of taxpayers in various income brackets could become the basis for potentially lucrative insurance businesses if the selling of this information were not banned. The language of the conference report precludes such invasions of individual privacy, and is a long step toward insuring that the relationship between a taxpayer and tax preparation firms will really remain a confidential one.

CHRISTMAS CHEER FROM NEW HAMPSHIRE'S WHITE MOUNTAIN REGION

Mr. McIntyre. Mr. President, no one who has driven the Kancamagus Highway through New Hampshire's unsouiled White Mountains National Forest will soon forget the experience. It is a region of breath-taking beauty that runs the length of the road revealing a vista of snow-capped peaks and verdant valleys.

It was Daniel Webster, Mr. President, who wrote so many years ago of men hanging out their signs indicative of their respective trades; shoemakers hang out a gigantic shoe; jewelers, a monster watch; and the dentist hangs out a gallon tooth brush; up in the mountains of New Hampshire, God Almighty has hung out a sign to show that there He makes men.

Mr. President, New Hampshire is justifiably proud of her White Mountain region and proud, too, that its peaks and streams and ponds are accessible to all through hiking trails, camping and picnic spots and roads like the Kancamagus Highway which open up its majesty for all to see.

This year New Hampshire is proud that a bit of itself—in the form of a 45-foot black spruce—has come to Washington to brighten the Christmas season as our Capitol Christmas tree.

The tree was cut in North Conway, N.H., on December 1—a ceremony well attended in that north country community. The tree even received a musical sendoff for its journey to Washington when the Kennett High School Band of Conway, turned out in skiing attire to lead the community in singing Christmas carols.

The same high school band will be on hand here in Washington when the tree is officially lighted next week. Led by Mr. Michael R. Hathaway, a graduate of the Kennett High School of Music, the band will play both at the ceremony and earlier in the day in the Rotunda of the Old Senate Office Building.

That ceremony on December 15 at 5 p.m. will also be attended by Miss Judy Hunter, of Concord, N.H.—a member of my staff who has been chosen by the New Hampshire State Society to represent our State in the Cherry Blossom Festival next April.

The ceremony will also give us the opportunity to welcome to Washington Mr. Robert R. Tyrrel, Forest Supervisor, U.S. Department of Agriculture Forestry Service, who will represent the White Mountains National Forest.

Mr. President, the tree has safely arrived in Washington under the super vision of Mr. Martin April, national accounting in the Hemingway Transport Co., and it is now being prepared for its debut next week. Making certain it received tender, loving care on its trip from New Hampshire were Rob ert, B. MacHieff of Gilford, N.H., and Everett A. Houston, of Laconia, both representing the Forest Service.

I urge Senators to get into the Christmas spirit on Wednesday next, when our Capitol tree will be officially lighted. New Hampshire may not be known for its warm weather at this time of year, but it is proud to send warm and cheery holiday greetings to the Nation's Capital.

ONE CHILD A VICTIM EACH DAY

Mr. PEARSON. Mr. President, as the distinguished Senator from New Mexico (Mr. Montoya) said yesterday, it has been almost a year ago to the day since Congress passed the Poison Prevention Packaging Act of 1970. The law, if enforced, would have put an end to most of the suffering of children and the families due to accidental poisoning.

Safety closures have been tested in a governmental hospital in Tacoma, Wash., and significant numbers of them have been patented and are available—if only we would use them.

Mr. President, if a 2- or 3-year-old child accidentally swallows furniture polish, pesticide, dishwasher detergent, aspirin, or the like he may suffer caustic and permanent internal injuries. In fact, some of these products have been poisoned and at least one child each day has died from swallowing these hazardous household substances since Congress passed the law.

H.E.W. took 4½ months just to pick a technical advisory committee to determine which products were dangerous enough to require safety closures. And during the past year, as Senator Montoya noted, this committee has met only twice.

Mr. President, many Members of Congress, in addition to concerned individuals in the press, consumer groups, and even industry have urged H.E.W. to take affirmative action. But there is not a single safety closure on the market anywhere in the Nation today.

Because I helped write the bill and was a member of the House-Senate conference on it, I have a personal knowledge of the need for the legislation and its enforcement.

Mr. President, I can be patient no longer. I urge the Secretary of Health, Education, and Welfare to put a stop to this inexcusable, bureaucratic footdragging and enforce this law.

THE NATIONAL COALITION FOR LAND REFORM

Mr. HARRIS. Mr. President, I invite the attention of Senators to the formation of a new National Coalition for Land Reform. The chief goal of this organization, as expressed in its statement of purpose, is to achieve "a more equitable distribution of land in rural America." I support that goal, Mr. President, and I know of no issue of greater importance in rural America today than the misdistribution of our land.

All too often, when we talk about economics in this country, we concentrate on, as Ralph Nader calls it, the "paper economy," symbolized in dollar, credit cards, and stock certificates. We forget about the "real wealth" of America—which lies in the land. Mr. President, it is not too late to prevent the monopolists and speculators from taking control of
The Coalition for Land Reform, in particular, these goals are:

- Enforcement of acreage limitations.
- Application of antitrust laws to agriculture.
- Re-structuring of tax laws and subsidies to favor working farmers rather than large land and owners.
- New laws enabling rural Americans to acquire a proprietary interest in their local economies.

Mr. President, I ask unanimous consent that the coalition's full statement of goals, which I read earlier along with the announcement of the coalition's formation and a coalition statement entitled "Land, Jobs, and Ecological Survivial."

I also ask unanimous consent to have printed in the Record an article on land reform, written by Mr. Peter Barnes for the December issue of the New Democrat.

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

**NEW NATIONAL ORGANIZATION TO WORK FOR LAND DISTRIBUTION**

The National Coalition for Land Reform will hold its first meeting at 9:30 am, Thursday, December 2, 1971, in the California Room (mezzanine) of the San Francisco City Hall, 609 Market, San Francisco. Speaking for the NCLR will be Robert Browne, director, Black Economic Research Bureau, San Francisco; small farmer, Sanger, California; David Talavante, director of the Tri-County Economic Development Foundation; and Gerald Meral, West Coast director of the Environmental Defense Fund. The meeting will discuss the plight of small farmers being squeezed out by giant corporations. Mr. Talavante will discuss the efforts of Mexican-American agrarian workers to acquire land. Mr. Meral will speak about the environmentalists' concern for prudent rural land use.

**SAN FRANCISCO—** A small farmer, a black economist, a Mexican-American cooperative, and an environmentalist today announced the formation of a new National Coalition for Land Reform.

The chief aim of the coalition is to bring about a more equitable distribution of land, wealth and power in rural areas. To this end, the coalition will: (1) develop policies which favor large landowners and corporations, and seek new policies making land available to those who work and live on it.

Berge Bulbubull, a small grape grower from Sanger, California, said the new coalition represents the historic fact that blacks, chicanos and whites have joined in a common effort to promote a democratic distribution of land.

Present government policies, Bulbubull said, are well symbolized by President Nixon's nomination of Earl L. Butz, a director of several agrisciences corporations, to be Secretary of Agriculture. These policies aid large agricultural corporations at the expense of working farmers, foreclose the opportunities of rural Americans into overcrowded cities, add to unemployment and welfare costs, and lead to a kind of rural and urban drift.

The increasing concentration of land in the hands of giant corporations is particularly deadly, Bulbubull said. Here, according to a report last year by the University of California Agricultural Extension Service, more than 560 million acres of farmland are controlled by only 40 corporations. Some of these corporations, such as Tenneco, Standard Oil and the Southern Pacific Railroad, hold hundreds of thousands of acres, often in violation of the law. They have long succeeded in using tax laws to receive enormous subsidies and tax breaks against which the small farmer cannot compete.

These corporate landholdings, Bulbubull said, should be broken up and redistributed to working farmers. In particular, the 160-acre limitation on the 1992 Reclamation Act should be enforced.

Robert Browne, director of the Black Economic Research Bureau, noted that the acreage operated by blacks in the South declined by 40 percent during 1969. Most of these former farmers and sharecroppers moved to northern ghettoes, where few opportunities awaited them. And the migration still is going on.

"It is of utmost importance that these descendants of slaves, these families which have never had anything of substance since their arrival in North America hundreds of years ago, be afforded a means to acquire land and to enjoy a modest degree of independence, whether on plantation masters or federal doles, is not a sound basis for self-reliance."

Browne advocated a revival of the concept of the Homestead Act and the transference of 160 acres of a rural land bank. "This would be a far more reasonable way to deal with rural poverty than is welfare. It is demonstrably cheaper than continued migration with its inevitable costs in human and urban deterioration."

David Talavante, director of the Tri-County Economic Development Foundation, which is organizing a farm workers' cooperative near Modesto, California, said farm workers throughout the country are struggling to own the land on which they work.

"Farm workers know as well as anybody how to buy and live on the land. They have been doing it for years. There is no reason why the profits from farming should go to large landowners and corporations, while those who actually do the labor receive wages of 82 an hour or less, and must go on welfare for many months of the year."

Citied the growth of the Cooperative Compania in Watsonville, composed of former farmworkers and sharecroppers who are now joint owners of a very successful strawberry-growing enterprise.

Sheldon Greene, general counsel of California Rural Legal Assistance and legal advisor to the new coalition, said that the land monopoly has long been considered a major impediment to democracy and social justice. America's greatest national treasure, the land itself. But we have got to act now.

We have got to develop a national land policy that considers people, not corporate profits, as its highest priority. To begin, Mr. President, we must make small-scale farming economically viable so that we can stop the tragic outrunmigration from rural America to our already overpopulated cities. In fact, Mr. President, we have got to reverse that trend and give the economically disadvantaged the access to productive land ownership. This means it simply means that we have got to stop subsidizing the unnatural bigness in agriculture which so many now deem inevitable. Bigness is only inevitable. If we cannot do this, we subsidize bigness in agriculture throughout in infinite. In the process we will produce giant corporations with a constant source of cheap labor. We subsidize bigness in agriculture through a public research lab—the land-grant college system—which too often primarily serves agribusiness. And we subsidize bigness in agriculture through a billion dollar water subsidy which many corporations receive through irrigation water while violating the law limiting such land ownership to 150 acres.

Mr. President, if these giant corporations are so efficient why is it that the taxpayer has to continue subsidizing them? The fact is that they are not efficient—except in tapping the Federal Treasury.

The principles behind our national land policy ought to be that land should belong to those who work and live on it, and that the farm size should be reasonable size. These are not radical proposals, Mr. President. They have been recognized as the days of Thomas Jefferson. This has been the base legislation in the form of the Homestead and Reclamation Acts on these principles.

The case for land reform is a strong one. We have got to end the cycle of overcrowding, unemployment, welfare, and crime in the cities. We have got to revitalize a dying rural America. And we have got to protect resources that would be lost if we do not. These are issues which can create a new generation of free Americans by making economic democracy a reality in this country. Too many people, whether they work for Government or corporate bureaucracies, feel they have no power over their own lives. We have got to give them the opportunity to change that, Mr. President, and achieve the land ownership is one way to do that.

Land is unique among other sources of wealth in this country. It is a national resource, and it is not unlimited. We have got to protect it and make sure that its use is for the benefit of all Americans, not just a powerful few.

I endorse the goals of the National
December 10, 1971

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work closely with public officials, labor unions, minorities, environmentalists, small farmer organizations, consumers and public interest groups in building a nationwide lobby for land reform and prudent rural land use.

STATEMENT OF AIM

The National Coalition for Land Reform brings together citizens and organizations from all sections of the country who recognize the need for a more equitable distribution of land in rural America. Coalition members believe that ownership of land is not a simple right and that the current system of privatization and speculation is not sustainable. They believe in fair and just land policies that support the needs of all Americans.

Through educational, legal and political action, the NCLR seeks to:

- Assure existing small farmers a fair return for their labor, land and resources.
- Encourage agricultural cooperatives.
- End corporate feudalism.
- Help financial institutions more responsive to working farmers and the rural poor.
- Protect our own businesses and rural economic development under local control.
- Preserve open spaces and diminish use of toxic chemicals.
- In particular, the NCLR seeks—
- Enforcement of acreage limitations.
- Application of antitrust laws to agriculture.
- Restructuring of tax laws and subsidies to favor working farmers rather than large land and industrial interests.
- New laws enabling rural Americans to acquire a proprietary interest in their local economies.

LAND, JOBS, AND ECCOLOGICAL SURVIVAL

(Some selected quotes)

Thomas Jefferson: "The small land holders are the most precious part of a state."

Homestead Act of 1862: "No individual shall be permitted to acquire title to more than one quarter section [160 acres]."

F. E. McQuade, General Counsel of the U.S. Reclamation Service: "The purpose of the Reclamation Act is not to irrigate the land which now belongs to landowners; it is not to make small farmers out of the men and women who now have small farms; it is not to make these men wealthy, but it is to bring about a condition whereby that land shall be put into the hands of the men and women who now have small farms."

Oren Lee Staley, president, National Farmers Organization: "The farm population is fighting to save the family farm system that has given this country unbounded wealth. And it is losing free men."

Washington Post, Oct. 5, 1971: "The domination of what is left of rural America by agribusiness corporations is not only accelerating the migration patterns of recent decades, but raises the specter of a kind of 20th century agricultural feudalism in circumstances that resemble feudalism."

Geoffrey Fieger, Farm Aid Organization, Center for Community Economic Development: "Unequal distribution of land and resources under a largely absentee ownership...renders helpless not just the poor, but all parts of rural society. Even where skilful men of good intentions have tried to help, they cannot make the changes needed because rural communities themselves are in bondage to corporate power."

- "The LCDC report is in the best interests of International Paper to tax itself for better housing in Maine, or for Georgia Pacific to concern itself with schools in Harlem."

- "Regis to worry about poor black sharecroppers in Jefferson County, Mississippi."

- "The problems of rural America and central city America are closely linked through migration. The senseless loss of young urban blacks to the distant rural frontier in our central cities provides no solution to the problems of rural areas or of the cities."

- "Community Change: "When tens of thousands of scientists and skilled engineers [at Lockheed]...are the producerists...their fellow workers in industries like shipbuilding, steel mills, and coal mining...are threatened with loss of jobs in agriculture, scarcely a voice is raised."

Barry Commoner, Director, Center for the Biology of Natural Systems: "Agriculture is founded on several technological developments, chiefly farm machinery, genetically improved crops, herbicides, inorganic fertilizers (especially nitrogen), and synthetic pesticides. Much of the new technology is hazardous and predictable; agribusiness is a main contributor to the environmental crisis."

Victor K. Ray, National Farmers Union: "In Colorado, workers have been taken away from family farms. It is now a corporate operation, controlled by packers. In the Denver meat markets, over the last two years, the supermarket price of beef has fallen from 29 to 21 cents a pound, thereby putting independent small packers and farmers out of business. The consumer get the benefit of these lower prices? Not at all. The price of beef in the supermarkets never went down. Indeed, on some days when the price of beef was high, the price of beef at the counter actually went up."

Ralph Nader: "What is happening to California? It is happening all over Florida, the Southwest, the Northwest, and other developing areas of our country. It is the utter disregard for the integrity of the land and its people."

Pete D. du Pont, Wilmington, June 19, 1971: "Many citizens and public officials are coming to realize that rural America ought to be revitalized, salvaged, welfare rolls reduced, and they see that the basic policies aimed at achieving these objectives are not working. Environmentalists who say years ago that we have got to have intensive agriculture and the need for prudent rural land use, are finally getting an audience. The list of organizations that have recently urged vigorous enforcement of the 160-acre limit [of the 1902 Reclamation Act] includes the AFL-CIO, the Sierra Club, Common Cause, the National Education Association, the Grange and the National Farmers Union. That's not enough to sweep Congress off its feet, but it's a good start."

[From the New Democrat, December 1971]

A NEW LANDOWNER

(Prepared by Peter Barnes)

Not long ago the Bureau of the Census published its latest statistics. The number of poor Americans in 1970, it reported, was 25.5 million—more than the number in 1960. The incidence of poverty was particularly high among farmers, where 19 percent of farm families and 10 percent of non-farm families were earning less than $4,000 annually.

These statistics come as no surprise to anyone who has travelled through the small towns and hamlets of rural New England, central California or the South. Yet they should cause all of us—particularly Democrats—to sit up and take notice.

We applauded the ringing promises of Lyndon Johnson to build a Great Society, and the pledge of Richard Nixon to deliver out poverty by 1976. But something went wrong—something more fundamental than the election of Richard Nixon. Despite billions of dollars by the federal government to improve social programs, despite the longest uninterrupted period of economic growth in America’s history, millions of people are living in poverty, trapped down to poor people, least of all to the rural poor.

We didn’t get it right, or rather was wrong from the very beginning, was the basic assumption that poverty in affluent America is a social, cultural, racial and geographic problem. This assumption underlies the various anti-poverty and regional development programs of the 1960’s.

The failure of these programs makes unmistakable what should have been recognized long ago: that poverty in America is above all an economic problem, a result of flaws in the distributive system that prevent the nation’s vast productive wealth from being distributed fairly among all Americans.

These flaws can perhaps be boiled down to a few short sentences: wealth in America flows to those who own capital and land, and to those who control our industries; poor Americans do not own anything that produces income, and are not employed in industries where there is any meaningful production. In short, they are being squeezed out of the economic marketplace, are much more widely distributed.

Let’s look again at rural America. Not only did poverty fail to disappear in the 1960’s; the economic conditions necessary to make poverty disappear actually worsened. Thus, the number of independent farm owners decreased dramatically, while the accumulation of land by giant corporations markedly increased. By the end of 1970, nearly 10 million persons had been economically excluded from rural areas to the slums and barrios of our cities. The collapse of the price of world on poverty, in other words, the total impact of federal policies in rural America was actually to create more poor citizens.

RURAL AMERICA

Tax laws, credit policies, water subsidies and labor policies also distanced the rural poor from the economic mainstream in some parts of the country in a form of social and economic organization that can only be described as corporate feudalism. This form of social organization, if allowed to persist and expand, will not only perpetuate a kind of serf-like status for millions of poor Americans. It will also hasten the demise of small town businesses and the run-down of middle-class communities, which are the foundations of rural American communities as well as the community itself. Yet, we cannot say that the communities themselves to far-off corporate board rooms, and cannot remain the foundation of rural America along democratic lines.

What should the Democratic Party do? It should promote the quick enactment of a comprehensive program for land reform. The guiding principles behind this program should be these: land should belong to those who work and live on it, not to those who own reasonable, not feudal proportions; and small-scale farming should be made economically viable.

These are not revolutionary concepts, nor are they alien to the Democratic Party. They are the principles of Jefferson, Jackson, Bryan and Roosevelt. They were recognized in the Homestead and Reclamation laws, and have been advocated for the United States upon Japan, South Vietnam, the
dzens of other nations in Asia and Latin America.

A comprehensive land reform program should include at least the following principal elements:

1. Abolition of the 160-acre limitation in reclamation areas by federal purchase and resale of excess landholdings. Legislation to this effect has been introduced by Senators Fred Harris, Representatives Robert Kastenmeier, Jerome Waldie and others, and been endorsed by the National Farmers Union, the Sierra Club, the National Education Association and Common Good.

2. Establishment of appropriate acreage limitations for landholdings outside reclamation areas. The size of the acreage limitation would vary with the type of crop, the type of land owned or controlled by a single individual or corporation in excess of the appropriate acreage limitation would be subject to a federal excess land tax. Revenues from the excess land tax would be used to help poor persons acquire land.

3. Vicious application of existing antitrust laws to agriculture and enactment of new laws barring vertically integrated conglomerates from farming.

4. Restructuring of tax laws and subsidies to favor small-scale rather than corporate farming.

5. Greatly increased credit and technical assistance for agricultural cooperatives.

6. New laws assuring small farmers and cooperatives the right to form cooperatives for their greater power in the economic marketplace.

7. The long-term benefits of land reform would be so enormous as to defy simple categorization. Racial tensions would be eased; urban overcrowding would be reduced; jobs would be preserved and created; welfare roles would be reduced, and workers from their work would diminish; more citizens would enjoy economic independence; the environment would be protected and democracy strengthened.

8. Politically the issue of land reform can be a powerful asset to the Democratic Party. It can appeal to working farmers, urban labor blacks, browns, young people and ecology-minded suburbanites. That is exactly the kind of constituency the Democratic Party must put together if it is to be a progressive force in the 1970s.

9. JETS TO ISRAEL

Mr. GURNEY. Mr. President, I read with great interest the newspaper reports in the December 7, 1971, issue of the Washington Post indicating that the U.S. Congress has authorized a resupply of 12 to 18 A-4 Skyhawk attack bombers by late 1972. This is encouraging news but it represents only a small step in the right direction. Israel needs jets now—not a year or two from now. And they need our supersonic F-4 Phantom jets—as well as more of the smaller, subsonic A-4 Skyhawks—if they are to hold their own against the increasingly belligerent powers, particularly Egypt.

Failure to provide Israel with military hardware adequate to meet the increasing threat will not reduce the possibility of a future strike. Rather, if Egyptian President Anwar Sadat translates his recent statements into action, it can only make war more likely. It is becoming increasingly apparent to both the Arabs and the Israelis that for is a sufficient military superiority—and they will decide what is sufficient—to crush Israel. We cannot permit such a breach in our satellite relationship. We must constantly fight for its very survival—to suffer such a fate. Defeat would bring death and misery to the brave Israeli nation, and in the process, shame the United States for not living up to our stated intentions.

If we look briefly at the relative military capabilities of the Israelis and the Arabs, it becomes evident that the military balance of power is shifting toward the Arabs. In recent years the Arabs have received large shipments of Russian equipment including the new MiG-23 Foxbat, generally considered to be the best fighter aircraft in the world. According to a report by J. H. Wray in the Institute of strategic studies in London, one which does not include the Communists most recent missile and aircraft deliveries, Egypt now has approximately 668 aircraft. Of these 22 are MiG-17 fighters, 110 are SU-7 fighter bombers, 200 are MiG-21C fighters, and 156 are Soviet-operated MiG-21J and MiG-23 attack planes. Against this, according to the report, Israel has but 147 first-line attack bombers—75 F-4 Phantoms and 72 subsonic A-4 Skyhawks—and 60 fighters—the French-built Mirage jets. In the 75 average French-built jet fighters, the 85 subsonic light attack planes and six reconnaissance jets, the unfavorable balance is far from redressed. One must consider, however, that the United States has delivered 414 Soviet-built jets in Syria, the Sudan, Iraq, and Algeria plus the Mirage jets presently being delivered to Libya. Looking at the overall air picture, we see that Israel has 377 planes—a number compared to 1,468 for all the Arab nations, an adverse ratio of precisely 4 to 1.

On the ground, the statistics are not much more encouraging from the Israeli standpoint. While the armed services of Egypt and Israel are roughly the same size, Israel has to deploy them on five borders while Egypt can mass her armies along the Suez Canal. Similarly, the Egyptians have more surfaces to fear missiles, more tanks, and more artillery than Israel, and we cannot forget the estimated 20,000 Russian advisors in Egypt, including 2,000 who stand ready to assist. In short, the only way the Israelis can compensate for their numerical deficiencies in men and equipment is through air superiority and greater overall armament. Israel's air superiority, once demonstrably evident, can no longer be taken for granted thanks to the Soviet Union. If the balance of power in the Midwest is to be maintained, it becomes us to make the Phantom jets that Israel needs available to her—and to do so quickly.

We often hear the argument that intangible factors—high morale, better training, etc.—will enable Israel to overcome the disadvantages I have just outlined. If the situation were to remain static, perhaps such a thesis make sense. But the situation is anything but static. Every time Egypt receives more Russian equipment while the Israelis get nothing, it grows worse. One has to wonder just how far a country can go without it, discipline, determination, and morale. Still, the "intangibles" argument is not entirely without merit, for the Israelis are a determined people. They have the will to fight for their freedom; what they need is the military hardware necessary to do so effectively. By giving them the Phantom jets they desperately need, the United States not only honors its commitment to Israel but reinforces its reputation that a nation has a right to free—a right to determine its own destiny independent of foreign intervention.

It is a clear case of doing what the President has previously suggested—helping nations who will help themselves. We are not sending American troops into battle and we are not committing ourselves to fight another nation's war. That is not what the Israelis want from the United States. Rather, experience should have taught us something about the problems involved in trying to be the policeman of the world. By giving Israel the necessary hardware without American troops—we can most effectively help restore the balance of power which is so essential to preserving the peace in the Middle East and laying the foundation for meaningful negotiations.

There are other powerful arguments for getting the Phantom Jets to Israel. First, if the Israelis come to feel reasonably secure, through restoration of the balance of power, it will enable them to be more, rather than less, flexible in any subsequent negotiations. It seems only logical to me that a nation will have a longer list of nonnegotiable positions when the very existence of that nation is threatened. Second, the Arabs may come to realize that they will not be able to achieve the superiority they want, and will therefore be deterred from attacking and be more willing to negotiate. And third, the Soviet Union might just recognize that shipping arms to the Midwest will not achieve the strategic gains they envision. We have been previously that the Soviets are quite willing to replace lost equipment if it is in their interest; why should we doubt that they would be reluctant to sacrifice more if, as some believe, they might dramatically increase their power and influence in the Midwest. They might think twice, though, about sinking more men, equipment, and money into the area as they no longer await Arab success against a strong Israel looked bleak.

Let me suggest, in closing, that the old bromide about "an ounce of prevention" is most appropriate to this situation. Our commitment to Israel is clear is as Israel's need for our Phantom jets. The Senate has previously recognized the urgency of the need and depth of our commitment. On May 26, 1970, 76 Senators voted the Secretary of State about sending jets to Israel to maintain the balance of power. On July 30, 1970, 73 Senators voted the President the similar vein. Last October 15, 78 Senators introduced a resolution—No. 177—to the same effect, and on November 23 we passed, by an 62 to 14 vote, an amended version of the defense appropriations bill which provided for $500 million "to enable the President to finance sales, credit sales, and guarantees of defense articles and defense services to Israel."

Now the $250 million was specifically earmarked for Phantom aircraft. Now we hear that a small shipment of jets will be sent to Israel late next year. This is a hopeful sign, but it is not enough and
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we must make clear that it is not enough. The freedom of Israel and the cause of peace in the Mideast and, indeed, in the world are at stake. We must act now—by allowing Israel to get the airplanes she needs—in order to fulfill our commitments to a free Israel and to world peace.

Israel has no desire to fight a war. But should war come, Israel is not asking for us to come to her aid. Israel is merely asking for equipment which will allow them to remain free and help keep the peace. We must not only tell them yes, but we must tell them now.

WELFARE REFORM FACTS: WILL PRESIDENT NIXON ANSWER THIS LETTER?

Mr. HUMPHREY. Mr. President, I have recently received a copy of a thoughtful letter sent by Darryl Meyer, director of the Murray County Family Service Center, St. Marys, Minn., to the President of the United States.

The letter points to one of the problems in the welfare reform debate that has concerned me—the lack of sound planning in the President's welfare reform program. I am certain that we do not completely know what the effects of various public assistance programs are on recipients. And we seldom have empirical data on which to base difficult policy decisions.

It is for this reason I am extremely pleased that the Joint Economic Committee's Fiscal Policy Subcommittee, of which I am a member, has begun an in-depth 2-year study of the interrelation of public assistance programs. I eagerly look forward to guidance of this committee study. This is the kind of study that can provide answers to many of the questions raised by Mr. Meyer.

In the meantime, I do hope that the President will personally review Director Meyers' comments that "our country's haphazard approach to a problem that is killing the welfare system as certainly as if we were being deliberately planned" is true.

I am confident that the two letters be printed in the Record.

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

MURRAY COUNTY FAMILY
SERVICE CENTER,
Senator HUBERT H. HUMPHREY,
Senate Office Building,
Washington, D.C.

Dear Mr. HUMPHREY: Attached is a copy of a letter which I felt compelled to write to the President. It does seem to me that it is time that this system quit its approach of trying to operate in something of a vacuum and rather become a part of the general community in which it exists.

Very truly yours,

DAIRYL MEYER, Director.

MURRAY COUNTY FAMILY
SERVICE CENTER,

RICHARD M. NIXON,
President, U.S.A.,
White House,
Washington, D.C.

Dear Mr. NIXON: I am writing this letter out of frustration at continually seeing various political leaders, taxpayer organizations, etc., tout portions of the overall community continuously berate the recipients of public assistance—usually labeled "welfare." I become especially disturbed at seeing public officials degrade the assistance beneficiary, with the inference that "welfare problems are people problems.

It would seem apparent that it is time to develop meaningful data correlating the effect of other system problems and other organization input upon the scope of the public welfare system. I can find no data on the effect of various union strikes on their states' welfare cost. What will be the effect of the recent Supreme Court decision in Oregon, in which a State Court has held that a woman cannot be required to pursue necessary legal action to obtain support from a deserting father as an eligibility criterion for AFDC? What percentage of increases in public assistance expenditures are attributable to OEO outreach workers whose job is to instruct and direct persons in their right to assistance benefits? What forces are behind the perpetuation of the multitude of inequities in our myriad of public assistance programs?

Not only does the welfare system not have very many solutions, but there is no attempt made to explain these things to the general public. From the individual county up through the federal system, there is no program, by developing a pertinent public relations program or a method of obtaining community input which can be directed to the problem.

Perhaps because there are no nationwide responsibility standards for the public welfare agencies, there is no explanation to the general community as to the responsibilities of the local welfare departments. There is little publicity as to the public agencies responsible for preventing public assistance fraud, which is one of the major factors in the cause of public assistance programs.

It is with these thoughts and comments that I am writing this letter. I am certain that many will support it.

Very truly yours,

DAIRYL MEYER, Director.

ISRAEL'S DEFENSE CAPABILITIES

Mr. HUMPHREY. Mr. President, since the official announcement that the United States has decided to deliver 12 to 18 Skyraven jets to Israel, all the public pressure for delivery of Phantom jets has dissipated. While I find this latest announcement encouraging, it in no way affects its original request of the Secretary of Defense that the United States resume deliveries of Phantom jets to Israel. It is in no way an affirmative response to the amendment which specifically appropriated funds earmarked for Phantom jets, an amendment which 82 Senators supported.

I have become accustomed to Nixonsian silence in the past and have been reassured by his policy, and that the President is looking forward to a better strategy of building world peace. But, Mr. President, I maintain that under the veil of silence is confusion, ambiguity, and contradiction.

The President has offered no reasonable explanation for the delay in deliveries. I am not even sure the President has read his own "dramatic" rejection of the amendment, for if he had he would certainly realize that Israel's request is based on her desire to become self-reliant. With the additional Phantom jets, Israel would have secure air defense capabilities in case of an attack. By filling that request, the United States will be securing a military balance in the Middle East and providing Israel with the necessary capability that she needs to deliver a mixture of military supplies and especially the Phantom jets should not and need not be a matter of periodic controversy and need not be spectacular. Our policy requires consistent, credible statements by the President in any other manner, is to increase the anxiety and promote instability and uncertainty.

If the dogma of self-help has any relevancy, I would think that its high priest would endorse it. I call upon the President to announce the resumption of Phantom jet deliveries to Israel. Mr. President, I am sure you and your equivalents in the Cabinet are capable of monitoring the article from the Baltimore Sun on Israel's defense requirements and military status be printed in the Record.

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

GUNS "MADE IN ISRAEL" NOW COVER THE SUN (By Stanley A. Blumberg)

JERUSALEM—The Dove of Peace dreams unceremoniously over this holy city. Part of what sustains it is that Israel has learned to produce its own arms and weapons of war. Prior to the Six Day War, the Israeli defense forces depended on imported arms. Why not? Certainly their staunch ally, France, would fulfill its contractual obligations if it could deliver the planes and tanks. And truly England would continue to sell Israel its Centaur tank, and the United States would supply missiles and equipment, in some cases via West Germany.

Why worry? A series of crises preceding the Six Day War demonstrated how wrong Israel could be. Charles de Gaulle, miffed when Israel ignored his letters, moved to cut off arms. And an embargo on planes purchased and paid for. Then the United Kingdom refused to sell the Centaur, and Washington would not supply missiles and equipment. And limited quantities were delivered to Egypt, so the Israeli problem turned urgent.

As a result of the Six Day War, the military position was temporarily im-
proved. Prior to the war Israel had only minimal military transport. But, when action began, her soldiers were transported to battle areas by civilian trucks. Many a grocer and butcher surrendered his lorry to the army for the duration of the campaign. Then hurriedly, the Russian-made trucks came to hand. Abandoned Russian armor of high quality was modified and adapted to Israeli needs when it became part of the country’s arsenal.

Still, this hard-won advantage in military hardware was makeshift and of short duration. Before the long and hot season cooled, before the last Egyptian body in the Sinai had been buried, before the rust could oxidize the armor scattered in the desert, the Soviets re-equipped the Egyptian army and air force. Considering the new chill by Israel’s official and national security it seemed threatened.

The cabinet quickly responded with two basic decisions. One, this small, still developing country of two and one half million would design and produce all weapons from missiles to planes necessary for its defense. The second, the three-year stretching of the military-industrial complex. During the perilous transition period, too, they would attempt to produce and to assemble necessary arms and military imbalance. The French embargo was firm, the English refused to sell Israel its Century tank, the United States, with some Prime and sole source of planes and sophisticated electronic equipment. There have been few occasions when a whole people have been able to thrust their own defense. The building of weapons became a blueprint for survival.

What and how the Israelis succeeded, and how does this activity affect the chances of peace?

It can be deduced from current knowledge that this is approaching but has not reached a state of military self-sufficiency. It is estimated that over 26 per cent of her production is now devoted to defense or defense-related equipment. Her growing exports of metal products and high quality electronic equipment demonstrate an increasing capability in these fields. After Israel liberated her French-built fleet from French shipyards, the boats were outfitted in the Netherlands. They were equipped with missiles and electronic gear, designed and built in Israel.

But that the New York Times reported that Israel is developing a two-stage solid fuel missile with a range of 300 to 500 miles is confirmed. But the nuclear warhead, known as the Jericho. The Israeli aircraft industry has designed and built a fighter plane, modeled after the French Mystere, but larger. How close the craft is to the production line is classified information.

Israel’s increasingly independent military capability enables her, to a degree, to stand firm against pressures exerted by a well-meaning American Secretary of State, but her independence is not complete. She still needs the Phantom jets for military defense and also as a political symbol of America’s support.

Menachem Dayan warned that the American policy of denying Israel the planes it needs is encouraging the Arabs to war. This policy, he said, is the Arabs the same as we are getting weaker.” However, he went on, in case of renewed fighting the Arabs would suffer a “defeat worse than those they suffered in the past despite Soviet intervention on their behalf.”

It is believed here that the chances for renewal, however dim in the near future are slight, despite the mortal noises from Egypt. The possibility of peace would improve still further if the Nixon administration could no longer be persuaded into applying pressure on Israel.

INDIAN HOUSING IN OKLAHOMA

Mr. BELLMON, Mr. President, among the many critical problems facing American Indians is the lack of adequate housing. In my home State of Oklahoma, progress is being made to improve housing conditions of the Indian families through the implementation of various public housing programs.

One of the most impressive of these programs is the turnkey mutual-help tribes program. The family which supplies the land and labor and the Federal Government provides financial assistance.

An article in the August-September issue of the Journal of Housing reports on the successes being made by the Five Civilized Tribes of Oklahoma. I ask unanimous consent that the article be printed in the RECORD, as follows:

OKLAHOMA’s “FIVE TRIBES” INDIANS ARE IMPROVING THEIR LIVING CONDITIONS THROUGH PUBLIC HOUSING

(By G. Ronald Peake, Chief, Division of Housing Assistance, Bureau of Indian Affairs, Department of Interior, Washington, D.C.)

One of the most advanced public housing undertakings for American Indians—yet typical, with over 1,000 such units on Indian reservations—has been the program sponsored by the Five Civilized Tribes of Oklahoma. This program, which is specifically directed toward the improvement of living conditions for the 76,000 Indians in the Five Civilized Tribes area, has received the designation historically derived, going back nearly 180 years, and refers to the Choctaw, Cherokee, Chickasaw, Chickasaw, Cherokees, and Seminoles. A century and a half ago these peoples occupied the eastern and southeastern parts of the country and had developed their own systems of tribal government and a cohesive culture and society—hence, the term “civilized.”

But the white man moved into their home- lands and pushed them out. Their plea for protection were heeded by President Andrew Jackson. This legislation was enacted for their relocation westward on territorial land in what is now Oklahoma. In the 1830’s and 1840’s, although some pockets of the tribes remained, the men, women, and children moved in a mass migration, along what is remembered now as the “trail of tears.”

Fifty years later, in the early 1880’s, in the Oklahoma territory to settlement, the white man, again, caught up with them, and, again, began to take over the land. Under an allotment law, title of certain lands was awarded to the five tribes, most of it in individual family holdings rather than as a tribal domain. Unlike most Indian tribes who live in defined reservation or treaty areas, the members of the five tribes are to a large extent non-tribal, living in non-Indian population of the state. While the larger number is in rural or small town areas, frequently in ethnic colonies or communities, many live in Oklahoma City as a part of the general urban population.

Nonetheless, the tribes and their members still hold a unique status. Because none of the five tribes have been accorded the status of a reservation, the right of each tribe, formerly appointed by the President, is now elected. The tribal members, like other Indians, are beneficiaries of the educational, health, training, and other services and assistance extended through the Bureau of Indian Affairs. Although many are dispersed, the members congregate for tribal meeting and ceremonial and cultural affairs and carry on common functions through the tribal structure.

Many of the individual members have been able to achieve positions of success and prominence. As a result of oncoming generations and changes in land tenure, many now are land owners and have experienced severe disadvantage in the white man’s society. One of the manifestations of this situation is the group of Indian families who live inwretched housing conditions under which they live.

It was to correct this basic condition that the leaders of the “five tribes” turned to the newly developing public housing program for Indians. Since each of the five tribes is a separate governing and legal entity, each acted through its own authorities, but along parallel lines.

MAKING PUBLIC HOUSING WORK

The public housing approach began on June 18, 1965, with the passage of the Oklahoma Housing Authorities Act. This act provided for the creation of housing authorities for each Indian tribe, band, or nation, under the sponsorship of the tribal governing councils.

Most authorities were created immediately after passage of the act, each of the tribes, with the assistance of the BIA, began to take steps toward creating housing assistance. The Chickasaw and Creek nations completed organization of their housing authorities in 1965 and the Chickasaw and Seminole nations in 1966.

The housing authorities for the five tribes has been appointed on an Indian with tribal background, or non-Indian with a background in tribal administration, usually by the BIA. He is appointed for a term of three years.

As part of the organization work, the housing needs for the tribal nations were estimated by using United States census data and surveys that had been made by various government agencies during the past few years. It was appallingly to find that 10,222 Indian families from a total of 18,893 residing in the “five civilized tribes” area were in need of a safe, decent, and sanitary home that might eventually come from one of the various housing programs offered by the Department of Housing and Urban Development. In addition to the large number of new homes needed, it was determined that another 2,138 families were in dire need of loans to make necessary home repairs and renovations.

Upon completion of the organization period, housing authorities begin to accept and house large numbers throughout the “five civilized tribes” area. The meetings proved to be of great value in initiating the program and ascertaining the types of projects that would be most needed by qualified and interested families.

The major HUD programs in which the tribes are participating are financed under the United States Housing Act of 1937, as amended.

The conventional low-rent housing program makes it possible for the tribal authorities to borrow money and construct rental housing on sites approved by HUD, the United States Public Health Service, and BIA. Under the conventional program, the five tribes have been granted a total of 31 projects (394 units) under various stages of development. Of this total, 11 projects (245 units) have been completed and are in occupancy.

Two of the low-rent projects being sponsored by the Five Civilized Tribes are designed for the elderly and will be built as high-rise projects within the cities of Ardmore and Pauls Valley. Most other tribes are reporting progress on major programs in the near future.
Another HUD program the tribal housing authorities are participating in is the Section 23 leased housing program. The Chickasaw and Seminole housing authorities have developed a joint program, involving a total of 500 individual homes and other types of rental units located on scattered housing sites on the reservations. The units are leased from local owners on a long-term contract basis and, generally speaking, the units have been renovated or repaired to meet requirements and standards of the housing authorities.

**MUTUAL HELP PROGRAM**

The most popular program being utilized by the tribe is the tribe’s semi-public housing program, which is administered under a joint agreement with the housing authorities, HUD, the Indian Division of PHCS, and BIA. Under this program, the participant family furnishes the land on which to construct house units and about 90 hours of labor in the construction. HUD, through the Indian housing authority, provides the financial assistance for a turnkey contract. The developer, furnishing all materials and labor, is compensated by the public authority, under the terms of agreement. Before the developer receives a certification of his labor contribution, which, together with the value of the site, provides an equity totaling $1,500 for the family at the time of occupancy.

The participant pays a rent based on the family income, which is a certain percentage of the participant family’s income, or if the participant is self-employed, 10% of his net earnings. The tribe, however, is authorized, with the annual contribution from HUD making up the difference between rent and equity, to pay a salary to the developer for the entire period of the occupancy contract. Thus, the developer has a guaranteed income during the entire term of the occupancy contract. The developer is also responsible for the upkeep and care of the house, the tribe is responsible for tax and insurance payments, and the tribe is responsible for the payment of utilities.

**MUTUAL HELP**

But even with the public housing subsidy, the poverty of many of the Indians, as defined by the government, they could not afford even the minimal payment of public housing. To serve the need, a new project was formed under the Public Housing Program, the tribe’s semi-public housing program, and the existing program was extended to serve the tribe. The new project was based on the idea that the tribe, in providing a subsidy for both reservation and nonreservation Indian tribes in 26 states, spanning from Minnesota to Florida to California and Alabama.

**INDIAN HOUSING—A LONG-IGNORED NEED**

Probably the most neglected of the serious housing needs in the country over the years has been that of the American Indians. Although as a special group, the Indians have had federal support from the Bureau of Indian Affairs, they have not, as have other minority and ethnic groups, been beneficiaries of government low-income housing programs until the past decade. At the same time, the shocking low housing standards under which many Indians live have crippled economic opportunities for medical, and other programs extended for their improvement. Today, the tribe’s semi-public housing program is being carried out by 106 Indian housing authorities and is making major changes in the housing conditions throughout the nation.

The tribe has been fully engaged in the BIA 1970 survey report that 80,000 new units will be needed to provide public housing for the 90,000 Indian families in the country.

**THE HEALTH OF OUR GOVERNMENT AND OUR SOCIETY**

Mr. ALLOTT, Mr. President, the December 1970 issue of the Public Health Reports and timely articles which should be required reading for all Americans who are concerned about the health of our Government and our society—and who can distinguish between the two.

One article is by Max Ways, a member of the Fortune board of editors, and is entitled “It Isn’t A Sick Society.” The other article is by Prof. Robert H. Bork of Yale Law School. Professor Bork’s article is entitled “We Suddenly Feel That Law Is Vulnerable.”

Mr. Ways argues that American society is more healthy than our numerous critics realize. Professor Bork argues that one part of our public policy, our slippage, is more vulnerable and weak than most people realize.

These articles are not contradictory. In fact, they complement each other very well indeed. Each of these distinguished professors Professor Bork’s article—help explain why it is imperative that men of Mr. William H. Rehnquist’s caliber and personality should serve on the Supreme Court.

Mr. Ways believes that the cacophony of strident criticism of American society indicates that we are suffering from “a social hypochondria.”

We have achieved so much that the public’s expectations have been fevered; the more we accomplish the more we are supposed to accomplish, and the more our shortcomings are viewed as grave moral failures.

As Professor Ways says:

The idea of revolution, especially as developed in the French habit of thought, looks toward a postpublicity—tidying up, a consolidation, a new and stable order. On the other hand, the process exemplified by the T.A.C. in recent development for both housing and public health is called “logical” sequence. We have plunged into changes that, in turn, urgently require other changes—in life patterns, in life styles, in education. And these “successions” immediately generate the need for still other changes. We have to do our tidying up, our consolidation, but we can look forward to no point of rest, where we can say that the period of stress and change is over and we can settle down amidst new and better fixed institutions.

Faced with the need for the concurrent, rather than the competitive, handling of change and consolidation, the U.S. failure to keep its action in phase, frustration and frustration result. Perhaps a high incidence of those will turn out to be the normal, healthy condition of a society moving in the direction of greater freedom, diversity, and individuality. A man who has a higher pulse and respiration rate than one who is walking. But in the circumstances the situations described above, it is necessary to indicate abnormality or “sickness.”

In addition, Mr. Ways argues persuasively that many of our failings result not from moral callousness, lassitude, but rather from our carelessness about inessential things. That is, we use the Government for purposes that it is not well suited to serve, and we use parts of the Government—such as regulatory agencies—hasten to do things which, even if they should be done at all by
Government should not be done by those institutions of the Government.

Of this it is where Professor Bork's article is especially relevant. Professor Bork's theme is this:

Law has been upon troubled times. Along with the increasing government regulation and growing governmental intrusion, it is beset by malaise and self-doubt. Seeming strength and sensess weakness combine to make it seem that when the law claims to brood new domains of human life, yet the prestigious Association of the Bar of the City of New York stage a major symposium on the question, "Is Law Dead?" It is a time when young men and women are turning to legal studies in numbers greater than ever before, and when law students are less sure than ever before that their studies have meaning. It is a time when thoughtful men are concerned as rarely before with the need to uphold law against violence, and when scholars can maintain in public that it is wrong to try men for political murder. We look apprehensively toward a future in which the nature of law and lawyers in our affairs is still in a new day now almost impossible to discern. We suddenly feel that law is vulnerable.

Mr. President, I am particularly impressed by the connection Professor Bork establishes between the problems of the law and the policy of the Supreme Court during the tenure of Chief Justice Earl Warren. Professor Bork says:

One aspect of our unease may derive from our tendency to use law too much, to view it as an infinitely expandable carrier of societal policy and norms. Law is not an impenetrable barrier to any sort of social order. It has enormous capabilities, but when we ignore its limitations we damage law and place in jeopardy the freedoms that are essential. If it can control the activities of many in a serious danger of overreaching its capabilities, and may in fact already have done so. This may be symptomatic both of a symptom of social decay and as a likely cause of further deterioration in the social fabric.

It was also damaged law, and created disrespect for it, through our failure to observe the distinction, essential to a democracy, between law and policy. ... the Supreme Court has not only the power but the duty to say that, as a direct result of the Warren Court's reformist drive, the prestige of law has never been higher. The Court's confidence that the process of judicial decisionmaking is respected, and that the process is respectable, is a matter of great importance.

The admirers of the Warren Court, however, are less in love with law than with power, power to produce results they like. Implicit in the idea of judge-made constitutional law are the ideals of adherence to general rules, of consistency, and of intellectual rigor. These were qualities in short supply in the Warren Court's record. If that Court did indeed inspire the young, it was by virtue of the desirability of its ends with the legitimacy of means, perhaps to confuse the idea of law.

Mr. President, those who favor the trends Professor Bork deplores are now deplotting Mr. Rehnquist. They are aligning themselves with a doctrine of Judicial activism—not to say judicial franticness—which has never had a substantial following but which has been thoroughly discredited by the results of its application.

I would urge all Senators to pay special attention to these of Professor Bork's words.

We need more thought and greater sophistication about the kinds of issues and decisions that can profitably be referred to formal legal processes and the kinds that ought to be left to other processes. We are beginning to see that law is not a good medium for the control of government of men rather than of laws to be preferred. Sometimes, as in the case of employment discrimination, we may be willing to pay the costs of a civil law that brings into being a working instrument, and that we cannot use it effectivity if we assign it tasks requiring a scalpel.

A NEED FOR LADIES' FAIRE

In our society is overextended in yet another way: lawmakers and those who draft and pass laws that are complex and to the courts. In judicial institutions as in economic units, more problems of cost, of scale, of problems of optimal size and work load. The principle that some specialization is essential to effective work cannot be overemphasized. No other nation thrusts as many policy issues upon its courts as do we. In such varied as aspects of life as antitrust, labor relations, rules of the game, the courts are often the only branch of government. As a result, American courts are overloaded with broad and profound questions of economics, sociology, political philosophy, and history. They do not, it must be said in all candor, handle these questions very well. Very often they do not handle them as well as we would like. That is not surprising. No man or group of men can deal effectively with such a range of subjects. The result is that over the decades, our courts and the nation has been faced with a marked decline in judicial performances and, complex social policies are being deformed by the conflict in the very fabric of the country. The two fields that I know best, antitrust law and constitutional law, are in states of intellectual chaos. Few lawyers, or judges, or any collective professional groups of interest are in no better condition.

The lesson may be that a society cannot afford too many complex social studies. That some large body of laissez faire is required simply because regulation that might ideally be preferable will in fact, because of inapplicable, unenforceable or unenforced, turn to be worse. Or perhaps the moral is that we must require legislatures to be well endowed with the resources of knowledge. The more precise and clear, the more specific, the more restricted, the less the power of courts to interfere with, however good intentions.

As Professor Bork makes clear, Mr. Rehnquist will find kindred spirits in the current Court.

The present Chief Justice, Warren Burger, appears to be fully aware of the dangers of the misuse of courts. He has publicly worried that efforts to impose limits on social change have been "creating expectations that are beyond fulfillment." He has warned: "If there is any difference between the law and the public will, it is primarily on the theory that they can change the world by litigation in the courts I think may be in for some disappointments.... The case is that the public should be the law, the law is the law.

Mr. Rehnquist's new Court is unusual in that it is in a country like ours should be made. That is a legislative and policy process, part of the political system, and the judiciary has a very limited role for courts in this respect."

A PARTICULAR KIND MAY DIE

The Supreme Court, however, may not find it easy to draw back from the activist, legislative and policy role that it has adopted. For support of bringing to the courts claims that belong in the political arena is not the less powerful because it is deeply illegitimate. Various kinds of claims are working their way through the Supreme Court. They may in the long run may ultimately have to face them—suit seeking judicial determination of abortion statutes, the death penalty, environmental protection for the environment. The Court should refer many of these issues to the political process, even though that will anger groups who have been taught to hope for easier, more authoritarian solutions.

Mr. President, so that all Senators can profit from these wise articles, and so that they can have something instructive to read before the opportunity to confirm Mr. Rehnquist, I ask unanimous consent that these articles be printed in the Record.

Are these the concluding words of Professor Bork's article:

"The title of Professor Bork's article is "Politics & ACLU" and it appears in the December 1971 issue of the Yale Law Journal. Professor Bork, who is a member of the faculty of the Yale Law School, is particularly interested in the political aspects of the American Civil Liberties Union in the direction of a political pressure group.

The ACLU is currently celebrating its 40th anniversary. Its history is, in my judgment, largely one of constructive and positive contributions to our society. But as Professor Bork points out, the simple fact that the ACLU is gathering evidence that the ACLU is becoming an organization of the organization is only that those who share a fairly strict, and extremely limiting, orthodoxy.

"( ...)"

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Mr. Rehnquist's new Court is unusual in that it is in a country like ours should be made. That is a legislative and policy process, part of the political system, and the judiciary has a very limited role for courts in this respect."
To say that the U.S. is gripped by hypochondria is not to imply that, objectively, the social health of the U.S. is ill. It is, in many contexts the word "sick" is used as a synonym for "evil"; the society's basic patterns and institutions are suspected of precluding the good that is normally human. Both the medical profession and the public are aware of this. The science of the medical profession and the American society will be considered below.

Whether or not the sickness can be clinically defined, there is a high proportion of Americans today who feel some extraordinary degree of anxiety, ranging from queasiness to panic, about the health of society. This generalized sense that something is fundamentally amiss colors the way Americans now see any public event, opinion, trend or condition. It causes them to ignore or subordinate good news, while magnifying any information that can be read as a symptom of the social framework that sustains or threatens to undermine it, with a pervasive sense of desolation, the social state of mind, can have drastic consequences in the world of action.

The President of the U.S., for instance, can ignore the public's mood. Objectively, the condition of the domestic economy in August was far from desperate. But the White House's confidence and the confidence of the business world can be a determining factor in economic and political life, had to take into account the intermittent health of the U.S. - an anxiety that went far beyond the economy. Nixon's announcement of the new economic program was dramatic enough to stir Americans out of their anxiety. These ob- jections to the program are, in fact, as an economic program, but as a sort of shock treatment for the emotional depression.

In less public but perhaps equally important ways the darkening mood influences American behavior. Cooperation among people depends partly upon their degree of trust in each other. Even my un- fulfilled expectations for some individuals' effort and care, more, too, rest partly upon confidence in the milieu wherein they operate, in which the patient really is sick, who or what within it can be well?

Although current U.S. political, economic, and personal life is profoundly affected by the fact that the society is sick, the idea it self is not subjected to much scrutiny. Few commentators have stopped to prove that the U.S. is ill or even to define with precision what they mean by a "sick society". Professor Bishoff, who simply assumes that everybody knows the U.S. is sick, and goes on to present his own diagnosis of the assumed illness. Somebody else may answer that this diagnosis is wrong, that the patient really has a different disease. But seldom is heard a voice questioning the basis for this claim: the U.S. is ill.

THE NATIONAL JITTERS

This article, a dissent to the woeful assumption that the U.S. is a sick society, argues that the nation suffers from a subjective disease, social hypochondria. This dissenting opinion should not be regarded as optimistic or cheerful. In an individual, hypochondria can be a serious emotional disorder, stubbornly resistant to therapy. A standard medical reference note, moreover, that hypochondria can lead its victim to a preposterous "illogical neglect". In other words, a man can become so obsessed with his imagined illness that he will not do the things that are necessary to profit, and towards that best any normal life. Perhaps a nation, too, could jitters itself into an early grave.
mements that its critics of four decades ago deemed forever beyond its reach.

The "conundrum," which suggests more than enough, has crept into almost everybody's vocabulary to describe the first generation of capitalism, when whole populations are not at or under the line of poverty. The shame felt because of prosperity is as if a privileged group were eating fish and chips, with salt and pepper. In the last approaching normal weight, said, "Doctor, this disgusting obesity is killing me."

The graveness of the antibusiness indictment initiatives toward toward morals in Business, for a century accused of prolonging poverty by deliberately holding down productive capacity, the society's soul by pampering its body. Clothes are the marijuana of the people. Food is the opium of the people. Cars are the heroin of the people. Trips to Europe are the LSD of the people. Business is the pusher.

MAMMON ON THE CAMPUS

If jobs are less tolerant, calling for more initiative and judgment from the workers and for less blind obedience to authority, a less hierarchical style of management appears. The workers are members of the "American Dream for America's" to complain that the iron of disciplined obedience has been removed from the nameless worker, the public relations man since scorned by industry, then cries rise from the campus that Mammon is trying to corrupt the pure white bodies of intellect and art.

As people's expectations rise faster than their buying power, business is blamed for the gap of discontent. It is true that purchases often fail to give the degree of pleasure or the full satisfaction expected. Indeed, that the product is faulty or that it was advertised mendaciously. In other, and more frequent, cases, the purchaser did not carefully evaluate the product or his own priorities. Even where products live up to expectations, guilt drowns the enjoyment of customers whose ancestors from time immemorial lived in patterns of enforced frugality. In all these situations, blame tends to turn back upon business, the seducer.

The man who hates his work blames business. The man who loves his work frequently dissembles his feelings out of deference to convention. A kind of reverse hypocrisy appears in which almost everyone says he works only for money. It would be shameful to admit that the work itself or his cooperation with his colleagues, shocking to say he likes serving his fellow men who are what he does. According to the unanswerable, "public service" can only refer to what one does after business hours.

Tell all your associates that they are working only for material rewards and who then also profess to despise the material rewards as morally corrupting are bound to feel somewhat unclean and unhappy. This unhappiness is projected upon the business system as the site of social "sickness."

Beyond all this, there is in contemporary society a real, formidable, and novel problem of understanding the nature of power in our times. The staticizing responsibility for its use. Failure to understand the new structure of power is probably the main source of the social hypochondria that centers its complaints upon business.

The problem is—yet still the most neglected—truth about power today is that there's more of it and in more places than there used to be. The second truth is that the society's total power is still (and will always be) less than the power of the things. The third truth is that power is more and more widely distributed. So many more people and organizations can do so many more things, is now made possible with our help by the computer and with the physical environment. From all the new freedom of action arise new problems of social order. But few people see it that way.

Habit ingrained through centuries leads us to think that a few readily identifiable people control society. People, however, are more conditioned, the contemporary mind keeps groping for an Establishment, the haughty word of the prewar twenties, with its connotations of corruption. If anything is wrong (and, of course, plenty is wrong) with the society, then we tend to assume (1) that the defect persists because of some flaw in the character of the Establishment, and (2) that the Establishment centers upon the business system. The "sickness," then, is the tendency to think of the people where the stupid or wicked king used to be.

The first assumption leads to the reduction of very complex, many-sided problems—such as highway safety—to simple moral accusations against the wicked king, in this case the automobile industry. The subject of highway safety, which covers a vast terrain, includes wide and important areas that are almost incomprehensible to nontechnologists; it involves more areas that are boring still other areas, such as the drinking driver, that millions of drinking drivers would rather not think about. These arid or uncomfortable areas of research, such as the public relations thrill at the classical tableau of "the brave little man" pointing a righteous finger at a blandly indifferent driver, is saying, "There is the seat of the corruption."

The second assumption exaggerates the power that business has and the importance in the total structure. Business does, indeed, constitute the channel through which many of the new kinds of action flow into society. But such an analysis overlooks the social changes of recent decades—urbanization, mass prosperity, mass higher education, mass immorality and intimacy connected with the business system. These changes bring new problems and make old ones painfully visible. It is not surprising or, in itself, unhealthy that society says to business, "Since you can do so much, do better."

It is a sign of social hypochondria when critics, underestimating the intrinsic difficulty of many current problems, blame the moral decay of areas that are boring still other business for the fact that the problems are not yet solved. At this point, a lot of people start becoming sick, because society is sick because it is "business dominated."

VICE PRESIDENT EICHMANN

Two recent books are worth examining in this context because they set forth in some detail the charge that business is the seat of the society's assumed illness.

The Sick Society by Michael Tanzer begins by identifying four "clusters of problems." They are, as defined by the author: (1) Vietnam, as part of the more general issue of U.S. involvement in the underdeveloped world; (2) the gold and dollar crises that hinge on our relations with the developed world; (3) racial discrimination and black poverty; (4) the problem of malaise or alienation, particularly among youth and intellectuals.

These separate problems, says Tanzer, all have common "underlying economic roots and causes." The disease that produces these symptoms is an "occupation and control of economic life by large profit-seeking corporations for the benefit of the tiny upper-income elite that owns them." Tanzer expresses deep concern that the sickness, in "conspiracy theory" to the effect that a group of criminals can be made out of profit objectives to control American life. He thinks the four clusters of problems follow accidentally but not unpredictably from "the uncounctined activities of the business that one narrow aim: profit maximization."

In a sense, Tanzer's thesis is a standard attack on capitalist society, familiar during the last hundred years when thinking for a new examination. But if The Sick Society is taken as a symptom of the trouble that it purports to diagnose, then it is worth a second look. In Tanzer's analysis, people who work in corporations might want to use their jobs to serve humanity, the planet, other species, perhaps the entire solar system; but these others, represented by the four clusters, but they cannot do so because the sole permissible corporate goal is the maximization of the firm's profit.

The following passage indicates how Tanzer thinks the "corporate economy" hurts society and business:

"People cannot work in institutions whose activities differ from their personal desires without it being a threat to their whole being." An employee develops a mechanism for bridging the "gaps between his values and the actions of his corporation." These gaps between the corporation's and the employee's goals are, says Tanzer, reflected in the "widespread psychological alienation found within the corporation." To illustrate this idea, Tanzer refers to Eichmann, the Nazi war criminal, whose excuse was that he was only obeying orders. The employee against his own desires says, "Well, I only work there."

A tendency in modern thought, compound since Keynes, is the use of psychoanalytic language to argue a moral ascendency as a scientific conclusion. Tanzer, an economist, has no sooner denied any intention of calling corpora-
tions "sick" than he argues that the nation's and the world's suffering on the self-seeking of a tiny, powerful elite—and that the power of business is at the center of this suffering. By "the sick society" he—most others who use that weasel term—really means "the evil society."

Is it true, as Tanzer implies, that men are necessarily corrupted when they work in organizations whose activities "differ from their personal desires without it being a threat to their whole being?" If so, is it a fundamental psychological and ethical question that lies close to the root of social hypochondria?

Whenever two or three or twelve men get together for any purpose—whether it be maximizing profits or minimizing layoffs—differences will develop in the participating group; the group will move in a way that some members disapprove. If the group is a corporation, the result can be damaging; and frequently does—regain when he objects strongly to what the corporation does. But in other cases he may begin to appreciate the adjustment between his own values and desires and those of his fellows. This is true not merely in corporate life; it is true in playgrounds, on football teams, in government bureaus, in marriages, in research projects, and in monasteries. Adjustment to the desires of others can be damaging, but it is not necessarily a psychologically hurtful or alienating experience. On the contrary, it can be a path to maturity and personal growth.

If compromise for the sake of cooperation is not an unhealthy elsewhere, why should it be for business cooperation? Though profit maximization isn't an absolute evil, a cooperative goal, it is an important one. Cynically, maximizing a material gain is not the most moral way to profit can be made out of profit motives but it is not the most degrading aim, either. A century that has seen much evil done for reasons of "profit" can be made out of profit motives but it is not the most degrading aim, either. A century that has seen much evil done for reasons of "profit" can be made out of profit motives but it is not the most degrading aim, either. A century that has seen much evil done for reasons of "profit" can be made out of profit motives but it is not the most degrading aim, either. A century that has seen much evil done for reasons of "profit" can be made out of profit motives but it is not the most degrading aim, either. A century that has seen much evil done for reasons of "profit" can be made out of profit motives but it is not the most degrading aim, either. A century that has seen much evil done for reasons of "profit" can be made out of profit motives but it is not the most degrading aim, either.
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A HEALTHY SOCIALISM, HE SAYS

Tanzer has a different solution. Indeed, when he gets around to discussing prognosis and therapy, he finds his book becoming morbidly moderate as if he had lost the intense emotional concern that carried him through his dire diagnosis. Sick though he says it is, it is not, he concludes, a case for U.S. medical treatment. It is not necessarily about to die. Remedy lies in the adoption of a "healthy socialist society." Tanzer tells his readers hardly anything about what such a system might be, except that it would be different from any existing socialist society anywhere in the world and it would be different from any such system if it were expected to perfect relations among nations, to end ethnic discrimination in America, particularly among youth and intellectuals.

But the interesting question, which Tanzer does not seriously face, is how in what way a "healthy socialism" will cure troubles that arise from causes far broader than the profit maximization of "the corporate economy." A basic challenge in advanced modern societies arises from the specialized nature of human skills and the organization of social goods. This leads to sharply focusing attention and action in the key to all our new powers and also the sources of our new troubles. Socialist economies also have—and must have—organizations designed around specialized goals and must have—people whose desires differ from one another. A market, as we know it, is a loosely realized way of coordinating the "fragmentation" so deeply implicit in modern life. It is an illusion, however, to suppose that it comprehends the true nature of coordination. Either it is a tyrannical socialism, in which case hierarchical authority coordinates all behavior through the organization of particular groups of producers and consumers; or else it is a "democratic socialism," in which case it transfers to the political process the problem of the market and state of coordination. No political process yet invented could do that job as well as a market.

One suspects that for Tanzer a "healthy socialism" is no more than an escape hatch from reality, the name for a condition that has never existed, and that cannot be envisioned, except by saying that it must be very different from the system that produced existing defects.

The Newman concern over the future fits the hypothesis that such books as Tanzer's contribute to the disease, not to the remedy. As Tanzer would say, the disease lies in the government. He wants to get well. Why should he be interested in a concrete description of a future social system that he doesn't expect will ever see?

Perhaps it is because the cultural atmosphere of our time is pervaded by books, articles, speeches, plays, novels, and songs proclaiming society's corruption, that many of the young and the intellectuals are alienated. In the absence of corporations that feel morally clean and psychologically frustrated, and that the public generally is so uneasy that it is ready to listen to an alternative to present policies. But as long as there is a larger audience for the discussion of specific political problems, there will be a larger audience for specific political action. The预见 on specific public decisions that require its attention.

THE VIEW FROM THE PATHOLOGY LAB

A more ambitious recent book blaming business as the source of our ills is written by U.S., Inc., which was on best-seller lists for weeks. In case anybody didn't get the implications of the subtitle, "Who Owns and Operates the United States?"

While "the sick society" is not an explicit theme of America, Inc., anyone who believed the book would be highly likely to conclude that the U.S. suffered from a terrible malady. Much—perhaps all—of the factual material in the book appears to have been nothing more than a peremptory list of some of the more obvious symptoms.

One of the authors, Morton Mintz, is an investigative reporter for the Washington Post. The other, Jerry S. Cohen, was chief counsel of the Senate Subcommitte committee. Both are competent and honest observers. Ralph Nader, who has become a sort of tosstoanist of accusatory propositions, has contributed to America, Inc., one of his numerous introductions.

The effect of America, Inc., is as if two ear- nest researchers emerged from the pathologist's laboratory of a hospital where sliding waves of diseased tissue and proclaiming, "Here is cancer!" But in this case nobody might say the slide may represent some slice of reality, but not every slide would be interpreted by all competent observers in the way Mintz and Cohen see it. The slides taken together do not begin to add up, as America, Inc. implies they do, to a balanced picture of the relation between business and the rest of society. The basic proposition of the book is stated on its first pages: "America, Inc. is government. The authors mean that large cor- porations monopolize the significant power of the economic processes of our society and the political power traditionally reserved for government. In a breathtaking leap, the authors equate busi- ness prices with the governmental power to tax and regulate.

Even more logically reckless is the next analogy, "When it seems men to war or to a "totalitarian state, the social government takes life. The giant corporation also takes life." It turns out that this second analogy is not as innocent as it seems. The book has made cars that were less safe than some people think they should have been and that some pharmaceuticals were dangerously over- priced. The authors have charged the actions or inaction was culpable and sometimes it wasn't. One duty of government was to fix blame and to restrain the actions of those who wrongfully hurt others. Governments have often been accused of negligence or un- fairness in carrying out this duty. But did it ever occur to anybody before that if A hurt B, then must A be a government? A third analogy relates to "the quality of life as society incurs control of runamuk corporations can affect. So can a giant corporation. Therefore, reasons America, Inc., Big Business is government. As so many of the authors, goat- heads with their relatively limited technol- ogy (i.e., goats) seriously damaged the environment of many Mediterranean lands. The authors say the government is the govern- ment. In our time, most people—and not merely giant corporations and governments—can decide who are the goats.

All present-day societies, whether or not they contain giant corporations, are struggling—none of them very successfully—with the implications of multipowered. It scarcely helps in the understanding of this struggle to argue that every new kind of power possessed by a giant corporation means that this power has been taken away from the people or from government—both of whose authority is limited to a scope of their own activities quite as much as giant corporations have increased theirs.

RX: TWO ASPIRINS

Much of the material in America, Inc., is concerned with problems arising from the governmental effort (or lack of effort) to regu- late business activities. Hardly anybody in the administration or in Congress, in action or in reaction, would judge it admirable. Up until a decade ago, the main argument was an emo- tional debate on whether there should be more regulation or less. Then public atten- tion began a belated and healthy shift toward the quality of regulation. For example, the long-promised antitrust legislation of the Commerce Com- mission is now deemed a failure not because it regulated too much or too little, but because it was ill conceived from the beginning. The problem is now one of the difficulties because it was created in response to the same kind of hysterical moralizing and indiscriminate denunciation that now inflames the U.S.

Each area of regulation prominently men- tioned in America, Inc., environmental protection, antitrust, drug control, etc., is proving that the diffusion of pharmaceuticals is a field of great intrinsic difficulty where experts differ. In such cases, if the government cannot do what the public would not be easy if there were no giant corporations or, indeed, if there were no private business at all.

Government is hard to achieve today in fields far simpler than business regulation. There are, of course, people who sit on antitrust, drug control, and pro- claim that crime in the streets could be easily ended if police and courts would simply "crack down" on all youths or all blacks or all "undearables." The authors of America, Inc., who would not take any such simplistic approach to ordinary crime, do not hesitate to blame big business in general for the transgressions of particular corpo- rations and individual business—in the environmental and many other fields—needs to develop from a base that recognizes the genuine objective difficulties of particular cases. A book that tends to turn the discussion of business regu- lation back to the muckraking level of three or four decades ago is not the solution, but not useful—to pretend that the U.S. is in a simple moral struggle between us good and those bad guys, the giant corpo- rations.

A reader who believed the analysis of America, Inc., might be surprised to learn that total revolution would offer any hope of na- tional recovery. But the authors of America, Inc., have been at pains to distance themselves from the case with Tanzer's The Sick Society, the con- cluding chapter of America, Inc. drops off to a whooper, Anti-Olympic, nightclub parties and Zusammen. They recommend a rather well-worn set of reform proposals, stressing much tougher interpreta- tion of antitrust laws, along with federal (as distinguished from state) chartering of corporations. It's hard to see how these remedies would make much difference if big corporations maintain the same arrogant attitudes as Mintz and Cohen say it is. Having diagnosed cancer, they prescribe two aspirins. The hy- pothesis that a second effort at recovery was never more plainly indicated.

A HIGH-PULSE RATE

A kind of antidote for hypochondriacal read- ing is provided by a third recent book, With- out Marx or Jesus, by Jean-Francois Revel, a French philosopher-journalist, who differs sharply from the dominant opinion of the U.S. presented by the French press.

In France—and, indeed, throughout the world—a wide consensus of intellectuals re- gard the U.S. as "sick." This judgment essentially echoes and magnifies the dominant opinion among American intellectuals. The same picture is repeated over and over in some cases by Marxist prejudices that predispose observers to see the leading cap- italist system as a sort of disease of the society. Examples of turmoil in the U.S. are emphasized even more abroad than they are in America media. American efforts to deal with the "sick" system are considered a farce when it work; when it succeed, smeared at when they fail. Ideas of U.S. business life are even more widely condemned than those of French or German intellectuals. The surface of the news, meaning the bad news, is taken uncritically as the representative state of the whole rest of U.S. life.

Revel, on the contrary, interprets all the evidence pro and con of the situation as part of the tremendous vigor and thrust of soci- ety that is actually moving more rapidly
than other countries in directions, such as democracy and diversity, that the world's intellectuels profess to value most highly.

In a recent New York Times Magazine article called "Is America Falling Apart?" the British novelist Anthony Burgess says, "The answer to this question is that the U.S. is declining; but the question which it seems to derive from a consciousness of guilt and an inability to reform." True. And in fact a major problem with our national consciousness of guilt can undermine the ability to make particular reforms. A man who says, "I am bad," may be looking himself into guilt. But that is a psychological white lie. By saying, "That particular pattern of action is bad and I will correct it," may be on the threshold of a new and potentially constructive act. Crediting ourselves as a coral reef over the years through thousands of arguments and decisions of judges, and today's eyes, not yesterday's. Obsessive accusers who dredge up state morality plays about the world's moral metaphors and today's, not yesterday's, eyes. can be distracting the society from its present moral duty: to make more headway in the formidable task of coordinating our fragmented functions, and to do this without reimpersonating centralized authority.

A sick society could never succeed in that task. Neither could a hysterical society.

We Suddenly Feel That Law Is Vulnerable

By Robert H. Bork

Law has been unjustified times. Along with other major institutions of Western culture, it is beset by malaise and self-doubt. Seemingly strong and sensible laws are weakening. It is time when the laws lay claim to broad new domains of human life, yet the prestigious Association of the Bar of the City of New York feels impelled to stage a major symposium on the question, "Is Law Dead?" It is a time when millions of women are turning to legal careers in greater numbers than ever before, and when law students are less sure than ever before that their studies have meaning. It is a time when thoughtful men are concerned as rarely before with the need to uphold law against violence, and when scholars can maintain in public that it is wrong to try men for political murder. We look apprehensively toward a future in which the nature of law and its role in our affairs will have altered in ways now almost impossible to discern. We suddenly feel that law is vulnerable.

Law, it is true, has never been as solid and certain an institution as we pretended. The more thoughtful members of the legal profession are beginning to recognize that they were not sure what law is or why it has a paramount claim upon the citizen's allegiance. To other, however, and certainly to the laity, law was obviously a system of logical and interlocking rules by which life was governed. There were answers to important questions in law libraries. Few troubled to disabuse us. I remember still the shock I felt on being told on the first day in law school that there is no such thing as a legal test. That it is, in its deepest essence, unknowable. My classmates and I supposed that the great man (later to become professor and then president of the university) said such things merely to snap us out of our civilian torpor in much the same way that in boot camp speaks some shocking phrases to loosen one's attitudes for the remolding in the society's ways. It would not be the case that the law was unknowable. If that were true, how could Holmes have said that it was possible to live greatly in the law? Any discipline, however absorbent the aphorism that law is a jealous mistress who will brook no other? There must be something of a moral worth the devotion of a lifetime.

The attitude was no doubt callow and romantic. To the point of taking little in any great way into the law, and the profession still finds it useful in recruiting new members. My own case was not, I think, unusual. A college instructor, a poet who had taken a law degree himself, confirmed my feeling about the law. He said that law was the noblest of all human studies, for it brought philosophy, morality, and a marketable skill. I am not certain what exactly that skill was, or the ordering of complex human affairs through the application of reason. The law itself is a slow process, and a slow one, at least accepting the judicial system as it is. And to see its design and improve small details in the brief light and time given them. A life in that way, we thought, promised battle, demanded devotion, and often enlisting. And who would not choose to be soldier, priest, and scholar?

The Uncertain Establishment

Some years have passed now, and there are days when that vision seems merely amusing, or perhaps poignant. The magnificent edifice of the law has not become clearer but instead has receded, perhaps decided into the mist. In middle age we suspect that it was nothing but a product of our imagination to be lived out. These reflections are not merely personal.

There is a real feeling of disappointment with and about law, a suspicion that it may be weak and unsure. This feeling is particularly frightening because we turn increasingly to law as other supports seem to fail us. The legal establishment itself is uncertain.

The signs are everywhere. Signs are apparent in our attitudes toward the court, where we have come to accept major philosophic shifts as inevitable with changes in personnel. Signs are also apparent in the legal schools, where the traditional intellectual framework through which the faculties have been damaged. One perceives now, despite rising enrollments, signs of lowering standards that are unconcerned about the purposes, content, and even worth of legal education. The major law firms are worried about the future of the law, wondering about students' demands and interests of the new graduates, trying to understand their lessened drive and vague career orientations, asking the faculties why the top-rated students do not appear to be interviewed. The bar, so sure of itself and its functions just a half dozen years ago, is wondering aloud why clients pay what they do, or the end of the established order and the birth of a new, bewildering, and as yet undefined legal order.

The Core is Missing

With the legal establishment itself betraying uncertainty and even timidity, it is not surprising that the public senses trouble in the atmosphere, and that with safety, is it surprising that sensed weakness should stir disquiet and even anger?

The trouble springs from our inadequate understanding of law and its uses. The striking, and peculiar, fact about a field of study so solid is that it possesses very little structure, and that the process of systematic learning about the law's inherent capabilities and limitations. I have heard an uneducated man ask me, I am ac- quainted with a major center of legal schoo-
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arship remark with astonishment: “You law-
yers have nothing of your own. You borrow from
the social sciences, but you have no dis-
covery, no new insight; all your few scattered insights aside, he was right.

Good lawyers, a combative, hard-edged breed, have more or less come to rely on
themselves on their ability to ransack other
men's specialties quickly and beat them in
arguments by rote. They have not been the
kind of people to venture out on their own.

But it should cause imperialists some embarrass-
ment to reflect that they regularly invoke the
freedom of speech and the press to defend
their own ideas and then turn around and
claim the right to suppress free speech and
press in the name of national security. We
have a right to try to understand the uses and
limits of our freedoms to avoid false solutions.

There is a price to be paid for that
neglect, and the price appears to be the
elimination of public respect for law and
neglect of the right to refuse to do that to any
they wish, to an infinitely expansible carrier of social
policy and norms. Law is not an implement
that can be turned to any purpose. It is an
essential instrument, used to protect the
freedoms we enjoy, and may in fact already have
do so. This is an ominous development, both as a symp-
tom of the growing political malaise, and as a likely
for further deterioration in the social fabric.

We have also damaged law, and created difficulties for our future. We must learn to
serve the distinction, essential to a democ-
y, between judges and legislators. The era
of the Warren Court was, in my opinion, deeply flawed by its exercise of the power to
are many who insist that, as a direct result of
the Warren Court's reformist drive, the
prestige of law has never been higher. They
point to the greatly increased numbers of
young people entering law as evidence. The
admirers of the Warren Court, however,
are less in love with law than with power, power
to produce results they like. Implicit in the
idea of judge-made constitutional law are the
effects of economic and political rules of con-
sistency, and of intellectual rigor. These were
achievement in the Warren Court. The
Court did improve the quality of life for
the young. It taught them to confuse the
desirability of ends with the legitimacy of
means; to confuse the idea of law and the
fact of power.

Our culture has long stressed the
importance of law, and Americans are
concerned with law as much as any people on
earth. But there exists a strong counterstrain, a
tendency to idealize men or groups who set
themselves against law and seek their ends
through direct action. The ambivalence to
ward law that this counterstrain creates
appears to be stronger in persons with more
education, leisure, and affluence than the
average. It is closely related to the tradi-
tion of professional training in law, the
academic circles—in which the
enlightened man must continually be in
position to society, particularly to bourgeois
society, with its concerns about politics,
abhorred, but not violence from the left.
The rhetoric of the left is more appealing to
preachers, and those of us, which—after all,
the argument runs, society has been slow to
undertake necessary reforms. Hence the sup-
port for the Bill of Rights and academic quarrels for such representa-
tive figures of our times as the Berrigans,
protesters, Panthers, Yippies, et al.

The tradition of support for civil disobedii-
ence and the violence that it so disturbing,
particularly disturbing because it increment-
established in the institutions that mold
opinion. There is a limit to how much def-
ance of law a legal system can tolerate. No
one can argue precisely where the tipping point
is, but it is undeniable that our system is
beginning to feel the strain. Disrespect for
law is not a good augury for the future. One
important caution that history warns us is
‘The practice of violence, like all action,
changes the world, but the most probable
result is not the one intended. Violence with
reverence and defiance of law are often success-
ful in our society, they are not, in the short
run, irrational means. But in the slightly
longer run, they are often the most common
mode of political struggle they will be dis-
sastrous for everyone.

Those who use or advocate coercion
and disruption for political or ideological ends
have a ready model in the legally sanctioned
strike as a method of labor unions and manage-
ment. Our labor law, and the ideology that
supports and sustains it, encourages the or-
ganization of employees into fighting groups,
and lets the wage bargain depend upon the
outcome of the fight. The rhetoric of union
organization and struggle is the rhetoric of
war. This, of course, holds by both
sides, is coercive, each attempting to put
intolerable pressures on the other in order
to move the talks to a favorable if temporary treaty of
peace.

It becomes increasingly difficult to main-
tain a consensus that the legal right of pri-
ivate persons to employ coercion and disrupt
(and of employers to lock out) is somehow
different from the desire of other groups
to use the same strategy. The small number of
some faculties to resist educationally inap-
propriate student demands, backed by
threats of violence, should confirm the fre-
frequently advanced analogy of the students'
position to that of workers. Sensing the
Drama and power it created, students eagerly
came to understand the role of proletarians,
and many faculty members accepted the
metaphor. Picket lines, strikes, disruptions
of classes, and protests of one sort or
another, political, philosophical, or
At the time, one is, and we will be able to sustain our denial
to non-law groups of the tactics we concede
to labor organizations.

There may be room for pessimism. William
J. McCall, the president of Columbia, argues
that the university, in finding forms to cope
with the various groups that make demands
upon the administration, is providing a model
for "pluralism" in society at large. "One of
the greatest achievements of American law,"
he says, "has been the encouragement of
orderly conflict between management and
labor, embodied in our now classical concepts
of contract and union. We have a legal and
administrative framework for working with social change
and with the conflicts engendered by the
variety of liberation movements now develop-
ing on campus." This is a disturbing view.
It should be clear that the management-labor model is a warfare model, and that its accept-
ance has not been cost free. It would be disas-
strous for law and social peace.

The results, indeed, might be so intolerable
that we cannot return in a more repres-
form than any we now know.

Even as we increasingly accept the absence
or only partial effectiveness of law in many
areas, we may be introducing law into others
where it had never before had a role. One of the most strik-
interactions of our times, the question of
Community that law is attaining. This appears to be
an unreflective trend rather than a self-
conscious process that has thought
out. Legalism spreads and seeps into ever more aspects of life, claiming an omniscience it
cannot sustain.

Flows coming from many sources. Floods
of regulations are churned out by Congress,
state legislatures, municipal governing bod-
ies, administrative boards, and administra-
tive agencies. Since the New Deal, we have
come accustomed to massive interfer-
ence. But this is not the conception of
the nation, and now we are seeing limits to
pluralization in social and cultural spheres.
With the substance of much of this law I
have a problem, and there are costs to the
use of law, and in some areas the
the costs may exceed any conceivable benefits.
No society can be healthy and effective if all
justices are drawn into legal processes.
The spread of law through human rela-
tions signals not only a decline in individual
self-reliance, self-control, and self-adminis-
tration. To have a legal culture, and a
legal culture loses some of its meaning,
traditional modes of accommodation, and
informal authority. A healthy society re-
lies on informal, non-legal means to
human relations, a degree of trust in the
good faith of others, confidence that things
will be fair, and a willingness to contest, to
not to insist on every "right" one may think
one should ideally possess, and a large
amount of individual self-reliance. The
attempt to define all the rights of individuals
to be enforced by law is a retrograde move,
and to enforce them by legal processes sig-
ifies the diminution or disappearance of
these virtues.

An excessive and oppressive legalism is
taking hold even where law in a formal sense
has not entered. A prime example is
the universities, where there has been
an unprecedented demand (and an astonish-
ingly ready acquiescence to it) that every-
thing must be spelled out, that every action is
research and administration, that special tribunals be created to en-
force them. In universities throughout the
country, who have seen the university, often quite complex, concerning student be-
behavior, faculty and administration powers, the policy of decision making within the
university, and even such matters as dis-


A CLAIM OF OMNIDOMINCE

In this way, domestic law begins to descend
to the status of international law, which
means that we begin to recognize the in-
dependence, the semi-sovereignty, of various
warring groups within the society. When we
view groups somewhat as nations, we admit
that law has only a limited role to play in
governing. Law is successful when there is a
consensus that certain behavior cannot be tolerated, when groups with legitimate
interests perceive that the society is as
having any legitimate right to
disrupt, to wage limited wars. The ques-
tion, of course, is, whether we will be able to sustainable our denial

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THE VALUE OF UNWRITTEN STANDARDS

Certain forms of discrimination present the problem of criteria that are real but cannot be expressly described or precise. It is easy enough to establish whether a person has been turned away from a restaurant because of color. But employment discrimination presents a different problem. The decision concerning who is to be hired or not hired, who is to be promoted or paid more or less, is not always, or perhaps even usually, turn upon objective and quantifiable data. Such decisions are based upon judgment and intuition. On a case-by-case basis, therefore, the employer's decision will usually turn out to be a matter of personal bias. It is impossible to prove that he discriminated. This, it appears, is the reason for including in this field including the President's "Philadelphia Plan" for the building trades, have had to impose quotas in order to be effective.

In other cases, laws intrude in decisional processes that are better left to managerial discretion, and so renders institutions less efficient and responsive. Unanomies, for example, have long had standards of conduct that were customary and unwritten or, if written, are merely worded as to be effectively or purpose. People are usually with a certain measure and the lines were. Administrators handled most infractions informally. In such a situation, the likelihood of repetition, and the morale of the student, are matters that a clear and formal process cannot deal with. And, of course, the ad hoc approach makes such new judgments about personal conduct more improper. The trappings of law raise expectations of impartiality and "objectivity." As control over the decision-making process is itself increasingly formalized, cases are made of situations better left to informal discussion or administration.

We need more thought and greater sophistication about the kinds of issues and decisions that can profitably be referred to formal legal processes and the kinds that ought to be left to other processes. We are beginning to see that there are areas in which a government or public interest can be better served by informal means. Sometimes, as in the case of employment discrimination, we may be willing to pay the costs and the sacrifices. But, then, but then we should be sufficiently aware to the frame the criteria in ways that law can handle. We must be sure that the law is a blunt instrument, and that we cannot use it effectively as we assign it tasks requiring a scalpel.

A NEED FOR LAISSEZ FAIRE

Law in our society is oversupplemented in yet another sense. We have pushed too many issues or policies that are too complex into the courts. In Judicial institutions, the way in which the courts are the Internal affairs, there are problems of economics of scale, problems of optimal size and work load. The size and complexity is such that the burden is too heavy to be effectively handled by the courts. Other nations have found ways to discriminate on racial grounds. Those litigations put an enormous change in our society and political structures and practices, but the result was a correct one for the law to reach.

The problem arises when litigation is used to accomplish results not inherent in any legal principle that the courts may properly rely upon. It is much cheaper and easier to order a court to order the change you want than to go through the time-consuming, expensive, and messy process of persuading voters or legislatures. In the Supreme Court's decisions—"Brown v. Board of Education" and the cases that came after—it is not the illegality or discriminate on racial grounds. Those litigations put an enormous change in our society and political structures and practices, but the result was a correct one for the law.

A CONCLUSION OF ROLES

It should hardly be necessary to say that this principle is inconsistent with the modified fundamental theory of representative democracy. Our Constitution and our political ethos do not require us to achieve our aims without the consent of the majority. Many of the results the Warren Court reached were, in my view, politically or socially desirable. I would have voted for them as a legislator.
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right lessons will be taught only if we learn to respect the law correctly, to respect it as the ultimate arbiter of disputes where it is applied, to conserve its strengths by employing it only where it is fully needed, and by insisting that the roles of legislators and courts be kept distinct. These tasks are not for lawyers alone, but until they begin to create awareness among other professional bodies and continuing education so desperately requires, there will continue to be unnecessary trouble in the law.

What is at stake is far more important than the efficient functioning of law. The answer to the question "Is law dead?" is that law will never die, and no particular kind of law may die. Society will not tolerate something as severe as social disorder. Should law in its present form fail us, it will ultimately be replaced by other forms of law that will impose order. What is at state, then, is not law but rather democratically made law allowing wide scope for individual freedom. That is what preserves.

From Commentary magazine, December, 1971

POLITICS AND ACLU

By Joseph W. Bishop, Jr.

(NOTES—JOSEPH W. BISHOP, JR., is Richard H. Professor of Law at Yale University Law School, and the author of Obitur Dicta (Athenaeum.).)

Within the community of liberals the American Bar Association is often accused of being the "Patient Liberal" and its celebration of its fiftieth anniversary has long occupied a place comparable to that of Dwight D. Eisenhower who during his half-century of service has been recognized as the most influential American leader. While the justice as a strategy the Union relies upon remains a problem for the courts, there is still a hope that the jury will be a jury much as in the 1920's, when it was quite feasible to list each and every contributor in the annual report of its founder and long-time benefactor, the Civil Liberties Union.

Its annual cash income, in 1921 at $20,000 (which nevertheless suits for some purposes) is $1,500,000. What remains, if any, after administrators' fees of its site and its tangible resources is a question. It is a tireless and often effective lobbyist on Capitol Hill; it issues pamphlets and brochures, and sends them. It must be that the challenge the law is put to is to meet the agents who have who have been taught to think of it as an accomplishment, all is not bliss and harmony, and gainers, within the family of civil libertarians, ACLU in 1971 is probably more controversial organization, it is probably in its long and generally stormy career, which is paying a lot. The Union has, of course, been accused of advocating communism, pornography, polygamy, and atheism, whenever it defended the right of people who did not have the time to try to persuade others to their way of thinking.

But the charge today is that the Union has itself embarked on a series of political crusades which may be moral, or even right, but which have no readily discernible connection with the cardinal political virtue which it claims to be defending; it is being metamorphosed into an activist from the one which Roger Baldwin founded as the Chase Manhattan Bank is from the Manhattan Company, which the Bank of England is, or a corporation in 1799. This time, however, the accusations come from within the Union, from civil libertarians who once considered themselves to be among civil libertarians is the bitter and continu-

1 I am indebted to George A. Bermann, a recent graduate of Yale Law School, who has written a paper on "The Politics of the ACLU" for possible publication.

2 Index and the microfilms of the Sterling Library.
The major difference of opinion among the various sects of the faithful probably concerns the degree of force which is necessary as another means to relieve the sufferings of the innocent. The moderates and trimmern are willing to give the electorate a reasonable grace period within which to do God's will, while, being more overzealous, the extremists say it is merely a device of the Establishment for the frustration of Social Justice; some of them seem to think that the First Amendment is a godly-thorough Reformation. The Union, of course, does not advocate any sort of violence, but many of its members and staffers undoubtedly view the terrorists as the ordinary law-abiding Catholic Irishmen view the murderous activities of the IRA. They would not themselves burn banks, shoot policemen, or smuggle guns into imprisoned militants, but they have serious reservations about the purity of qualifications and persons whose consciences dictate such forms of protest. Again I quote Mr. Wulf: "The government is committing in the name of law and order are far more grave than the so-called crimes committed by the "terrorists," and if the "crimes" consist of a disorganized conspiracy to force the government out of a brutal, aggressive war in Vietnam, ..."

The Union has in recent years gone to court to defend the constitutional rights of dissenters whose political goals were, as it was at some pains to explain, abhorrent to decent people. As recently as four years ago, its lawyers persuaded the Supreme Court to overturn a Maryland county's injunction against the racist rabble-rousing of the National States Rights Party. The only part of the Court’s decision that might be described as a micro-image of the agitprop of the Black Panthers) which would have considerable staying power is the one about the right to draw cheers at an A.C.L.U. meeting was its fervid denunciation of the then-governor of Maryland, Spiro T. Agnew.

In fact, the Union has in recent years had little occasion to concern itself with the liberties of the far right. The John Birchers and the Minutemen are, fortunately, continuously inconspicuous: the Ku Kluxers, though still responsible for some terrorism, would probably refuse to let the Union's lawyers represent them, even if such help were needed and offered. Less radical right-wingers, like the Young Americans for Freedom, are unlikely to do anything more seditions than denounce Mr. Nixon as a turncoat: their "Stop the War" button is simply the "Vote the Chinks" button—a policy which, however ill-considered, it is clearly lawful to advocate.

The rightists' infrequent requests for help, like the Union's infrequent offers of help, are intended primarily to embarrass the parties to which, when, if ever, given.
nor Williams of Massachusetts asked the Union to join him in suits to enjoin dece逢 segregated drinking facilities in Boston. Charles Morgan, the Director of the Southern Regional Office, offered to defend Lester Maddox’s right to picket and use segregated drinking facilities. (Since Morgan did not propose to join Maddox’s picket line, and nobody was threatening to arrest Maddox, it was not clear why Morgan was suggesting that the offer, which was refused, was not intended very seriously.)

A related problem was presented by William P. Buckley’s contention that his First Amendment rights are violated by the interference of the American Civil Liberties Union (ACLU) in his activities. The ACLU has made it clear that he must pay dues to the Federation in order to conduct his TV program. If Mr. Buckley’s purpose is to embarrass the organization, he is not succeeding, for the national board took nearly a year to make up the decision.

The political uniformity of ACLU’s clientele is thus not entirely a result of its own political predilections, except to the extent that it is as a result of the clientele’s belief that their reception in its offices would be somewhat reserved, or even chilly. But the ACLU was not the only group, and the number of its spokesmen on current events does suggest that its views on freedom depend very much on the market with whose freedom of speech and action.

Thus, when the Chairman of the House Committee on Internal Security (a body which, temporarily at least, has become disbanded, an avatar of the House Committee on Un-American Activities) proposed to publish a list of “threats to the national security” and bring them before the Democratic party’s convention, ACLU denounced it as an exercise of Congressional “power to smear individuals and groups.” (A result (successful in the District Court) to enjoin the publication. But I am not aware of any such noisy outrage reaction to the many other attempts to retaliate on various campuses, ACLU denounced it as an exercise of Congressional “power to smear individuals and groups.” (A result (successful in the District Court) to enjoin the publication. 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take criminal acts ad majorem Dei gloriam. The charges are entirely consistent with the conviction for murder, but so are thousands of defendants in whom the ACLU has expressed no particular interest.

The case of Captain Howard Levy, court-martialed for making statements designed to promote "disloyalty and disaffection" among enemy soldiers, provides another useful order, does present some genuine and important constitutional questions. But the content of the evidence is a good one for testing the First Amendment rights of servicemen—the charge of disobeying orders did not, in my view, make a clear and substantial constitutional issue—and it certainly did not justify the extraordinary amount of time and money which the Union's lawyers devoted to litigating peripheral issues such as the propriety of Levy's confinement while his conviction was under review in the military courts. The constitutional issue was at best tenuous.

Perhaps the finest example of the triumph of zeal over realism was the filing of a petition for certiorari (denied by the Supreme Court) running to 53 pages, including appendixes by no fewer than eight lawyers, after the issue (whether the lower federal courts had erred in refusing to enjoin enforcement of a state law) had been mooted by the completion of the trial. The constitutionality of lawyers'azy laws is, of course, still, of course, just another gag to litigate all the way up to the Supreme Court and doubtless will be. It is not easy to perceive a reason for this hopeless and expensive effort, and the petition may be described as a reckless hurling of moles of frenzied but undisciplined adjectives upon the chawdary General Counsel. The General Counsel had swallowed the whole theory of the Panther's right to trial by jury in precisely the way Ku Kluxers have traditionally benefited from Mississippian guile. The ACLU spokesmen knew the Panther lawyers would benefit from their right to trial by jury in precisely the way Ku Kluxers have traditionally benefited from Mississippian guile. The ACLU spokesmen knew the Panther lawyers would benefit from their right to trial by jury in precisely the way Ku Kluxers have traditionally benefited from Mississippian guile.

The Executive Director of the Illinois affiliate, accepting unquestioningly and even eagerly the story that "some twenty-eight Panthers died in police shootings" in 1968 and 1969, concluded that there was a "nationwide pattern of police action against the Panthers." He added ominously that the crimes of the police against the Panthers were generating a "police-state atmosphere." His charges were promptly echoed by the then Executive Director of ACLU, J. Pemberston, who accused police across the country of "provocative and punitive harassment of defendants, including Mr. Wood." Wood announced in a declaration that the state (meaning, apparently, the government of the United States) was "in conflict with the paramount principle of the Constitution"—the First Amendment: "The evidence," he pronounced, "is clear now that there is a government plan to destroy the Black Panther as an organized political movement. Whether or not," he went on darkly, "there is a memorandum in Washington which authorizes, or an oral or written or spoken agreement among law enforcement officers to include murder as one of the means of banishing the Party, there is encouragement and support for murder as an instrument of policy."

This lie (which, I should in fairness add, Mr. Wulff did not invent, but merely believed, repeated, and (to put it in our own phrase) "style"ed) was demolished as thoroughly as such a lie can ever be demolished by Edward Jay Epstein's careful works. Mr. Wulff's Court of February 18, 1971: Epstein concluded, after a thorough and objective investigation of the alleged twenty-eight deaths, that in only five were the substantiated in any way, and of those by no means conclusive—evidence of police aggression. The basis to-carry murder—the." The Panther's murder was, as the Protocols of the Elders of Zion, for it is the sort of lie that fills a large public demand. So far as my research in newspapers and other publications goes, Mr. Wulff still believes it, and I suspect also that in this respect he is not alone among the Union's political prisoners.

In matters like these much depends, of course, on one's view of people whose crimes of violence are motivated or said to be motivated, by ideology. I confess that I like the "political" criminal—and by that phrase I do not mean a man whose "crime" is the consequence of his political philosophy, however obnoxious, for that, under our Constitution, cannot be a crime—rather less "garden-variety"

bloodthirsty"

Nuggets, porch-climbers, and securities swindlers do not, as a rule, give themselves airs of virtue. But the "political" terrorist, or "agitator," or "propagandist," or "agitprop" may be described as a reckless hurling of moles of frenzied but undisciplined adjectives upon the chawdary General Counsel. The General Counsel had swallowed the whole theory of the Panther's right to trial by jury in precisely the way Ku Kluxers have traditionally benefited from Mississippian guile.

The ACLU's actual involvement in the various civil rights controversies of Black Panthers has been limited to issues of due process, which so far have not proved very serious. More troublesome has been the acquittal, convicted, some on evidence which might well have supported a finding of guilt. (The words of Yale's President that a black revolutionary could get a fair trial in the United States may have proved justified, but not in the way he meant. The political one-sidedness of the national board recently voted to give "top priority" to an end-the-draft campaign, resolving that little of the Service Agency. But only by a process of self-hypnosis can a lawyer take seriously the idea that the draft will be held unconstitutional.

The argument has been made in hundreds of cases since conscription was introduced in 1963, and not sempre been refused when a state draft, which reversed itself a few months later, held that the federal draft was inconsistent with the militia clauses) has any court accepted it. Chief Justice War- ren, speaking for the Supreme Court in 1968, said that the [peace] time power of Cong- ress to classify and conscript manpower for military service is beyond question." and the Court is about as likely to hold otherwise in the near future. The draft is to elope with Bella Abzug. As a political matter, it can, of course, be argued that the United States should rely on a volunteer army or even the armed forces at all, but not that should not be the business of the American Civil Liberties Union. Litigation to establish the constitutionality of the draft is simply a waste of money and time which its lawyers might better spend on real issues.

It is nearly as unlikely that the Court will agree with the Union's contention that "the present military involvement of the United States in Southeast Asia is unconstitutional." As a political matter, that involvement may be very wise, but unless and until Congress exercises its power to withdraw men and money, it is sanctioned by the Constitution.

There are, of course, substantial and serious questions, with which ACLU is properly concerned, about the First Amendment rights of servicemen like Mr. Wulff of a member of the armed forces, constitutionally be forbidden to speak contemptuously of the President and Congress, or to participate in a political demonstration in a foreign country.

But in their number, variety, and, in some cases, their degree, the Union's lawsuits against the military lead me to suspect that the underlying motivation is not so much to protect the civil liberties of servicemen from military encroachment as to gratify a political dislike of the armed forces, at least when they are controlled by the wrong ehitian politicians. It is one thing to defend the right of servicemen to patronize offpost coffeehouses established to serve up hot coffee and hooton propagandas or to disseminate "underground" newspapers on the post; it is another to litigate the constitutionality of the Armed Forces.

There is probably no connection between short hair and military virtue; the Cavalry, with its helmet and waving plumes, as the Roundheads; but the longhaired Spartan hoplites ("The Spartans on the sea") were the Union's real enemies. They were the best disciplined and bravest riors in Heils. Yet however weak the military justification for the Army's regulation, the right to wear one's own hair is not the question for now at least, it is the major question. The Army's attempts to interere with this aspect of military discipline. Likewise, nerve gas is nasty stuff, and, if it does not kill, it is likely to be poison in the hands of Toombs from Alabama the Army dispose of it somewhere else; but when it is reported that ACLU has filed suit to prevent its use near Okinawa to Oregon I am quite unable to see the connection with civil liberty.

And how can suits to enjoing underground nuclear leaders be reconciled with the Union's Policy Number 235, which says that "The ACLU does not believe that any question of civil liberties is involved in the issue of nuclear weapons testing?" Similarly, an effort to enjoin the Army Corps of Engineers from interfering with a demonstration in the Barry channel is not convincingly explained by the argument that the drilling would violate the Fifth Amendment by depriving the Corps of property without due process of law. (It may be noted in passing that neither I nor my diligent lawyers have succeeded in getting an injunction for property rights.) Such crusades seem to suggest that the Union's management, dissatisfied with its limited role as the watchdog of the Bill of Rights, has decided to diversify by putting it in the business of protecting the environment—a field which is already somewhat crowded.

All of the crusades which seem to me to be motivated by political ideas other than those proper to the ACLU constitution have been marked by a strong hostility to the government. The degree of hostility varies, of course, with the degree of dissatisfaction of the government in power, but I suspect that even Senator McGovern would not enjoy a long record.

Mr. Wulff put it: "Governments, perhaps by their very nature, perceive every threat to the status quo and to their own power as a potential threat to the use of physical force." This extraordinary statement recognizes no distinction between the United States and the Soviet Union or Russia and that of the United States. It ought to be too obvious to require saying that in my lifetime, and Mr. Wulff's, the United States has undergone enormous
changes, some of which Mr. Wulf would probably regard as good. Some of these changes might be regarded by the government as an opportunity to secure more power when they were first proposed, but very rarely by jailing or shooting the proposer. It is simply the right of the people to change as much in the next fifty years as it has in the last fifty, and I expect that it will do so more or less according to its discretion. The government of the United States is, in fact, one of that small minority among the earth's governments which does provide for change, and, while it is not perfect, it is not in any way a system that personal freedom can exist only in a fairly stable and prosperous society. Civil liberty, in America, is a matter of analysis, a luxury, although a very great one.

The truth—maybe sad but nonetheless true—is that the ordinary specimen of how many intellectuals would rather live under an absolutist government, which assures him two or three meals a day and protection against oppression by anyone except himself, than under a permissive and democratic government which does neither; an ordinary citizen of California, for example, is much more likely to trade his right to a free press, which is largely theoretical, because he isn't the owner of a newspaper, than he is to protect himself from the Postmaster General by the fact that, after all, some public interest in allowing a democratic and constitutional government to say what it wants to say.

The Union's chronic hostility to government is mirrored by its general indifference to outside association by various New Left groups, which on campuses, at least, are a much more visible threat to First Amendment freedoms than are the cops.

The Union's official policy is impeccable:

"The ACLU considers it important to emphasize that it does not approve of demonstrators who deprive others of the opportunity to speak or be heard, or physically, verbally, or by other means implement these commendable principles have been few and feeble—an occasional letter to the newspaper or report of some unusually outrageous disruption, such as the shouting down of pro-war speakers at Harvard last March. (Many similar episodes have been reported since the last notice of the Union and its spokesman.) There have been no interventions, no briefs emasculated, no press releases supporting authorities who tried to prevent or punish such violence.

On the contrary: when the University of Wisconsin mounted its program against the making on campus of obscene and disruptive statements in connection with demonstrations of corporations with defense contracts, the Union sought to have the injunction overturned in the Supreme Court, and Mr. Wulf lectured the Court severely for its refusal to review the case. The NYCLU promptly and loudly denounced the police for using excessive force in the 1968 Columbia disorders, but had no unkind word for the violent demonstrators—an assessment of guilt which is not supported by the Cox Commission's Report.

Neither, apparently, does the Union support legislation intended to curb such interference with free discussion, like a bill which would authorize the Attorney General to seek injunctions against "disruptive noise" at public events, or the public publication of secret codes, newsworthy equipment, and plans for military operations—but not if their publication would be "of value in permitting citizens to render an informed judgment on public issues."

This criterion has a fine ring, but it would have prevented the publication of the Allied plans for the invasion of June 6, 1944 or Israel's plans for the air strike of June 5, 1967. In 1970, a majority of the important government decisions would doubtless have contributed to informed public discussion of major issues, but I suspect that even Justice Black faced, with such circumstances, would really have held that publication could not be required.

A United States v. Robel, the Supreme Court struck down a statute which made it unlawful for a member of the Committee for the Constitution to speak on a matter he regardless of whether there was any evidence that he was himself likely to engage in espionage. Judge Jaffery of the Court of Appeals, in his separate opinion, said that "nothing we hold today should be read to deny Congress the power under necessary and proper clause to seek the appropriate defenses in positions in defense facilities where those who would use their positions to disrupt the nation's production facilities."

But the ACLU's positions, when Congress was attempting to draft legislation sufficient to the needs of the first war, were that the First Amendment was, that "we would of course oppose this section even if it met every test of viability of the external process of balancing the public's interest in security and stability against its interest in freedom of speech in any instance in which the Union has been willing to give any weight at all to the former. The gravestone of the First Amendment is."

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Lee packed up and sailed away from New- yor k, Mass, thinking they were headed for the c entral mini of Hawaii. They were actually heading toward the Hawaiian Islands, where their storm and wave battered ship, the brig Henry, anchored in Honolulu harbor in October 1884, eight months of rough going, the two men decided to remain in Honolulu.

He was 24 years old. He was in immediate demand to apply his accounting skill in untangling the affairs of a local firm. The United States Consul employed him as clerk. His work was so good that he was appointed Collector General of Customs. On June 4, 1880, he married beautiful Hilo native Rose Paki. He was on his way to becoming one of the greatest benefactors the Hawaiian Kingdom has known.

With another local man, William A. Aldrich, he opened a store and closed it out in 1888 in favor of a bank, Bishop & Company. This bank grew under his leadership and has today become one of the outstanding banks of the United States—the First Hawaiian Bank.

He took a deep and abiding interest in schools. On the list of benefactions to schools from his foundation are the Bishop-Doyle Institute and Kawahalao Seminary later merged as Mid-Pacific Institute, Kohala Girls School, Hilo Boys Boarding School, East Maui Seminary and the schools from 1964 to 1980. On the public school side he was a member of the Board of Education and led in the founding of the Kawahalao Church and the heading of the succeeding govern-ments, Provisional Government and Re-public of Hawaii—twenty-one years of pub- lic school service.

In the field of religion he gave support to the old Fort Street Church and its suc-cessor Central Union Church, Kamakapili and Kawahalao Churches. The North Pacific Missionary Institute, headed by his friend the Rev. Dr. Charles M. Hyde, was sol-i-darily assisted as was the Hawaiian Board of Missionary Education by his support of Bishop Memorial Chapel on the Kamehameha Schools Campus in his wife’s honor.

Hospitals ever had an appeal for him. He was a member of the founding date a chief- and director of the Queen’s Hospital. He gave modest assistance to the Children’s Hospital, Kapilolani Hospital and Leahi Hos-pital and funded and constructed the Bishop Home for Girls and Young Women in Kala-upuapuapua. He was the leader of the leper settlement.

Other broad community interests of Mr. Bishop included the YMCA, the public lib- rary, the Honolulu Chamber of Commerce, and under King Lunello he acted as a member of the Cabinet. He was Foreign Minister.

He received the honoray Orders of Kamehameha I and Kaumakapili. The Emperor of Russia, the president of the Republic of the Rising Sun, First Class. There were many others from around the world.

Such were Mr. Bishop’s community activities. He supported them with gifts of sub- stantial size and in some instances worked as a board member or as president or treas- urer. He was conscientious in his devotion to all these causes.

Mrs. Bishop died in 1884 and it was as if a great light had gone from his life. He had begun visiting California many years prior to her passing and had made modest invest- ments in bonds and stocks. He stepped up the pace of investments and finally moved to California in 1894 never to return. His operations in the San Francisco bay area were centered in a specially created new position of vice-president of the Bank of California. He had given away his entire fortune to relatives and community and charitable agencies. In San Francisco he made another fortune and similarly gave that away to the same objects. He died in Berkeley June 7, 1918, age 83.

In his will he gave his adopted native land of Hawaii he asked that his ashes be placed alongside those of his wife in the Royal Bauxlumol in Nuuanu Valley of Honolulu.

For more information that can be made of Charles Reed Bishop may be found on his grave marker in the Royal Mausoleum. These are found near the Fallen Benefactor of Hawaii His Ashes Rest in the Tomb of the Kamehamehas.

The agencies and organizations among the cultural, religious, educational and commercial interests of Hawaii with which Charles Reed Bishop had some association, were not a roll call of all such groups. Here is the list:

Alexander & Baldwin, Inc.
Amfac, Inc.
Bank of California.
B. P. Bishop Estate.
Bernice Pauahi Bishop Museum.
Bishop Home for Girls and Young Women.
Bishop Trust Co., Ltd.
C. Brewer & Co., Ltd.
Central Union Church.
Chamber of Commerce.
City of Honolulu.
City of Gena Falls, New York.
Board of Education.
Dillington Corporation.
First Baptist Church.
Hawaii Conference United Church of Christ.
Hawaiian State.
Hawaiian State Schools.
Hilo Boys Boarding School.
The Kamehameha Schools Alumni Association.
The Kamehameha Schools.
Kapalolani Maternity and Gynecological Hospital.
Kauaiolani Children’s Hospital.
Kuamakapili Church.
Kawahalao Church.
Kindergarten and Children’s Aid Society.
Kohala Girls School.
Leahi Hospital.
Mauna Ola College.
Mid-Pacific Institute.
North Pacific Missionary Institute.
Punahou School.
Queen’s Medical Center.
Sacred Hearts Consent.
Sailor’s Home in Honolulu.
St. Andrew’s Priory.
Salvation Army.
Social Service Association.
Theo. H. Davies & Co., Ltd.
Waiulua Seminary.
Young Men’s Christian Association.

ANTITRUST AND PHASE II

Mr. HARRIS, Mr. President, most of our newspapers and of the Senate itself

* Closed.

missed an item of major significance last week. On December 2, the President quietly nominated and the Senate confirmed the administration’s former antitrust chief for the Federal Judicial Circuit in Chicago. It was only this week that the story broke in an article in the December 7, Wall Street Journal.

For Mr. McLaren himself, Senators can offer the most ambiguous breathing, as the distinguished Senator from Michigan (Mr. Harris) pointed out at the time, those who have come in contact with Mr. McLaren have come to respect and ad- mire him. I am confident that he will prove an able and fair judge.

But while I am pleased to see Mr. Mc- Laren elevated to the court, I must state my dismay that it was done at this time. In recent weeks, along in the administration, Mr. McLaren has distinguished himself by vigorous statements pointing the dangers inherent in the phase II process for our economy. In an address made in Boston on November 5, Mr. McLaren stated in this regard:

It almost goes without saying—certainly no competition among competitors should be disguised to insulate competitors from competition—certainly no prices. Otherwise, in the absence of effective price competition, the Essential Standards of the Phase I Price Commission might also become the floor. Certain-ly we can all agree that it would be more expensive. Instead of strengthened, and we can certainly agree that we want to move away from—not toward—greater regulation.

Earlier in his address Mr. McLaren noted that in both World War I and World War II cartel-like groups operating under phase II controls grew in power and contained their price increasing activities long after wartime conditions had disappeared. The result was a heavy burden on the economy over many years.

Already there are some signs that this may happen under phase II. On November 11, foodstores chains in New York, Arizona, and Connecticut banded to-gether to announce that they would raise New York Times ad that their prices would always be at or below ceiling prices. In the November 17, 1971, Wall Street Journal 23 machine tool builders and General Electric took out a somewhat similar full page ad.

I am not in a position to state that these firms will now move on to price col- lusion activities. But I point out to my colleagues that the same kind of joint action required to place these ads could also be used to fix prices, particularly when Government boards come along and announce that the top price is to be. Mr. McLaren was certainly disturbed by this possibility. That is why, according to the Wall Street Journal, in recent weeks we have been giving “saber-rattling” speeches warning that phase II controls should not be used as an excuse for corporate price fixing.

Now he is gone—the Wall Street Journal went one step further in this context and added that he was still an active source of influence of his active role—and as a result during this crucial period the Justice Depart- ment’s Antitrust Division will be with- out inspired leadership. Moreover, even if
the administration acts quickly to replace Mr. McLaren with an official pursuing the same aims as Mr. McLaren, we will have a new official of little experience in a vital role without the benefits of the same experience should be at a premium.

I read with interest Attorney General Mitchell's statement December 8 that administration interest in antitrust would nobble with this change in personnel. My own belief, strongly held, is that the administration should instead move far beyond the policy favored by Mr. McLaren. We need not only to prevent the development of such a cartel, but also to dismantle existing cartels which are inflicting such an enormous price in inflation and unemployment on the American people.

As a minimum we should follow the conservative course set by Mr. McLaren. I believe the Senate will be remiss in its duties if it does not question his successor closely about what he will take from the current position. As phase II does not increase the already totally excessive price-fixing capability of our larger firms. I also urge the administration to pick a successor just as fast as possible.

Mr. President, I ask unanimous consent that two Wall Street Journal articles, the two full-page ads, and Mr. McLaren's speech in Boston be printed in the Record.

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

EASIER U.S. ANTITRUST STANCE SEEMS SURE AS McLAREN LEAVES (Special Agency Post)

WASHINGTON — A more relaxed government attitude toward corporate mergers and other antitrust issues may well be the principal effect of the sudden departure of Richard W. McLaren for a federal judgeship in Chicago.

Mr. McLaren has been a tough-liner as the Nixon administration’s antitrust chief since he took office in January 1969. But he traded his antitrust prosecutor’s role for a federal district court seat in Washington last Thursday. The move apparently makes him to appear to have had an unprecedented kind of whirlwind affair.

Mr. McLaren last Wednesday flew what probably was the biggest antitrust ease of his career. The suit, challenging the right of the Chicago Board of Trade to fix commission rates, has potentially wide ramifications concerning the New York Stock Exchange. On Thursday President Nixon quietly nominated and the Senate confirmed him to the federal court post. And on Friday he flew off to Europe for a prescheduled two weeks of antitrust conferences with other member nations of the Organization of Economic Co-operation and Development.

With Mr. McLaren unreachable for comment in Europe, various rumors circulated in Washington concerning the abruptness of his leave to the Justice Department's Antitrust Division.

But, whatever the circumstances of the departure, his nomination and confirmation unquestionably came as a surprise. It is almost unanswerable for comment in Europe, various rumors circulated in Washington concerning the abruptness of his leave to the Justice Department's Antitrust Division.

Mr. McLaren, in recent weeks, has been rumoured to be considering a return to the securities business in New York, said: "I think it’s a loss unless the new guy is tough, but I don’t know that.

All another commented that any “likely successor isn’t apt to enjoy Mitchell’s confidence,” as Mr. McLaren did. "Chances are against that nice blond of a guy who is competent enough and who has the support of the Attorney General on politically hard cases," said Mr. Mitchell. “This McLennan predecessor added that the post of antitrust chief “is a crucible job. You never make brownie points; you only make enemies. That year is about all anybody has in that job.”

Such assessments reflect the fact that Mr. McLennan has taken a tough line on antitrust enforcement, for instance by suing to block large conglomerate mergers and by urging the Securities and Exchange Commission to require more competition in the securities industry. His policies have been cheered by some businessmen but decried by others.
Furthermore, not only "prices are frozen." The regulations here are complicated, but the key thing to keep in mind is that prices of unpurified foods such as fresh fruits and vegetables have moved up and down as market conditions dictate.

The place in which you will see this happening is in the produce departments of our stores. Prices of fresh fruits and vegetables are not controlled as is the case with a selected number of other items, such as eggs and fish, since the prices that we as retailers pay for them are not controlled, either.

The regulations as they have come to us from Washington are quite complex and we have simplified them for you here. What the regulations add up to is:

1. Prices of controlled items may move up and down as long as the highest price does not exceed the ceiling.
2. Prices of some items—mostly fresh fruits and vegetables—are not controlled at all.
3. No price authorized by any of the companies signing this ad is higher than allowed by government regulations.

How can you check on this?

The regulations provide a number of ways in which shoppers can check prices to assure themselves that they are not higher than the established ceilings. Some of these are:

First, you should be aware of the price changes taking place from the shopper's point of view.

Second, you should be aware of the price changes taking place from the shopper's point of view.

Although, under the circumstances, the freeze and post-freeze came as good news, it would be a mistake to relax the vigilance of the consumer against inflation.

In the case of the freeze and post-freeze, it is important to remember that the freeze and the post-freeze were not the only way to control inflation. The freeze was only a temporary measure, and the post-freeze was a more permanent measure.

In conclusion, it is important to remember that the freeze and post-freeze were not the only way to control inflation. The freeze was only a temporary measure, and the post-freeze was a more permanent measure.

... yield the best allocation of our economic resources, the lowest prices, the highest quality and the greatest material progress while at the same time providing an environment conducive to the preservation of our democratic political and social institutions.

I am delighted that you have asked me to participate in the new program of the New England Antitrust Conference. These programs, I believe, are of great importance to the members of the antitrust enforcement agencies for their clients. Such programs are also important to those of us in the antitrust enforcement agencies.

The regulatory antitrust laws in securing competitive benefits depend largely on the extent of quality and price of private antitrust counseling. Your program today will provide further assurance of corporate compliance tomorrow.

In another, related area of compliance with law, I would like to point to the remarkable achievements of the Federal Trade Commission. On August 15, Americans were called upon by the President to freeze prices and wages and salaries. The response of the companies and their employees was overwhelming. At the outset of Phase I many questioned whether the freeze would work. It is evident that it did work, and they would be required to insure that Americans obey the law. Some contended that the public would refuse to support the program and that the enforcement agencies and the courts would be swamped with violations. I think the board rooms where price decisions are made that these predictions have proved false. There have been virtually no persistent violations and recent polls show that close to 80 percent of the people fully support the President's program. It would appear that the danger that inflation has been reduced and that the once-prevailing psychology of "inflation forever" has been substantially rejected by the American people.

I believe that the achievements started with Phase I will continue to build during Phase II and that the economy will once more regain its solid footing. The President's program is one of voluntary cooperation and intercession of our free system of pricing. It does not represent a perpetual system of controls.

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and procurement procedures, or by other forces.

In this connection, it seems to me that we must introduce a renewed spirit of competition in regulated as well as unregulated sectors of the economy. It is essential that this spirit be legislatively and legally expressed as increased competition in the nation’s surface transport system will soon be submitted to Congress. This is a matter of public and deserved wholehearted support. I suspect that more of the same is needed.

As we look ahead against inflation, we must demonstrate renewed vigor in the enforcement of laws which promote rather than retard competition. We must demonstrate once and for all whether the existing laws dealing with competition are adequate to deal with problems of economic power in today’s economy.

Turning to the near term, I think I can safely say that Phase II will pose the very demanding questions for antitrust lawyers. As you know, the Administration is relying heavily on voluntary compliance rather than stringent standards to make it work. Much will depend upon individual decision-making under standards to be laid down by the Price and Wage Group under this new system, as you might suspect, the antitrust laws will continue in full force and effect. As Secretary Conelly astutely pointed out, “The Antitrust Division will not diminish their efforts.” Indeed, we in the Department believe that continued emphasis on, and vigorous enforcement of, the antitrust laws during Phase II will provide a strong tool in achieving both the long and the short range anti-inflationary objectives of the program. In other words, even if the law did not compel continued compliance, antitrust would not be confined to make Phase II an antitrust holiday. I would predict also that state as well as federal enforcement agencies will continue to be active during this period. And you can be sure that private plaintiffs and shareholders will have their eyes wide open for antitrust violations as well.

Continued vigorous enforcement is important in the long range because we believe it will tend to maintain a climate favorable to early de-control of prices and wages, consistent with our fundamental interests in a free competitive economy. To our ability to compete effectively, as President Nixon stated in his address announcing the new post-freeze program, this “can be a year in which the Administration’s effort is to re-open up new markets for our goods abroad and new careers for our working men at home.”

Along these lines, I certainly believe it is in the interests of firms under existing price controls to exhibit greater, not less, price, product and service competition. Members of the Cost of Living Council have recently indicated that controls will first be removed on a selected number of consumer industries. It follows that those industries which are most competitive will be the first to have controls lifted.

What are the mechanics of Phase II and what do we as antitrust counsel have to guide us in this period? As you probably know, Phase II will be administered principally by the Price Commission, which will establish standards and specific requests for price increases—and the Pay Board—which will deal with wages. These bodies will not be constrained in any way from the economy. Both the Board and the Commission will identify firms and collect data, which in turn will be essential in the control of inflation. These economic units will be required to obtain approval of the Board or Commission before initiating rate or price increases. A second, larger class of companies or labor units will be identified and required to submit their proposal for control of inflation or for which advance notice is not practical. This category will be required to submit to the Commission, after the fact, all price and wage increases. Such increases may be rolled back by the Pay Board at the request of a class of firms and collective bargaining units—as well as of unorganized workers—will be monitored. Service through spot checks and the investigation of complaints. Detailed procedures have yet to be announced, but it is clear that the Price and Wage groups will provide explicit standards to which all concerned will be expected to adhere. The Education Act of 1950 included a provision for consultation with industry committees but made it clear that the companies were to function only in an advisory capacity. The Department of Justice provided guidelines for the committee program and emphasized that the Department of Justice would provide recommendations to industry committee organizations, as the Civil Aeronautics Board has, for the Office of the Secretary to the NTEG, 77th Cong. 1st Sess., 1941, p. 20.

In the most recent experience of this country with price controls—Korea—the government administered safeguards against the reoccurrence of cartels. In my view, however, these safeguards did not provide adequate protection to the public or to companies subject to criminal charges or treble damage suits as the result of joint activities during this period.

The Defense Production Act of 1950 included a provision for consultation with industry committees but made it clear that the companies were to function only in an advisory capacity. The Department of Justice provided guidelines for the committee program and emphasized that the Department of Justice would recommend to the agency's failure to provide transcripts of meetings. The Justice Department expressed concern over the adoption of anticompetitive pricing methods such as tying points, zone pricing, and identical delivery prices. The Justice Committee was critical of OES for failing to establish procedures to assure competition.

I must point out that the Administration has these earlier experiences in mind. It recognizes that it is of the utmost importance that the Price Commission and other boards and committees appointed to serve during Phase II contain antitrust safeguards to protect business as well as the public.

I feel sure for example, that the Price Commission, the Cost of Living Counsel and other administrative authorities will weigh very carefully the need for joint industry presentations and other cooperative activities in the light of the risks such procedures entail, on the other hand. Perhaps in some instances adequate procedures for the approval of commodity or trade association statistics are now sometimes handled—by outside accounting firms.

On the whole, I would not be surprised to see the bar if the Price Commission should structure its information-gathering activities on a confidential basis—by company basis. In this way the Commission can test asserted need for increased prices by the comparison of one company's submission against another. Of course, it almost goes without saying in this group that collaboration among com-


4. 64 Stat. 803 (1950).

petitioners should be discouraged to insure that they continue to compete—not conspire—on prices. A competition based on evidence of price competition, the ceiling standard set by the Price Commission might also become the "door." Certainly we can all agree that it would be most unfortunate if Phase II became the vehicle by which our free competitive economy was further harmed and constricted. The "door" is one step of strengthening, and we can certainly agree also that we want to move away from—not toward—greater regulation.

To say the least, these are exciting times for antitrust counsel. As the search for procedures during Phase II progresses, as broader questions are raised concerning the value of competition in our domestic and foreign commerce, and as we study the alternatives to improve and protect that competition, those of us attending this conference today will be busy indeed.

In many respects today I think we stand at a crossroad which leads to greater and continuing governmental controls upon the economy; another leads to renewed vigor in our system of competition and free enterprise. For the latter, the stakes are difficult to raise. Yet, as President Eisenhower once said:

"Our basic problem is not that our people have not the patience, their courage, their faith, because the obstacles are mountainous, the path uncharted. Given understanding, they invariably rise to the challenge."

All of us concerned with antitrust, whether in government, in industry, or in private practice, have an obligation to meet the challenge and to insure that the right path is chosen.

THE TAFT LABOR PLAN

Mr. PACKWOOD. Mr. President, too little attention has been focused by this body on the critical problem of emergency strikes in the transportation industry. For too long, Congress has been satisfied to move from one ad hoc emergency resolution to the next. And in between emergencies, Congress has been content to ignore the underlying problem—inadequate and ineffective legal provisions for dealing with emergency strikes which seriously endanger the public interest.

The distinguished Senator from Ohio (Mr. Tarr) has been a leader in bringing back-emergency reform of our emergency strike laws into the forefront of congressional debate. He is to be highly commended for this, and I am proud to have been working side by side with him in this vital effort.

The Cleveland Press of December 4, 1971, took note of Senator Tarr's initiatives in promoting reform in this area, in an editorial entitled "Taft's Labor Plan." It is an appropriate testimony to this dedicated and energetic Senator's work in this important area, and I commend it to my colleagues for their reading. I ask unanimous consent to print the Record of their hearing, I ask unanimous consent to print the Record of their hearing.

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

[From the Cleveland Press, Dec. 4, 1971]

TAFT'S LABOR PLAN

Sen. Robert Taft Jr. has followed up on his late father's efforts to provide some way of dealing with emergency strikes by offering some amendments to the Taft-Hartley Act.

Taft's aim is to prevent nation-wide strikes which heap widespread troubles on other people.

The senator cited railroad strikes which resulted in unprecedented disorder for many months in the fall of 1970, and the dock strike which resulted in the loss of 400 million in fresh fruit and vegetables, or a coal strike which shuts off power and impairs hospitals and schools.

The Taft proposal would give the secretary of labor several new options in the event of a strike. He could order an extra 30 day cooling-off period after the present processes had been exhausted, or he would require a partial operation of the industry if all else failed he could ask both sides for a "final" offer and appoint an impartial panel to choose one offer or the other.

Much of this is similar to President Nixon's labor plan for the transportation industries—submitted just before the last year but never given the time of day.

In addition, the senator would permit employers to do away with "unproductive" workers' lay-offs, and require at the same time setting up machinery which could aver the work stoppages so costly to thousands and even millions of people who have no part in the dispute.

Except for occasional one-shot actions in railroad disputes, Congress for many years has shown little interest in this type of legislation. But prolonged strikes in key public services have become so ruinous that sooner or later Congress will be compelled to act. The Taft and Nixon plans are good starters.

IN DEFENSE OF FOREIGN AID

Mr. HUMPHREY. Mr. President, the recent Senate debate on foreign aid has raised as many questions as it answers. One thing that Congress has just begun and will gain in momentum as we consider alternative policies for the years ahead.

I think a serious reassessment of our foreign aid programs is long overdue, and look forward to participating in the planning of a new approach for the next decade. In welcoming change I do not see, however, the necessity of rejecting all that which came before. During this year's debate, I singled out some of the several programs which deserve praise for the development work they have done. In the same way I defended the necessity of continuing some of our programs, this year while we reevaluate past assumptions, goals, and programs.

This premise is the one which the Foreign Relations Committee, itself, has adopted, and I commit you to note that our assistance this year should be considered an interim program to carry us over until we find a suitable alternative. I agree with that conclusion, particularly with respect to our economic and humanitarian assistance programs, because I think we have a responsibility which is not so much a matter of power politics or human obligation to follow through on these programs. Whatever the case may be, we should welcome this assistance as a means of raising their standard of living and improving the social welfare of their citizens.

No one knows this fact more than the numerous voluntary agencies engaged in the real work of development assistance. Because these agencies are not big governments, and because their efforts often appear less glamorous than the work of governments and international organizations, their tremendous impact in the developing world often goes unnoticed. This spring the Congress passed a resolution which I initiated, paying tribute to the work of these organizations.

When we discuss plans for the future of our aid programs we must take into account the important role of these voluntary agencies. They are a dynamic part of any aid package. In recognition of this fact, and in respect for the ideas these organizations have had in development assistance, I ask unanimous consent of the Senate to print the voluntary agencies associated with the American Council of Voluntary Agencies for Foreign Service be printed in the Record. This statement, entitled "Restructuring Foreign Assistance Programs of the United States," is most relevant to the current discussion on aid.

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

RESTRUCTURING FOREIGN ASSISTANCE PROGRAMS OF THE UNITED STATES

INTRODUCTION

The year 1970 marked a turning point in the programs of international development aid carried on by the United States, as well as by the United Nations. A succession of Reports on international aid analyzed programs and made recommendations intended to improve these programs and make them more relevant to the needs and priorities of the developing countries in the developed countries. These reports all emphasized that experience has shown that economic progress along social and human development is not enough.

With this in mind the voluntary agencies engaged in relief, economic development, refugee and migration services, nutrition, education, community development and integral human development, have prepared this statement to encourage and to accept the voluntary agency-government relationship can be responsible to the broad nature of the voluntary agencies' overseas involvement. We place special importance on the resources of the government and the knowledge of the agency's overseas involvement. We place special importance on the resources of the government and the knowledge of the agency's overseas involvement. We place special importance on the resources of the government and the knowledge of the agency's overseas involvement. We place special importance on the resources of the government and the knowledge of the agency's overseas involvement.

AMERICAN DEVELOPMENT AND VOLUNTARY EFFORT

President Nixon has said, "The greatness of this country does not lie in what government has done for the people, but in what people have done for the country." President Nixon's Foreign Aid Message of September 15, 1970.
December 10, 1971  
CONGRESSIONAL RECORD—SENATE  
46259

States of America has been an example to the world for the rapidity and depth of its development, which in large measure is due to a wide array of initiatives working together for the betterment of themselves, their communities, and ultimately, the nation.

Voluntary agencies encompass community groups of all types: cooperatives, trade unions, service clubs, church related developments, ethnic and community organizations, farmers' organizations and educational associations. In all cases, however, the characteristic of all is the relationship of the citizen as the agent of his own development—the subject and not the object of activity on his behalf.

THE CONTRIBUTION OF VOLUNTARY AGENCIES OVERSEAS

More than eighty voluntary agencies are registered with the Advisory Committee on Voluntary Foreign Aid. They range from the small ethnic oriented category to large agencies representing a cross section of the majority of the population of the United States. These agencies are engaged in more than 100 foreign countries. Their staffs, both American and overseas nationals, include experts in agriculture, agriculture, community development, rural education, nutrition, medical care, family planning, engineering, peace education, vocational and technical training, migration and refugee services.

Voluntary agencies, therefore, are more than just relief agencies with staff and skills useful in time of disaster, or refugee organizations with specialized programs of resettlement and migration services, or health and welfare organizations. They are a movement of volunteers. They are all of these things, but they are also highly professionalized in the whole area of human development. The fact that they are humanitarian, people-to-people, or church related gives them a valuable dimension in addition to their other capabilities.

FOOD FOR PEACE PROGRAMS

The large scale Food for Peace programs of the voluntary agencies, carried on in more than 100 countries around the world for the past twenty years were made possible largely because of already existing cooperating working relationships with networks of grassroots organizations supported by the U.S. Government as well as by other governments is used for self-help, community development, nutrition education, nutrition training, and a wide variety of activities that promote self development.

DISASTER AID

Voluntary agencies have stand-by organizations that move into action within hours or days of a disaster. They divert ships carrying food, by charter planes of medicines, vitamins, inoculations, antibiotics, clothing, etc. from their own stocks and from purchase as well as contributions. They cooperate closely with the United States government, international agencies, governmental organizations overseas both at the time of a disaster and during the period of rehabilitation and reconstruction.

ASSISTANCE TO REFUGEES AND MIGRANTS

The U.S. government recognized over two decades ago that the cooperation of voluntary agencies was essential for carrying out its refugee and immigration policy and programs. The U.S. government has helped the voluntary agencies resettle over one million refugees to find productive growth within the United States and many other countries. Because of their experience, leadership, and competence in counseling, resettle- ment, training and social service, voluntary agencies accomplished this task at far less direct expense than could have been accomplished by a network of governmental agencies.

VOLUNTARY AGENCY OVERSEAS DEVELOPMENT PROGRAMS

Voluntary agencies working in developing countries are a strong force for development. They bring knowledge of conditions and human resources at the community level. They are a symbol of hope at the "people level" of the world.

Voluntary agencies are in an enviable position as regards human development activities since they live with the people, they have simple structures, they serve the deep-felt needs of the people, and they act on what the people themselves consider their priorities. Development assistance is an integral part of the programs of voluntary agencies because concern for root causes of poverty and human degradation as short term relief. Many agencies invest a great part of their resources, both financial and material, in one or more of our development programs. They are an essential element in human development.

THE NEED FOR CONTINUITY AND FLEXIBILITY IN Voluntary AGENCY PROGRAMS

It is important to underscore the flexibility that grows out of a feeling of confidence between government and voluntary agencies. In Canada, Germany, and, for example, governments provide funds to voluntary agencies for development and allow the agencies to select the projects and programs in their own specialized ways. While cooperating fully, the agencies nevertheless retains a degree of control and flexibility in the expression of the basic nature of their organizations. This type of relationship is a sine qua non to voluntary agencies in their relationship to government.

The ability of the voluntary agency to provide continuity is of primary importance in development programs. President Nixon emphasized this in his Message of September 18, 1970 when he said that "sudden and drastic changes in the flow of aid are harmful to our long-term development goals and to the effective administration of our programs. Our current efforts in re-funding and the provision of supplies, e.g., PL 480 foods, is important to the voluntary agencies. But continuity, as well as results in goals and objectives, are essential to their programs on the part of government is vitally important.

VOLUNTARY AGENCY WORKING RELATIONSHIPS WITH GOVERNMENT

For the past twenty years the United States Government has maintained an important and valuable continuity of relationship with the voluntary agencies through the Advisory Committee on Voluntary Foreign Aid. We recommend that this office be upgraded to reflect America's deep interest in people-to-people programs and thereby recognize concretely the essential role of voluntary agencies in social and human development.

We are convinced as a result of experience that the Advisory Committee on Voluntary Foreign Aid can function more effectively as a Presidential Advisory Committee.

THE SPECIAL ASSISTANT TO THE SECRETARY OF STATE FOR REFUGEE AND MIGRATION AFFAIRS

U.S. Government concern for refugees and migration affairs is presently centered in the office of the Special Assistant to the Secretary of State for Refugee and Migration Affairs. In order to fulfill its role in formulating policies and implementing programs in furtherance of the President's goals, this office should have statutory authority to deal with the wide range of activities inherent in such responsibilities. Its mandate should not only be reaffirmed, but also extended so that it covers not only the United States, but include refugee and migration activities now carried on by various other departments, bureaus and agencies in Government.

GOVERNMENT FUNDED VOLUNTARY AGENCY PROGRAMS

Adequate funding for PL 480, the ocean freight subsidy, refugee and migration program, disaster aid, special countries and grants agreements should continue. In addition, funding should also be provided for voluntary agencies social and economic development programs overseas.

A TRULY INTERNATIONAL EFFORT

The voluntary agencies endorse the proposal for a partnership among the nations in the result of a truly international development effort by channeling an increasing share of development assistance to multilateral institutions. The voluntary agencies themselves have already developed broad international associations and relationships, both with sister organisations international and other national and, with intergovernmental organisations, including the United Nations specialized agencies.

They are convinced that multilateral as well as bilateral government-to-government action in substantial size will be of great significance in the foreign aid assistance field for some years to come.

RECOMMENDATIONS FOR LEGISLATION AND ADMINISTRATION OF AMERICAN FOREIGN AID PROGRAMS

1. Recognize the essential role of voluntary agencies in development and make available an appropriate source of funding development programs of voluntary agencies, both American and local overseas agencies.

2. Continue adequate funding for ocean freight reimbursement, PL 480, special projects, disaster aid, and refugee migration services.

3. Embody greater continuity and flexibility in agreements with voluntary agencies.

4. Assure that American voluntary agencies are granted the flexibility that is accorded to foreign and international agencies in the administration of overseas development programs supported by the United States Government.

5. The Impact Fund of the American Ambassadors Office development programs should be increased so as to provide flexibility in supporting self-development projects sponsored by voluntary agencies and local overseas organizations.

6. Establish the Advisory Committee on Voluntary Foreign Aid as a Presidential Advisory Committee.

7. The mandate of the Special Assistant to the Secretary of State for Refugee and Migration Affairs should be sufficiently broad so as to make it the focal point of government-wide refugee and migration concerns.

8. The traditional policy of the United States with regard to world-wide asylum for refugees and other displaced persons be reaffirmed and appropriately implemented.

9. Provision should be made for flexible authorizations on the basis of legislation for admission of refugees in reasonable numbers and for authority to meet emergency situations arising from the rapidly changing international scene.

10. We support the recommendation of the Peterson task force that the level of American foreign assistance be raised commensurate with America's position as the wealthiest nation, and its responsibilities to the world community.

11. The proposal to separate military support from other foreign assistance is warmly endorsed.
ADDRESS BY PRESIDENT NIXON TO NATIONAL 4-H CONFERENCE IN CHICAGO

Mr. BROCK. Mr. President, in his speech to the National 4-H Conference in Chicago last week, the President underscored young America's participation in the political process, to make a contribution to the goals of the American future. Grounding his plea for participation in a world which is becoming more complex and battering the young, President Nixon listed the possibilities for action to which young persons could address themselves.

The President's willingness to challenge the young in America exemplifies his overriding faith in their ability to accept responsibility and to realistically view the disparity between what our generation has achieved and what is yet to be accomplished. I share this faith and hope that young people will accept this challenge.

Mr. President, I ask unanimous consent that the text of President Nixon's speech be printed in the Record.

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

TEXT OF AN ADDRESS BY THE PRESIDENT TO THE YOUTH OF AMERICA

To stand before this great assembly of young leaders and young achievers, to feel your idealism and your commitment to excellence, is to stand on the threshold of the brightest future the world has ever known. You are coming to maturity at a time when, for the first time in our history, there is an unprecedented world of opportunity for young Americans. Your generation has the opportunity to participate more fully in the democratic process than any young people have ever been able to do since Revolutionary times.

Think back to those stirring days. More than half the population of America was under 20. The cause of liberty was the cause of youth and age alike. Citizens belonged not to this or that generation, but to America. Hamilton in his late teens emerged as a leading voice for independence in New York. Jefferson, then 16, signed the Declaration of Independence. Sixteen other men under the age of thirties, 3 in their twenties, and Franklin at 70, joined Jefferson as signers.

In the 1960s—two centuries things changed. By the 1950s, when you were born, generational stereotyping and pigeonholing by age had become common. Many young people in those years went intensely but quietly about the ordinary tasks of growing up. Some of the young, on the other hand, went under ground into a Bohemian subculture. It is obvious now that older people should have been asking why—but few bothered. It was so much easier just to tag one group "the silent generation," and the other "the best generation," and leave it at that.

Then suddenly in the 60s everything seemed to go to the other extreme. A new breed of young men and women shock the Nation, writing a record dominated by remarkable good but shadowed with ominous wrong—civil rights laws and urban riots, cancer with all its unanswerable questions, against aggression in Asia and a war against that war in our own streets, a surge of participatory politics and a wave of community, a rich new diversity in life-styles and a grim new plaque of drug abuse.

As a result, America has reached vigorously for a new role as full partners in American society. The result was monumental; yet the cost in disruption and alienation seemed almost prohibitively high. Why was the record of the youth movement only mixed, when it should have been magnificent? It was only mixed because it took the form of an outside force, rather than of an integrated part of the larger society. It was forced into that form by the rigid generational walls erected in American life over the years. Its frustrations and excesses arose in large part from the painful experience of battering against those walls—an experience that dramatized the need to sweep them away once and for all.

Thus at the end of the Sixties Americans woke to the new world, to see how they had seen that to regard a person's date of birth as more important than his own unique individuality, to regard a more insidious bigotry called "age-ism." They saw that it was wasteful, stupid, and unjust to restrict the future in which those in the middle of life would monopolize the centers of power, while the young would plod along in apprenticeship for a long time to come in the shadow of the old. They saw that social security, preferably well out of sight. They saw that it was time to pull up our own roots. They saw that the radical radicals, the silent, silent or lost—and to raise a new standard of brotherhood, tolerance and mutual respect.

As these new attitudes have taken hold, young America has passed from its stormy night of recent years into a bright new morning. College tuition is subsidized, an education is sharpened—shortly—not in retention but in wisdom. High schools and young working people, the next declared battlefront of the radicals, have not caught fire. Opinion surveys have detected a rising disgust with political radicalism even in strongholds of the counter-culture.

Most of you are not only witnesses to these developments, but leaders in them. You could not be leaders in any cause that was not important cause. For the more convincingly the young majority demonstrates its resilience and greater headedness, the faster you will find the so-called Establishment responding to your hopes and opening to your aspirations.

The young are no longer going to be treated as a mass or a bloc in this country—neither as a generation apart nor as a generation that is the cause. You deserve better than that. And you, young people, should not be moving rapidly to take you into full partnership as individuals. Your country knows how much it needs young people. It wants to bring that, not just with talk but with action.

We need your voice in the political process, as you have been prepared for that trust—which should not take 21 years. That is why I was able last July to certify passage in record time of the 26th Amendment lowering the voting age to 18.

We need your abilities and your insights in the making of public policy. That is why we have divided individual participation throughout the executive branch of the government to recruit young talent and hear the young voice. That is why I have brought an unprecedented number of men and women in their twenties into positions of trust on the White House staff.

We need your help. We need your work of helping the less fortunate across America and around the world. That is why we have Peace Corps and VISTA programs by merging them to form a new volunteer service agency. AC- TION—a direct outgrowth of the University Year for ACTION to draw thousands of college students into this effort. And I have asked our so-called establishment, to make voluntarism a vital force in the independent sector—so that every single American who wants to serve his fellow-man can have an avenue for doing so. Young people today are more generously committed to human betterment through service than the one generation before you. Your own work in 4-H has shown what mountains that commitment can move; I ask you to continue it, and to maintain it throughout your lives.

We need to be sure you are free to shape your own destinies on the lines that will provide maximum fulfillment for you in adult life. That is why we have reformed the draft to reduce the uncertainty and duration of service on the installment plan. That is why we are moving rapidly toward the goal of a zero draft and an all-volunteer armed force. That is why we have reformed the Federal student loan system to insure that no qualified student who wants to go to college will be barred by lack of money. That is why we are developing new career education and youth employment programs, in recognition that since half the college-age young do not go to college but do need salable skills and good jobs.

We need your ideas in the national debate on critical national goals, and not in vain. Why we turn the 1971 White House Conference on Youth into the most wide-open forum "of, by, and for young America." Once a decade since 1906, older people had been meeting at the President's invitation to discuss that kind of generational condescension we are so steep with the Seventies, so we turned the conference to the young themselves. I am the first to tell you that not everything was said and not everything they said lined up with my own point of view. But I totally recognize how much it means to them to see that that, not just with talk but with action.

More than 300 of the Conference's recommendations have just undergone six months of intensive review by the affected Federal departments. When the results of that review are announced, the extent of agreement between Conference hopes and government action will further weaken the myth of an unbridgeable generation gap, and will further strengthen what the conferences called their sense of "kinship with persons of good will of all generations."

This sense of kinship, forged into a firm 노 in the 4-H generations, will be essential if we are to meet the opportunities opening up for America and the world in the coming decades.

We are finally concluding our involvement in the Vietnam war, and are doing so in a way that is responsible, honorable, and constructive for the long-range stability of Asia and the Pacific region. We have done and will continue to do all in our power to help define the exploration stations in the Middle East and the Indian Subcontinent. We have moved from confrontation to negotiation with the Soviet Union, with limitation of nuclear arms, relaxation of tensions in Hungary and increased trade among the possible results.

The world that is taking shape is a result with you to reducing dangerous than the one you have grown up in—but even more challenging. Political, economic, and military power in today's world is fragmented in areas of just a few. Competition in the works of peace will be intense.

We are developing a new kind of human world, and one literally a new world—one in which more than 60 new nations and 60 percent of the people living today have been born since
CONGRESSIONAL RECORD—SENATE

GAO POULTRY REPORT

Mr. RIBICOFF. Mr. President, on November 16, 1971, I released a report of the General Accounting Office on sanitation standards at 68 poultry plants, which had been prepared at my request. Since that time, considerable additional information has come to my attention concerning one of these plants. In the interest of a complete and accurate record on this subject, I ask unanimous consent that certain recent correspondence concerning one of the plants be printed in the RECORD.

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

GAO POULTRY REPORT

Your plant was one of 68 visited by us in the company of supervisory inspectors of the Consumer and Marketing Service who evaluated the compliance of that plant with Federal sanitation standards. We recognize that your plant is primarily involved in the slaughtering and processing of red meat and red meat products; however, it does process some poultry products. Consequently, at your plant the only section of the inspector was the one involved in the processing of poultry products.

Condition in the 68 plants varied significantly. In the section of your plant which was evaluated, only one minor variance from acceptable standards was noted—a door in need of rust removal.

We hope this letter clarifies our report as it relates to the section of your plant involved in the processing of poultry products.

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.

THE 25TH ANNIVERSARY OF UNESCO

Mr. HUMPHREY. Mr. President, this month marks the 25th anniversary of the founding of UNESCO—the United Nations Educational, Scientific, and Cultural Organization. In the 25 years that UNESCO has done some monumental work, particularly in the field of education. While its projects have made few headlines, the work of UNESCO has had a tremendous impact worldwide.

Because a large share of the American public is largely unaware of these accomplishments, I want to take this opportunity, Mr. President, to bring some of them to your attention. I want to pay tribute to what UNESCO has done and continues to do because I think this great organization represents the hope for the future. Many people assume that the United Nations is a divided, helpless organization, contributing little to the cause of peace. I know otherwise. I maintain that the relentless plodding and the imaginative planning of an organization such as UNESCO is a major contribution both to the structure and the hybrid character of our "global village." It brings interdependence, close acquaintance, and human welfare.

In all the possibilities it offers and the progress it has brought, the United States has paid a relatively small portion of the cost. Our share of the annual budget is $12 million, or roughly 5 cents per American taxpayer. Just what are we buying with our contribution? UNESCO runs extremely effective world literacy and more advanced educational programs; it has offered a broad spectrum of cultural activities. Its scientific programs have been a great catalyst in reaching technological breakthroughs of international consequence. Together, all these programs have brought about the present meeting of minds and ideas on a broad catalog of problems and projects so essential to the welfare of the community of nations.

UNESCO was born in the closing days of World War II on the basic principle that "wars begin in the minds of men." Its founders, many of the leading American educators, artists, and intellectuals, put the corollary through.
It is in the minds of men that the defenses of peace must be constructed.

UNESCO is headquartered in Paris. It is operated by a total staff of 2,200 special- ized international scientists from 114 countries, including 1,600 who work in the field, and is headed by a director-general, Rene Maheu of France. It is linked to the United Nations through the Economic and Cultural Committee of the United Nations, or ECOSOC—but it determines its own programs and budget through the wishes of its 133-member states who meet every 2 years to consider and vote upon the many facets of UNESCO operations proposed for each biennium.

The emphasis on intellectual cooperation which characterized the early days of UNESCO has been sharply modified by the passage of time and the pressures of the world events upon the organization. Where some of UNESCO's founders may have viewed the organization as a potential forum for the exchange of widely diverging intellectual interests, a place where cultural concepts of one nation might be made available to the cultural connoisseurs of other nations, UNESCO today is more than a forum for intellectual exchange. Now it is concerned with many vital educational, scientific, cultural and communication needs of a vastly expanded membership, predominantly from the developing world.

The organization is very involved with the growing problems of educational development.

UNESCO, 25 years after its founding, finds itself deep in such pressing world-wide concerns as the environmental crisis. A few years ago it hosted an international scientific conference on the biosphere. As a result it moved to devote more of its energies and facilities to the world environmental problem under its "Man and the Biosphere" program, and in so doing UNESCO provided a stepping stone to the United Nations world environmental conference which will be held in Stockholm next summer. This will be a conference for the environment, believed by environmental specialists to be an essential step toward solving an international problem which threatens to engulf us.

UNESCO finds specialists to help developing countries start universities, build efficient rural schools, establish libraries, set up special training programs in schools and universities. At the same time, it provides an international framework—and often the actual physical facilities of housing and housekeeping expenses—for such things as brain search, air pollution, or satellite communications. Under UNESCO's auspices nations meet and carry on a variety of successful international projects such as International Geophysical Year, a joint space science initiative of the Antarctic which would have been impossible without a UNESCO patronage and sponsorship.

UNESCO has started a concerted search using every available means, to collect data for rational water management. This is the purpose of the International Hydrological Decade which was launched in January 1965. Problems to be solved are as simple as measuring the rain or as complex as determining the effect of glaciers on water supply. It will be a Union of the United Nations through the International Hydrological Decade to coordinate these and other related activities and to develop a national awareness of the need for the conservation and management of water resources and the training of hydrologists.

In the field of human rights, UNESCO has taken an active bid. For example, it has organized this year as year to combat racism.

Despite this wealth of activity, UNESCO has little of an impact on the United States. True, there has been some tangibility to return on our investment. Some of the money we spend upon UNESCO comes back to us in salaries and grants for American specialists employed by UNESCO on various worldwide projects, and some American publishers and manufacturers of educational materials have realized a return of some $33 million from sales to UNESCO. But in general, we are not outside the mainstream of American life. I cannot help but question if this is real to our advantage. I view the crisis in American education, for instance, and ask if the United States might gain from the UNESCO family if we had the money and guidance in solving our educational problems. I question, also, if we might not better deal with the great questions of peace and East and West if we used, for example, UNESCO's bank of cultural information on Asia or on other cultures.

There are times of great soul searching and the United States at that time is a trying chapter in internationalism, is asking itself profound questions which must be asked, the answers to which will profoundly affect the security of both our own Nation and the world at large. Our questions impinge upon the United Nations and its specialized agencies, The United Nations, as much as any country in the world, is of any nation, surely, has been forced by the times and the temper of its members into equally critical soul searching.

As part of this international analysis, UNESCO at the dawn of its second 25 years of existence must ask itself some questions, and it is doing so. There are valid criticisms to be made of UNESCO, but they relate to methods, not goals. When I consider the "future shock" of a technical tomorrow which is almost upon us today, I can only urge UNESCO to enlarge its efforts to computerize and computerize for all of us the raging flood of technical information. And this is what UNESCO proposes to do with UNISIST—the world science information system. Its advanced and adult education programs will have to be expanded to fit the requirements of what the U.N. has called the second development decade.

This anniversary review has only touched the surface. UNESCO has done a great deal more. It is my firm belief that it will gain momentum in the years ahead, with one provision. We in the United States must lend UNESCO all the financial and psychological support we can, if we want it to carry on and if we want the international community to benefit from it.

Mr. President, I want to bring to my colleagues' attention some articles which describe in some detail individual UNESCO programs. One of the more interesting is the idea of a United Nations University. Mr. President, I ask unanimous consent that the articles be printed in the Record.

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

UNESCO'S QUARTER CENTURY

The United Nations is coming into increasing disrepute in this country, some of it deservedly so, much of it unavoidably so. The pretense of parliamentary equality between the Soviet Union and Bhutan, for instance, or between the United States and Chad, gives certain comic boredom to too large a percentage of the debates and votes in the Assembly while the Security Council frequently reduce the Security Council to a system of mutually locking brakes against any action at all.

The organization which was supposed to usher in a new age of peace on earth has in fact witnessed continual warfare, often involving the superpowers. The.softer smaller powers on the free-lance basis that once thought to be the sort of war the United Nations could stop. It is all a sad commentary not only on the international peace-keeping machinery and its non-existence, but more deeply on the logic of the organization of mankind in the 20th Century. That being so, the survival and flourishing of its auxiliary, the United Nations Educational, Scientific and Cultural Organization, UNESCO, is remarkable in itself and a reasonable cause for fundamental optimism about the whole endeavor.

UNESCO last week celebrated its 25th anniversary and did so at a time when its own achievements and work in progress far outshadows those of the U.N. proper.

In 25 years, UNESCO has brought the benefits of education and learning to millions. It has brought the hope of life extended and life extended to masses whose history and culture prepared them for a century of life and whose contributions to the limits of its financing, which have always been stringent, UNESCO has at last begun to ask the immense and basic problem of feeding the world's people.

There are now, as there always have been, American voices raised against American participation. It is even remotely possible that such voices may prevail, that the U.N. will go the way of its predecessor, the League of Nations, into the dustbin of history, the atonic of humanity's hopes.

But regardless of the fate of the parent organization, UNESCO is determined that those hopes in action and in significant achievement. If the U.N. by no means thrives as an international institution, UNESCO, in its quarter century, has given full scope to good will toward men.

PROPOSAL FOR A U.N. UNIVERSITY MAY

COME TO VOTE IN ASSEMBLY

(For Andrew H. Malcolm)

United Nations, N.Y., October 30—The idea of a United Nations University with a string of post-graduate research centers scattered around the globe has made substantial progress. The idea in recent weeks may come to a vote during the current General Assembly session.
An official, though unpublished, feasibility study—a copy of which has been obtained by The Christian Century—indicating the desirability of organizing a world network of such research centers coordinated by a rector at a central headquarters in an as yet undetermined country.

Japan, Austria and Switzerland have been mentioned as possible sites for the headquarters.

With the 120-page study in hand, a number of diplomats and educators, including Dr. Andrew H. Wellwood of Columbia University, are now preparing passage of some form of international-university plan by the year's end.

The concept of such an international university, where scholars from many lands would meet to work on a common problem, is not new. Alexander's library in ancient Egypt, for example, attracted more than local scholars.

However, the idea never gained much strength in modern times until two years ago, when it was proposed by the United Nations' Secretary-General, himself a former teacher, as an extension of such undertakings to promote international understanding.

Dubbed "Than U." In fact, U Thant has been such a strong advocate of the university idea that the proposed institution has been dubbed "Than U."

But support for such an institution, especially among the developing nations that now form a majority in the United Nations, has broadened it formally in the introduction of a resolution in 1969.

That year the General Assembly ordered the feasibility study by UNESCO, the United Nations Educational, Scientific, and Cultural Organization. Mr. Thant also requested a parallel study from a panel of 15 international educators, headed by Dr. Cordier, the Dean of Columbia's School of International Affairs.

While the UNESCO study is complete, the educators' final report is not. However, a series of interviews with those involved has revealed that both groups have reached essentially the same favorable conclusions.

As presently envisioned, the university would not offer any undergraduate studies. No degrees or diplomas would be awarded. The grade point scale, although it would be drawn to the school's scattered units for periods of a few weeks or years. To avoid grading systems, the "Than U." would be constructed in as many countries as possible.

The centers might be established as research institutes, either independent or within the United Nations family of specialized agencies. They would affiliate with the university in certain areas of common concern. The International Center for Theoretical Physics in Trieste has been mentioned as such a possible affiliate.

Japanese Sites Offered for "Problems of Mankind"

UNESCO has said that research and training should be decentralized and "than U." should act as a "whole," rather than around traditional academic discipline.

These problems might involve population and economic growth, the economic and political variables of social tensions and international relations, and the influence of technology on the environment.

The examination of these problems in an international institution "free from national and regional bias could produce results displaying a truly international and carrying great moral weight," UNESCO said.

The research units would be supervised by the rector from the university headquarters. Neither report recommends a particular site, although UNESCO said the location should be readily accessible to other institutions.

Than U. would provide the most fundamentally productive and stable environment for the study of the problems of mankind, it said.

UNESCO: RECORD OF SUCCESS

This month marks the first quarter century of UNESCO, that portion of the United Nations' system on the closely watched newsworthy peaks. Filled with achievement, employing 3,500 people from 125 member states, and with a successful and enthusiastic-venture of the United States, UNESCO functions under a constitution that states: "In the minds of men, in the minds of men that the defenses of peace must be constructed."

UNESCO's real name is, of course, the United Nations Educational, Scientific, and Cultural Organization, and in the past twenty-five years it has been in the field of education. That UNESCO has achieved perhaps its most outstanding accomplishments. As of the beginning of this year, UNESCO had trained in forty developing countries more than 60,000 teachers and educational planners to serve in primary, secondary, and technical schools. Women in some countries and men have functioned as not only teachers but examples to their contemporaries and to traditionally trained local colleagues.

In fact, UNESCO trained the first African secondary schoolteachers south of the Sahara Desert. Now there is a stream of 2,000 graduates entering a year in central and southern Africa.

As recently as fifteen years ago fewer than twenty-five million students were enrolled throughout Latin America. In the intervening decade and a half, largely through a UNESCO program, that enrollment has increased by upwards of sixteen million children. In the sorry field of adult literacy, a UNESCO survey in 1957 revealed for the first time that 44 per cent of the world's population could neither read nor write. Vast expansion in education, partly through U.N. programs and money, has dropped the world illiteracy rate to 34 per cent, though, sadly, the total number of illiterates may be larger than it was fifteen years ago because of the population explosion.

Architects employed by UNESCO have designed plans for the best and least expensive school buildings for developing countries. Other money and effort have gone into the training of teachers from colleges and technical institutes, which now enroll more than 50,000 students and have graduated more than 30,000 women and men whose engineering-technical skills are absolutely essential to the development of the Third World.

In the field of science, second section in the organization's title, UNESCO's quarter-century achievements include seed money to launch the International Geophysical Year, which in 1957 and 1958 produced spectacular scientific results, including verification of the inner and outer Van Allen belts. Ocean research has resulted in rich new fishing grounds as well as extensive discoveries about the sea floor. Not to mention worldwide weather and navigation aids. Extensive research in climatology, hydrology, the energy of sun and wind and their ecological relationships, to the deserts of the Sahara to the status of the granaries of the world since these and other data indicate the health or sickness of the earth's crust and the other third of the globe's land surface. Earthquake-measuring stations that chart the history and behavior of these natural catastrophes have been established in countries. UNESCO has helped every country that lies over a fault line.

On a planet where nearly half the children cannot read, one-third of the adults are illiterate, and half the world goes to bed hungry every night, UNESCO's pragmatic achievements may outweigh the cultural. Just as the largest and most successful symposiums of anthropologists, geneticists, ethnologists, and inmakwers on ways to improve the status of the human will not be the most important achievement in the future years. Of course, the general area of human science and culture include a universal copyright convention propagating international, scientific, technical and artistic works; to date, this agreement has been ratified by sixty-one countries.

By the scope of its mandate, the UNESCO budget is modest indeed; although this income has risen from $7 million in 1947, it had thirty-four members, to $45 million this year, when it has 125, there is plumply little left to work with in any given field of human benefit.

As of this spring, the United Nations Development Programme had entrusted UNESCO with 167 world projects involving an outlay of more than $650 million, not counting bankers' loans and credits of $385 million in thirty-eight developing countries. The figures are impressive testimony to the fact that the far-reaching U.N. arm now optimistically entering its second quarter century, since it has proved the past.

UNESCO—A Good Deed in a Naughtly World

(By Anthony Mehill)

Nineteen Seven-one marks the 25th anniversary of UNICEF, an organization aptly described by a commissioner as "a good deed in a naughty world." UNESCO—the United Nations Educational, Scientific and Cultural Organization—is one of several international organizations in the UN family known as "specialized agencies."

What is UNESCO, what does it do, and where does it do it?

WHAT IT IS

UNESCO is an affiliation of 125 Member States with headquarters in Paris, an autonomous agency, with its own budget and governing body. UNESCO carries out the educational, scientific and cultural interests of the United Nations.

What are its functions? The UNESCO Organization. To some it is a great publishing house, turning out books, studies, reports, periodicals in many languages. To others it is a cabinet in which there is systematically catalogued and available to researchers information on history and culture. To others it is an arm of the United Nations' Educational, Scientific, and Cultural Organization, one of several international organizations in the UN family known as "specialized agencies."

UNESCO's range of operations and interests is broad and sweeping. LITERARY PROGRAMS

UNESCO endeavors to promote international understanding in a variety of ways. For example, at least 850 million adults in the world cannot read or write, a shocking situation which is growing by 20 million a year. UNESCO is pioneering a "functional literacy" training program, experimental in nineteen countries, helping to teach the skills in their everyday work.

UNESCO's pilot literacy programs are underway in 12 countries, with 40 more countries considering to participate in the program. UNICEF, with 150,000 persons enrolled in UNESCO-
sponsored literacy classes. UNESCO has sent literacy programs to more than 60 other countries to advise their governments.

And while this practical grass-roots program goes on, UNESCO is constantly translating and disseminating in the Western world great writings from the cultural heritage of nations like Japan, the Scandinavian countries, India—basically shelves that hitherto unknown to Western nations like our own.

TRAVELING TEACHERS, BUILDING SCHOOLS

Vital as the UNESCO literacy programs are to UNESCO itself but far greater is the multitude of UNESCO operations. The Education "E" in UNESCO embraces not only teaching the materials to read, but training teachers to teach, showing new nations how to develop libraries and museums, helping those who seek UNESCO's advice to develop educational techniques for youth and adults and for farmers and factory workers.

When a group of Latin American countries sought advice from UNESCO on the design and construction of rural schools, UNESCO didn't reach into a file drawer and pull out a preconceived solution. Instead, they went from around the world the top experts in the field, paid their way to a meeting for their precepts, which was then translated into practical data. This UNESCO project was designed to provide a solution for the Latin American education needs and was implemented under the guidance of UNESCO's education experts.

UNESCO sponsored a research and training project in the field of education in the Democratic People's Republic of Korea. The project aimed to develop educational programs for the Korean peninsula and to promote cultural exchange between Korea and other countries. The UNESCO mission worked closely with the Korean government and local educational institutions to design and implement effective educational programs.

UNESCO's efforts have not been limited to Latin America. In Asia, the agency has worked extensively in developing educational programs for countries such as Indonesia, Pakistan, and India. UNESCO has also provided technical assistance to a number of African countries, including Egypt, Nigeria, and Ethiopia.

UNESCO's work in the field of education has been instrumental in shaping educational policies and practices around the world. The agency's expertise in education has helped to improve educational standards and outcomes, particularly in countries where resources are limited. UNESCO's contributions to education have been recognized and celebrated, and the agency is widely regarded as a leader in the field.

The work of UNESCO is not limited to education. The agency also plays a crucial role in promoting cultural diversity, protecting cultural heritage, and advancing scientific research.

OCEAN EXPLORATION

UNESCO can sponsor international undertakings. Through UNESCO, great competitive powers like the United States and the Soviet Union work peacefully side by side in international relations. Important scientific research projects, notably the enormous program—the so-called International Decade of Ocean Exploration.

The oceans of the world cover 70 percent of the earth's surface. They belong to everyone and are therefore an ideal area for UNESCO cooperation.

The International Indian Ocean Expedition is the famous example of such cooperation. It lasted for six years, involved 36 nations and 40 ships including six from the United States. In an area about which man previously knew almost nothing, they found areas of no life as well as areas where mammals sweep one-half the way in one direction and turn around and blow the other way, and why the patterns of the Indian Ocean change times by the billions. And as a by-product, expedition research vessels discovered a rich mineral bed in the Red Sea which is estimated to be worth nearly two and one-half billion dollars—this by an expedition whose total costs were $40 million.

PRESERVING CULTURAL TREASURES

The United States shares in UNESCO's work in the preservation of the world's cultural treasures. One of the most spectacular projects in this field was the international campaign which saved the ancient Ruins of Tikal in Guatemala from destruction by the United States Army. The campaign was so successful that UNESCO has called it the "Tikal Project." UNESCO has also worked to protect the ancient Mayan city of Calakmul in Mexico. The agency has also played a key role in protecting the ancient ruins of the city of Cusco in Peru.

UNESCO art exhibits have travelled the United States for the last 30 years. Through the cooperation of the Smithsonian Institution, they have been seen in hundreds of colleges and universities. Currently there are three UNESCO exhibitions in the United States.

UNESCO has also helped bring American cultural achievements to world attention by publishing an extensive catalog, 'The World's Fairs and Exhibitions,' which contains information on the most important exhibitions of the last 100 years. UNESCO has also published a number of books on modern American culture, including "Modern American Painting," "The New American Cinema," and "The New American Novel." UNESCO has also published a number of books on modern American culture, including "Modern American Painting," "The New American Cinema," and "The New American Novel."

MASS COMMUNICATION

With an expected world population of six billion by the year 2000, UNESCO is justifiably concerned with the role of the satellite in mass communications for educational purposes. Solving this problem will require international cooperation and coordination among the various elements that have a natural role to play, entities like the International Telecommunications Union, the World Bank, and the United Nations itself.

Sponsoring research and assisting in international cooperation is right up UNESCO's alley. It is in the form of advisory activity that UNESCO实在是 had a role to play, entities like the International Telecommunications Union, the World Bank, and the United Nations itself.

The U.S. Naval Research Laboratory for UNESCO (Washington, D.C. 20390) will file full information requests for basic information in the UNESCO libraries on how it is and what it does and how it works. Lists of UNESCO publications and UNESCO sales items—including the UNESCO art exhibits—are available in the United States only through UNESCO. The UNESCO publications center Post Office Box 430, New York City 10016. UNESCO films are handled by Constitution Bookshop, 1174 Stockton Street, San Francisco 94109.

SENIOR ARMED SERVICES COMMITTEE HEARINGS ON SIMPLER AND LESS EXPENSIVE WEAPONS SYSTEM IS WELCOME MOVE

Mr. PROXMIRE. Mr. President, for years, the critics of defense spending have been alleging that the weapons the Pentagon has been buying are too costly and too complex. Instead of proposing simple weapons for single missions, the Pentagon has advocated complex weapons for numerous and even conflicting missions. The result is weapons which cost too much, which are late in delivery, and which fail to meet their specifications when completed.

Now, it is in the Committee on Armed Services has begun hearings on this most important issue. Witnesses have testified how the British and Russians and others have built effective weapons for half the cost of our weapons. In the case of the F-14 fighter plane, for example, it is even worse. The cost of the Russian fighter of equivalent ability is one-fifth the cost of our F-14.

Witnesses have testified that we must test weapons before rushing into production, that the concurrent development and production of weapons had led to costly technical failures and huge cost overruns, and that a firm policy of "fly before you buy" is necessary. It is important that the Pentagon has been urged by others to do it by a blue ribbon committee that looked into the Pentagon, but up to now it has successfully managed to avoid the matter.
VIETNAMIZATION OF THE FOREIGN SERVICE

Mr. FULBRIGHT. Mr. President, the December issue of Foreign Service Journal contains a most interesting article entitled, “Vietnamization of the Foreign Service: A Former Career Foreign Service officer who served in Vietnam and throws a great deal of light on the operation of the career Foreign Service officer is against the concept to have it printed in the Record.

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

VIETNAMIZATION OF THE FOREIGN SERVICE

(John Claymore)

Nearly three million Americans have now served in Vietnam. Of these, about 600 have been Foreign Service officers.

Thus, roughly 20 percent of the Foreign Service has been exposed to many of the stimuli which have turned “nice” kids from Middle America into peace freaks, hawks, junkies, and even evaders.

For the FSOS, however, the experience generally has not had the radicalizing effect that it has had on the military. FSOS tended to be older and less malleable than the American soldiers in Vietnam, and their experiences abroad were usually more subtle and less striking than those of the GIs. Some FSOS were essentially untouched by the whole experience, reacting to difference in a different way than if they had been in Paris or Rome. But for most, and especially the young, Vietnam meant change. It meant a violent break from the way they had been, a cynical resignation, and an exposure to the realities of war.

About 350 FSOS have been assigned to the pacification program (CORDS). They functioned as advisors to the Vietnamese civilian and military administration in an effort to make the Government of Vietnam a viable force in the countryside. Few, if any, had any background for this assignment; yet most have acquitted themselves well, within the context of the programs they were working in.

Nevertheless, FSOS have been affected by the war. It is a subject that has been widely reported in relation to the military. Many served in photo-combat roles with command responsibility. While not participating in ground combat, many were killed and what often seemed like the unnecessary loss of human life. Some were faced with the mental and physical scars that the war inflicted on them.

One FSO currently serving in Washington possesses a file of documented atrocities including photographs. He has written extensive reports on these apparent war crimes he investigated in Vietnam. As far as he knows, no action has ever been taken to punish the guilty. Because he is a supporter of the war, the State Department policy, and because he fears the effect on that policy of additional war crime controversy, he has chosen not to make his information public.

He believes that the public should be aware of the atrocities committed by US forces in Vietnam.

Similarly, numerous FSOS in the countryside wrote reports on the excesses and failures of American troops. At least one civilian official found himself relieved as chief American advisor in a province for his sharp assessment. The lesson was not lost on others. The three-star American general commanding the area around Saigon issued an order in 1967 that there would be no criticism of the reports written by pacification workers. This order was later rescinded, but again the lesson was not lost.

The 350 or so FSOS who served in the pacification program found themselves in a situation in which they were being used for promotion on individuals whose fundamental view of the problem in Vietnam was quite different from their own.

Since the summer of 1967, the pacification program (CORDS) has been part of the military command structure, although the State Department officials who came under it. The military in CORDS outnumber the civilians by about eight to one. Organizationalally, the program is run like the military staff section which it officially is. There are SOPs (Standard Operating Procedures), training programs, and directives to explain everything.

The FSOS in CORDS who expected to maintain their professional interests were likely to be severely disappointed. Inevitably, either their direct superior or his superior was in uniform, and they were not rewarded for promotion on fitness reports or reviewed by a military man. Then too, a junior FSOS often found himself in a peculiar job because his protocol rank was that of first or second lieutenant, and accordingly, he was not allowed to ap- parently could conceivably be five years younger and much less experienced.

While there was no clear State Department policy on the subject, most FSOS in the field were expected to bear arms. For some, this meant little more than participating in the defense of living quarters. Many who served in the districts, however, assumed a para-military to full military stance. The civilian district advisor often participated in combat operations, if for no other reason than to establish rapport with his Vietnamese counterpart who was usually as.FSO. Other FSOS who served in CORDS found themselves calling in airstrikes or firing on enemy positions.

At least one State Department’s Director of Personnel established that the fact an FSOS has a conscientious objection to killing is not a consideration in placement. Whether he shall be assigned to CORDS. Some FSOS who are conscientious objectors are presumably assigned to the less dangerous jobs.

It is the question of who should be sent to Vietnam that has generated the most controversy within the Foreign Service. The majority of FSOS do not want to serve in Vietnam. Their reasons tend to be personal and usually do not stem from opposition to the war: most do not want to leave their families for 18 months to two years; many do not feel a Vietnam assignment would be good for their career; and others are afraid of the physical danger; and others do not want to become part of a military organization.

Volunteers make up no more than one-fifth of those assigned to CORDS.

Yet the State Department long maintained its policy of continual assignment up to 150 FSOS to the CORDS program in addition to staffing the large Saigon Embassy. Although the figure for CORDS has never been reached, as of mid-April 1971, 61 FSOS were serving in CORDS, and another 38 were slated for CORDS positions. For several years, only bachelors were involuntarily assigned, but present policy makes all FSOS eligible. Moral or any other kind of opposition to the war is not considered grounds for being placed elsewhere.

(23 in at least one instance, however, opposition to the war was the reason to change an assignment. In mid-1970, a Vietnam returnee expressed strong opinions against the war when reporting for his CORDS position. He was reassigned to the Vietnam Training Center in Washington. He was swiftly given other duties.)

The personal officer responsible for Vietnam recently described the Vietnam assignment process thusly: “Service discipline applies.” FSOS are supposed to be available for assignment without question.

*In mid-August, 1971, the State Department stopped assigning all but a few FSOS to CORDS. This article was written earlier and should be read in that context.
assignment anywhere in the world according to the needs of the Foreign Service. This is described as a ‘special consideration,’ or Department, although no black FSO has ever been sent to South Africa, and Jewish officers are not automatically assigned to Israel. Many FSOs feel that assignments to Vietnam are made on a rather arbitrary basis and that those officers with good command of Vietnamese usually can avoid being sent there. No person interviewed for this article could recall any staff assistant to a high State Department official, or any personnel officer ever having to go.

How far the Department will go to enforce a consistent personnel policy in Vietnam is unclear. The Director General has said that it was "not my intention to make people go to the point of resignation." Yet the statements of the relevant personnel officers are ambiguous and give the impression that the number of FSOs assigned to CORDS could not possibly be cut back unless reductions were mandated there, State simply would not have the funds available to pay them. Reductions in the Foreign Service necessitated a near stoppage in the recruitment of new FSOs in 1967 and 1968—a situation which was widely felt to be unhealthy for the future of the Service. Thus, during 1968 and 1969 many young FSOs came into the Foreign Service with the understanding that their first post would be CORDS in Vietnam. This recruitment policy, while it offered incen-

vantages to those desired more diplomatic careers, the hiring list among those seeking new opportunities was sufficiently large to provide enough new officials to handle the mounting opposition throughout the country to the Vietnam war, dissatisfaction rose among the new FSOs.

In Foreign Service terms, designation hit its peak in the late summer of 1969. Prior to that time, most had letters from the State Department which strongly implied that for the foreseeable future the only way into Foreign Service was to enter the Foreign Service Office and spend their first tour with CORDS in Viet-

nam. Some had accepted this condition and others had refused. Then after a slight break in the recruiting program, those who had refused entry received new letters saying that they could enter with no apparent preconditions. No mention was made of Vietnam.

Once the new FSOs reported for duty in Washington, they quickly learned of the difficulties used in their recruitment. Those who had accepted the Vietnam service felt they had been duped for the sum of 1969. The others, who had originally refused indications to accept the offer, were told that matters were worse, when first assignments were given to them. Some had already been assigned to Vietnam anyway. Tempers flared among the FSOs as their resignation and several acted. (One young FSO, an extremely undiplomatic, told a high personnel officer "I think my hands were covered with blood.")

At this point Department policy was changed so that henceforth no first tour FSOs would be sent to CORDS unless they volunteered. The rationale for the new policy was that service in the pacification program had a poor image for Foreign Service careers and that more experienced officers would be more effective in the Vietnam program. Implicit in the change was a desire to limit the number of new assignments were causing among the new officers and ease the problems of attracting good candidates willing to go immediately to Vietnam.

Despite all the difficulties in recruiting FSOs for Vietnam, the majority enjoy the experience once they go.

Vietnam is an exhilarating place for American civilians. Most become quickly immersed in the lifestyle and the problems they are solving. Almost without exception, they find the country and especially the women fascinating. For those assigned to Saigon and a few other larger cities, life is pleasant in a generally non-intensive way. One turn of workers being "mesmerized by pleasant American living."

All FSOs assigned to the pacification program in provincial offices normally live comfortably. Years ago the American Emb-

assy decreed that an air-conditioner is the property right of all American civilians in Vietnam.

Each of the 44 province capitals has three American compounds. One compound is for staff, the second is for policy reasons, and the third is for diplomats and administrative assistant to a high State Department official, or any personnel officer ever having to go.

How far the Department will go to enforce a consistent personnel policy in Vietnam is unclear. The Director General has said that it was "not my intention to make people go to the point of resignation." Yet the statements of the relevant personnel officers are ambiguous and give the impression that the number of FSOs assigned to CORDS could not possibly be cut back unless reductions were mandated there, State simply would not have the funds available to pay them. Reductions in the Foreign Service necessitated a near stoppage in the recruitment of new FSOs in 1967 and 1968—a situation which was widely felt to be unhealthy for the future of the Service. Thus, during 1968 and 1969 many young FSOs came into the Foreign Service with the understanding that their first post would be CORDS in Vietnam. This recruitment policy, while it offered incen-

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DOMINATION OF THE ECONOMIC GIANTS

Mr. HARRIS. Mr. President, it seems that it is increasingly difficult for an American citizen to deal with the economic giants which dominate his life. American lawmakers on every level have long recognized that the individual needs some protection from the awesome powers of our great corporations. Yet, in a disturbingly high percentage of cases, the agencies established to protect the consumer actually perform the reverse function. Dominated by industry, they are induced to do the bidding of whatever industry they are supposed to regulate, and overwhelmed by the efficient legal staffs available to large corporations, they have tended to become just another kind of insularized protection agency for big business.

Two citizens of my State, Mr. and Mrs. Charles Baker, are fighting an uphill battle to have a high-pressure gas pipeline which runs next to their house examined for flaws which could lead to the pipe's explosion. Mr. Baker, himself a welder, has produced numerous photographs and expert witnesses of the highest qualifications, and he has claimed that the pipeline should be examined. Throughout the long struggle, the Bakers have received next to no help from the officials paid to protect the public's interests—whether on the local, state, or national level. The reaction of Transok, the pipeline company, has been a series of moves designed to discredit the Bakers, and to wear down their limited resources.

Mr. President, the Bakers have, to date, spent over $20,000 of their own money to try to make their case. They are not rich, but they believe that they have a right to come cooperation from their public officials. Mr. President, I am distressed by the lengths to which Transok has gone in its effort to silence the Bakers’ opposition. I am much more distressed by this example of public officials favoring the “big boys” who run the industries over the individual citizens seeking to obtain a redress of their grievances.

Mr. President, in testimony prepared for delivery before the Commerce Committee, the Bakers describe the struggle of one American family with one powerful corporation. They point out the unanimous consent that this testimony be inserted into the Record at the conclusion of these remarks. I also ask unanimous consent that newspaper articles from the Oklahoma, the Tulsa Daily World, the Tulsa Times and Record, and Tulsa World, on this case be printed in the Record following my remarks.

Mr. President, it is time that we recognize that the health and personal safety of individual citizens like the Bakers should be foremost in the minds of those regulatory agencies once set up as watchdogs for the people.

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

TESTIMONY

My name is Charles C. Baker and this is Dorothy, my wife. We live on our farm at Oologah, but since December of 1970, we have been fighting the Oklahoma Corporation Commission, in Collinsville, Oklahoma. I am a welder, and have been for 17 years. I have welded pressure vessels, heat exchangers for the Oil and Gas Industry, missile launching towers, radar antennas, aircraft welding, and pipeline welding. I've been certified by the U.S. Government, the U.S. Navy, and have held many cards of qualifications under the American Society of Mechanical Engineers.

In 1970, a 20” high pressure natural gas line went through our farm, 200 feet from our home. We were very concerned about the location of the line, prior to the installation, and we asked Transok to put a sign around our home because we would not sign an easement for less money than we paid for our farm. We decided to not sign, because they would not give a description of where the line was to be located. We were supposed to be contracted by these tactics, but the biggest shock was yet to come. . . . the actual construction of the line. The fence crew had warned us of Code violation on this pipeline, and also of three failures that occurred on the hydrostatic test. We contacted Maurice Meyers, head of the Office of Pipeline Safety under the Oklahoma Corporation Commission, and told him what the men had told us. Mr. Meyers ignored and refused to discuss it, saying that the regulations had changed. We asked for a map of the route, and the line was to be located. We were supposed to be contracted by these tactics, but the biggest shock was yet to come. . . . the actual construction of the line. The fence crew had warned us of Code violation on this pipeline.

Transok has gone to extraordinary lengths to silence the Bakers’ opposition. I am much more distressed by this example of public officials favoring the “big boys” who run the industries over the individual citizens seeking to obtain a redress of their grievances.
We received a copy of Mr. Caldwell’s report, and we found it grossly in error. It was not accurate, the facts were either missing, and none of the charges are presented. (In the 6 hour interview, Taylor took time to tell the Investigator about the facts, and basic charges in the complaint.) When we sent the photo, Mr. Caldwell acknowledged that the washing appeared to be faulty but said “there is no way to tell where that section of pipe was.” The marking on the pipe reads “No. 3 11:30-7:30 2:00 p.m. facing northwest one end 1,000 feet east of Caney River. Pipe was put in crossing.”

We can prove that Mr. Caldwell was lying when he says he was in contact, and Mr. Caldwell has given us the super-run-around. Dorothy and I felt we wasted, two months trying to obtain the facts of an investigation where it only took place. At this point, we felt that the Federal Safety Board was working for the interests of the pipeline company, rather than for their designated responsibility of protecting the Public. Several days later, we got a letter from Mr. Caldwell stating that we should take any additional complaints to the Oklahoma Commission. It was apparent that the tactics being used were to try to scare us, because we were more determined. Marshall Taylor did not physically or visually inspect this pipeline, he had already buried their mistakes. When we said there was no investigation, we demanded a hearing before the Oklahoma Corporation Commission, with a Commission to sit in June. Jerry Kamins, there were three weeks of testimony spread out over a period of 4 months. It started in April and ended in July. We had no hearing sessions in June as Chairman Nebbitt and the other two Commissioners had a month’s vacation, even though a trial examiner conducted the Hearings. We were offered the services of a Commission attorney. We declined, he was told by the same attorney, that he would not only represent us to the hearing but also the State Corporation Commission. He would also defend the Commissioners decision, regardless of who they ruled for. Dorothy and I wanted an attorney that would represent us personally rather than having a conflict of interest. In a letter to Reuben Robertson at the Central Bell Office, we said “We have no information that indicates that the State is placing the entire burden of proof on the Citizens. The burden of proof that a pipeline is safe rests in the party to demonstrate.” We have news for Mr. Caldwell. The Oklahoma Corporation Commission has placed the entire burden of proof on us. This unbelievable burden was placed on us when they refused to inspect the line when we requested. This burden has cost us over $21,000 to date, and the cost is still mounting. We have taped all of the Hearings, and when we receive a transcript we proof it with the tapes. We have faced the court reporters and used a tape recorder. They have checked back, and after all of the errors we found. But, now, we know why our attorney told us that in order to get a correction on a transcript we must apply for a special hearing before the Commission. This will be an additional cost and it is certain to be false in the court reporters, have their tapes to verify any changes requested. The $21,000 does not represent the court reporter’s expenses, it is our expense and we are out, for maintaining another home. We were forced from our home due to the hazard of this faulty pipeline. We have not had the opportunity to sell our farm of 160 acres with a house and barn. Dorothy and I sold our cattle at a loss. We had to mortgage our farm, and have sold other assets at a lose to get funds to continue fighting this injustice. We have made many requests during the hearing to shut the line down or at least reduce the amount of pressure until a final decision is received. Our four requests were turned down. The Commission in July has not been answered yet. We asked the Oklahoma Commission to uncover the line, so we can pay our charges, but the Public Service Co. of Oklahoma wanted a $250,000 bond, plus pay all of the expenses incurred by us. We felt that the Code could not afford. At the hearing, we present evidence and fact, and we want the opportunity to bury the pipe at required depths, misplacement of longitudinal seams when field bends were made, and the high velocity of all the x rays. We hired an expert to examine the x rays and he found approximately 90% of the welds were on the East side. It was obvious that the minimum Federal and State Safety Code. The Commission brought from out of State, a court, a hearing to investigate fraudulent statements Public Service Co.’s witness, and have made. In the meantime, we are deprived of the use of our property. How do we, not deprived of it’s use of the Gas line.

Gentlemen, this pipeline is like a bomb with an unknown timing device. It can explode any time, and it will destroy your family to live next to such a hazard, and put up with the mental strain of wondering if this is the day it will explode. On our property alone there are 29 defective welds as shown on the x rays, and the most important 7 x rays are we are concerned about and are missing, for some unexplained reason. Our concern is because they are in sequence, to some of the most glaring defects observed by our expert. Reuben Robertson and the Oklahoma Corporation Commission, without a hearing. The most important 7 x rays are we are concerned about are missing, for some unexplained reason. Our concern is because they are in sequence, to some of the most glaring defects observed by our expert. Reuben Robertson and the Oklahoma Corporation Commission, without a hearing.

In a matter of months, I have lost most of my assets, and together I will be in debt for many years to come, through no fault of my own. But, I have come to the realization that the responsibility of the Industry and the Federal and State Safety Board have shown. Perhaps you can not help me and my family at this time, but I hope you will do your part. The responsibility of this, something you can, so this will never happen to another American citizen.
Congressional Record - Senate

December 10, 1971

46269

[From the editorial page, Washington Mis-
sourian, May 6, 1971]  
DAVID" WITHOUT A SLING SHOT  

One man and his fiery wife in Oklahoma have filed one case that the pipeline industry has made themselves feel in place where it counts. But will they be able to make themselves heard about bring about a needed change? That’s the question.  

It’s like “David fighting Goliath without a slingshot,” says the man’s wife.  

Her husband, Charles Baker of Collinsville, Okla., has good reason to fight. They have gained a great deal of support in the pipeline industry. Their neighbors, who live near pipelines, take more naturally; it’s just not the case that less good will and support to fight a giant industry with unlimited funds and a battery of lawyers, Bing and the needed witnesses to testify in their behalf!  

The Bakers have a 131-acre farm near Col-
linsville. He is a welder. A 20-inch high- 
presure line runs through their vegetable gar-
den, and is only 294 feet from their farm home.  

Mr. Baker has charged that the pipeline companies are burying “time bombs” all over the place, and that nobody “has got to shake up this industry.”  

He also charges that the line through his place is not only unsafe, but the wrappers are unsafe. Mr. Baker says he has pic-
tured the line a few times, and the code could explode at any time. He considers it so dan-
gerous that he moved his family away from the farm home.  

The Pipeline Safety Sent a spe-
cial investigator to Collinsville to check into the charges. He reported he found “no violations,” and closed the case.  

But, reported the Wall Street Journal in its 
issue of April 29, the case isn’t closed. It’s just getting off the ground. Politicians in high places are interested in the case, and are interested in the questions. Besides the Ralph Nader group has stepped into it.  

There are a good many people in Franklin county who will be happy to learn that the fight against pipelines is not only going on but is gaining momentum.  

Another hearing will be scheduled to consider the petition of a group of residents opposed to the proposed line through their town.  

The Baker case in the Beaufort neighborhood will be particularly interesting to learn that the Bakers have challenged the pipeline companies on the question of “eminent domain.”  

It would be difficult to imagine that a powder company would have the right of eminent domain to plant a bomb on private property, yet that’s what the pipeline companies are doing. The blast early last De-

Beaufort in the Port Hudson area equalled the force of an entire bag of ordinary bombs!  

Reuben Robertson of the Nader group was quoted in the Wall Street Journal as saying the Bakers had raised some deep and funda-

mental questions that reach far beyond their own case.  

Mr. Robertson, as quoted in the Journal, wondered “why the government seems to make all presumptions in favor of the pipeline companies instead of the individual citizen.”  

He also wondered “why should individual citizens such as the Bakers have to bear the burden and expense of proving that a line is unsafe, rather than the other way around, where there is a cost, paid for by the taxpayers!”  

The people in the Beaufort and Port Hud-
sontownships would also like to get the answer to these basic questions. Why should they have to carry on the fight, and pay the cost of the fight to save their homes from a po-
tential “time bomb”?  

Both Senator Byrd, from Wyoming, and Congress-

man Bill Hugunton have taken a deep interest in this matter. They want to know where the governor stands on this problem, and what it proposes to do about it.  

Some day we may get laws with teeth to regulate pipeline companies, but possibly not before a few more homes are blown into kingdom Come!  

[From the Southwest Times-Record, Fort 
Smith, Ark., May 1, 1971]  

WISCONSIN ENGINEERS TESTIFIES  

OKLAHOMA CITY—A Wisconsin metallurgi-
cal engineer testified here Friday that a natural gas pipeline laid across a northeast 

Oklahoma couple’s farm was “not safe and could easily have a failure.”  

Dr. Frank John Worzala, Madison, Wis., University of Wisconsin metallurgical engineer professor, gave the opinion at a hear-

ing before the Oklahoma Corporation Com-

mission referee.  

The 20-inch pipeline was laid by Transok 

Pipeline Co. for the Public Service Co. of 

Oklahoma, to a power plant at Oologah, Okla., a distance of 114 miles.  

Mr. and Mrs. Charles Baker of Collinsville, Okla., have asked the Oklahoma Corporation Commission to force removal of the pipe-

line from their property. They want the com-

mission to see that it meets federal safety standards.  

Worzala said he based his assessment of the line on the test of weakened joints, which he said showed defects which “could intensify the stress to two or three times the yield strength.” He added that he does not believe the federal pipeline safety code is stringent enough.  

The hearing on the Bakers’ complaint opened Transok for two weeks, the case closed.  

Transok attorney Robert L. Lawrence, said 

presentation of his rebuttal will take ten 

weeks.  

Because of other hearings scheduled dur-

ing the next two weeks, Corporation Com-

mission Referee Darwin Frayer said addition-

al time for the Baker vs. Transok case will be set for late May.  

Baker, a welder, said in his complaint that the pipeline operates at 1,300 pounds of pressure per square inch and would carry 1,000 pounds.  

Lawrence said the pipeline actually will carry only 50% of the pressure and is de-

signed to withstand 50,000 pounds.  

Snyder questioning, Baker said the infor-

mation was obtained by his attorney from an 

erroneous source. He also admitted that he 

had watched only one welding operation on 

the pipeline and that he is not qualified under 

the American Petroleum Institute 

pipeline code.  

The Transok case recently has come under 

investigation by the offices of Sen. Lee 

Metcalfe of Montana, who heads a U.S. Sen-

te subcommittee looking into federal regul-

ations, and by the Senate Commerce 

Hearing Committee, and in Indiana, who is chairman of the Senate com-

mittee which has held several hearings on 

pipeline safety.  

COMMISSION DUE TO GIVE PIPELINE PROBE  

(Reprint from the Fort Worth Star-Telegram)  

OKLAHOMA CITY—The state Corporation 

Commission will rule Tuesday on whether to 

order operations of a Public Service Co. pipe-

line from Amarillo to Oologah suspended temporarily and portions of the line uncovered for inspection.  

If an order to uncover the line is issued, however, it will not be at the expense of the Collinsville couple that is protesting the line as a safety hazard.  

Both Mr. and Mrs. Charles Baker agreed to have parts of the line uncovered if Mr. and Mrs. Charles Baker would pay the labor and post a $500,000 bond.  

During a hearing before the commission’s 

attorney—Gerald Kamins of Tulsa, Corpora-

tion Commission Chairman Charles Nesbit 

said the Bakers refused to agree to cover the costs if the motions were granted.  

“Absolutely not,” Kamins said. “They have spent $6,000 on their case, just getting to this point in the hearings.”  

Earlier this month, 3 days of hearings were held in Fort Worth, the Bakers presenting their case.  

Attorney fees, payment for hotel rooms, travel, telephone calls and other expenses they said, had cost them nearly $6,000.  

“We feel that we have made a prima facie case,” Kamins said, “and shifted the bur-

den of proof to Transok (the FSC subsidiary 

company with which Transok signed).”  

Kamins said uncovering the line would “show without any question” that the Ba-

kers’ allegations of defective construction are true. During the earlier portion of the 

hearings, several expert witnesses called by the Baker testified that the line does not meet federal safety standards.  

Further, the president of Transok testified that the pipeline was safe.  

Public Service Co. will present its case when the hearings resume next Mon-

day.  

In the meantime, Kamins had filed five motions with the commission. Besides shut-

ting down the line and uncovering parts of it, he said that all weld x-rays be impounded and turned over to an “independent” expert appointed by the commission; that he be allowed to subpoena FSC’s chief counsel, Mr. Lawrence, to appear before the commission; and in order by hearing referee Darwin Frayer turn-
certain evidence over to FSC’s attorneys be excluded.  

After hearing 2 hours of arguments on those motions, the commissioners held a conference and reached a decision. However, their order will not be made public until Tuesday morning.  

Lawrence, who is also an officer of Transok, argued that none of the motions should be 

granted until Transok has presented its case next week.  

To have 21 witnesses to testify,” he said. “It seems to me that this is premature for the reason that you just have half the story.”  

However, the commission is expected to permit Kamins to subpoena Lawrence and the records that are in his possession.  

can’t be in the position of telling them (The Bakers) that the burden of proof is on you but the evidence to meet that burden is in our hands and you can’t have it,” Nesbit said.  

Nesbit also asked why Public Service Co. is demanding a $250,000 bond and be posted before the line is uncovered.  

“What risks call for a $250,000 bond,” he asked. “It’s almost hard to be impressed with the danger of the pipeline.”  

Lawrence said there would be danger from shovels striking the pipe and added “When you throw a good one into the ground you ought to leave them there.”  

Kamins said he had contacted several con-
trollers about uncovering the line and “we can’t get anyone to work on it unless it’s purged of gas” because of previous testimony about the quality of materials and construc-

At one point in the arguments, Lawrence began to read from the federal pipeline regulations and refused to submit the regulations. He said that the line was built according to those regula-

tions.  

If an order to uncover the line is issued, however, it will not be at the expense of the

46269
These charges are the latest action in the year-long protest against the company. The Corporation, with Commission hearing into the matter ended July 24.

Commission Chairman Charles Ncsbitt granted a January 31 hearing which is scheduled at 1:30 p.m. Dec. 10 in the commission's court-room at Oklahoma City.

TRIBUTE TO RALPH BUNCHE

Mr. HUMPHREY, Mr. President, I was grieved to hear this morning yesterday of the death of one of America's greatest internationalists and statesmen, Dr. Ralph J. Bunche. He has been a personal friend for a number of years and a man for whom I have held the greatest of admiration. Today, as I pay tribute to this man of singular quality, I feel a tremendous personal loss and recognize the unique contribution to the cause of peace which he made. As a member of the United Nations, he was a significant figure in the determination of the course of world events. In his role as an advisor to the United Nations, he played a crucial role in the development of international law. His contributions to the cause of peace have left an indelible mark on the world.

As a member of the UN Committee for Special Political Affairs, Dr. Ralph Bunche made significant contributions to the cause of peace. He was a key figure in the development of international law and was a significant figure in the determination of the course of world events. His contributions to the cause of peace have left an indelible mark on the world.

The death of Dr. Bunche is a loss for the world and for the cause of peace. His contributions to the cause of peace have left an indelible mark on the world.

ENERGY AND TIMING

He could haggle, bicker, harras and brow-beat, if necessary, and occasionally it was. But the art of his compromise lay in his seemingly boundless energy and the order and timing of his moves.

His diplomatic skills—a masterwork in the practical application of psychology—became legendary at the United Nations, for which he directed peace-keeping operations in the Congo area in 1960, the Congo in 1960 and Cyprus in 1964.

As an unannounced retirement last June he was Under-Secretary General for Special Political Affairs—Secretary General U Thant's most influential political adviser.

As such, he was the highest American figure in the world organisation and, incidentally, the most prominent black man in whose stature did not derive chiefly from racial militancy or endeavors specifically in behalf of his race.

He was deeply sensitive to racial problems, and when he spoke bluntly about them. But his perspective was above the day-to-day trials of discrimination, in fact, he recognized that emphasizing his right-skinned blackness could have damaged his roles as a mediator and neutral peace-keeper—roles in which the fundamental nature of race was often more than not an advantage in his blackness.

THREAT INTO ROLE

The apex of his diplomatic career—and, perhaps, the best example of his negotiating prowess—was his years of intense talks on the island of Rhodes in 1948 and 1949. He had been thrust into the role of chief mediator in the dispute between the Greek and Turkish original appointees, Count Folke Bernadotte of Sweden, who was cut down by a terrorist fusillade in Jerusalem.
The negotiating problems were vastly complex, centuries old, rift with racial and religious prejudices and overlaid with combative and jealous political operations. A truce demanded by the Security Council had broken down. Large-scale fighting was under way. Thousands of lives in the Middle East were at stake, and so did the very life of the fledgling United Nations, whose peace-keeping capacities were on the line.

Dr. Bunche met with both sides separately to get the operations in real contact. It occurred to him that the delegations needed some help, so he called a meeting, and the delegations to 25. was expected to give the three nations a peace agreement.

"On a day when the negotiations were at a dead point, he offered to call a meeting of the delegations. The idea was accepted, and the meeting took place the next day. The meeting was a success, and the delegations agreed to work towards a settlement."

"BUNCHE MADE FRIENDS easily and was a good conversationalist of an evening, mixing stories with a few whistles. But his most remarkable achievement in the way of friendship was his friendship with Mrs. Johnson."

"In a speech at the Waldorf Astoria, he once said a great deal about himself and his colleagues, and I remember that he mentioned the United Nations."
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them, a torrent of medals, prizes and more than 50 honorary doctorates. He is a trustee of Rockefeller College in 1960, a member of the Harvard board of overseers from 1959 to 1965, president of the American Political Science Association in 1959-60 and a trustee of the Rockefeller Foundation in 1955. In 1963, President John F. Kennedy gave him the Medal of Freedom, the nation's highest civilian award.

The Bunches have lived since 1963 in a Tudor-style home in Key Gardens, Queens. Until his death last fall, Dr. Bunches had owned and run a tennis club in nearby Forest Hill. Dr. Bunches, who was a member of the Board of Directors of the West Side Tennis Club at Forest Hills, played tennis and received an appointment. The club official responsible for the refurbishment, Dr. Bunches, then declined an offer of membership.

In the 1959, he was involved in a much-publicized incident in which he and Ralph Jr. were refused membership in the West Side Tennis Club at Forest Hills. Dr. Bunches took up the cudgels and received an apology, and the club officials responsible for the refurbishment. Dr. Bunches then declined an offer of membership.

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U.S. Sen. Sam J. Ervin Jr., who was born and raised in the Carolinas, was known for his commitment to constitutional authority in the U.S. Senate and his activities in this arena in the last few years have emphasized his ability and zest in this area. Right now his fists are doubled up under the nose of bureaucrats who are pouring millions of dollars into computer banks in which the senator feels could become a practice threatening privacy and other rights.

Sen. Ervin is one of the busiest men in the U.S. Senate. If you doubt it, try and catch up with him. As an after-dinner interview. He is the ranking Democrat on the Senate Judiciary Committee and chairman of its sub-committees on Constitutional Rights, the Advancement of Colored People in Washington in 1937. In 1955, though not in the best of health, he participated in marches on Selma and Montgomery, Ala. He served as an active member of the N.A.A.C.P. board of directors for 22 years until his death. In the early 1959, Dr. Bunches became seriously ill. In June, a month after being hospitalized, he retired from his United Nations post. The retirement was not announced until later because Mr. Thant had hoped Dr. Bunches wouldn’t recover and be able to return to his duties. But this was not to be.

Dr. Bunches is survived by his widow; son, Ralph Jr.; daughter, Joan, and three grandchildren. Another daughter, Mrs. Burton Pierce, died in 1968.

Bunches’ body may be viewed by the public from his home, 3603 C.J. Albemarle, Madison Avenue, and 81st Street starting at 7 tonight. The Rev. Ernest T. Campbell will conduct the service at 11:30, the Riverdale-Millwood at noon Saturday. Private burial services will follow at the Woodlawn Cemetery.

SENATOR ERVIN IS CHAMPION OF CONSTITUTIONAL RIGHTS

Mr. JORDAN of North Carolina. Mr. President, the Hendersonville Times recently carried an article by William H. Hackett entitled “Senator Ervin Is Champion of Constitutional Rights.” I ask unanimous consent that the article be printed in the Record, as follows:

[From the Hendersonville (N.C.) Times-News, December 10, 1971]

SENATOR ERVIN IS CHAMPION OF CONSTITUTIONAL RIGHTS

(William H. Hackett)

“Senator Ervin has certainly been one of the most powerful forces of constitutional rights in the last few years,” commented a veteran Congressional aide who, during his long career, has witnessed the rise of many federal legislators and the decline of an even greater number.

The task before him and the keen wit with which he spins his observations is difficult. It is unlikely that he will be the one to realize he is almost five years beyond man’s allotted three score and ten. He is well-versed and thrives on his multidimensional activities.

B-1 BOMBER—A STRATEGIC AND FISCAL MISTAKE

Mr. PROXMIRE. Mr. President, last May 5, the Military Spending Committee of Members of Congress for Peace Through Law, of which I have the honor of being chairman, issued a report on the B-1 bomber. The report was issued by Senator George McGovern and Representative John Seiberling, and it was, without doubt, one of the most intelligent, useful, comprehensive, and thoughtful reports by anyone on any weapons system which I have seen. In fact, the arguments and issues raised by Senator McGovern and Representative Seiberling in their report have been right on target. The B-1 bomber were vastly superior to any argument or document which the Pentagon has presented in favor of the B-1.

There may be some good arguments for the B-1 bomber, but as usual the Pentagon and the Air Force have done little more than put out public relations documents or irrelevant propaganda in support of their proposal. In fact, most of the arguments presented for the B-1 were in my view the arguments which I would welcome an Air Force document which put the arguments in favor of the B-1 with anything like the same quality and force that the McGovern-Seiberling report has put on the table.

The McGovern-Seiberling report made an overwhelming case against the B-1 which has not been answered by the Air Force.

Based on that report, the Saturday Review of December 11, 1971, has carried a comprehensive article on the B-1 bomber written by Mr. Berkeley Rice. It is entitled, in paraphrase, to the B-1 Bomber: The Air Force Industry rather than a needed weapon for the defense of the United States. The irony of it is that if we really do need to spend additional funds for public works projects, the expenditure of the same amount of money in dozens of different ways would both produce far more jobs for the money spent and also bring much greater benefit to the country.

The funds were spent for anti-pollution, to aid the central cities, to build mass transit, to help higher education, or to provide needed medical care to the indigent, the jobs produced and the benefits produced would vastly exceed those for this sterile project.

I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record.

THE B-1 BOMBER—THE VERY MODEL OF A MODERN MAJOR MISCONCEPTION

(William H. Hackett)

With relatively little attention from the press and even less from the public, Congress has approved a fiscal year 1972 Defense De-
parment budget to roughly $75-billion, give or take a few billion. Included in this total is about $21-billion for research, development, procurement, and training of Vor- armamentary hardware. Buried in all these figures is the comparatively trifling sum of $370-million to start development engineering on the B-1, which is a supersonic, long-range cruise-missile bomber. Trilling or not, this early funding represents only the tip of an iceberg. The entire program is up anywhere from $810 to $850-billion, depending on who's doing the estimating.

Easing practical minds, Congressional oppo- nents of proposed weapon systems generally argue in terms of cost-effectiveness and leading capability, both grounds on which one can reasonably argue against the B-1. In Congress, unfortunately, these are the only arguments with which one can realistically hope to gather significant opposition to any expenditures for military hardware.

The most important argument against the B-1, however, and one rarely cited by its opponents on Capitol Hill (because it would alienate the strongholds of the patriotic conserva- tives) is that building nuclear armaments of any kind is an enterprise of insanity. Insane because it represents an outrageously expensive way to arm the armed forces, insane because it brings us no closer to the illusory goal of military supremacy.

Aside from the economic, and political impor- tance and strategic importance to Southern California, its eco- nomic and strategic impact on the rest of the country deserves far greater exami- nation than it has yet received in Congress or the press. Knowledgable critics have question- ed the wisdom of the B-1 program on several grounds:

The B-1 promises to become the most ex- penseive weapon system in military history, as well as one of the least cost-effective.

The Air Force may not need the B-1 at all. Critics claim it offers only marginal ad- vantages over the existing fleet of strategic bombers.

By the time the B-1 becomes operational, around 1980, it may be too late.

By going ahead with a new strategic nu- clear bomber, the United States will be giving costly and impetus to the arms race with the Soviet Union at a time when some- times the two countries are supposedly trying to agree on a limitation of nuclear weapons.

For nuclear weapons are the everyday reals of military finance, discussion of the cost of the B-1 program can be difficult. How can you put a dollar price on the billions of dollars to the average citizen, whose largest personal financial concern is the mortgage on his house? Even on Capitol Hill, where millions are so accustomed to getting what they want with careless imprecision (at Congressional committee hearings one hears such phrases as "in the neighborhood of $100-million"), the B-1 program represents a considerable amount of money. For those who care about our national economy, the question just voted by Congress for engineering develop- ment alone on the B-1 is far more than the federal deficit to spend this fiscal year for all urban transit programs. The $500- million in B-1 funding planned for next year's Pentagon budget will exceed the entire budget of the Federal Trade Commission. If one accepts the Pentagon's current estimate for the B-1 program—and almost no one in the aerospace industry does—each of the 240 bombers will cost four times as much as the annual budget of the U.S. Army Corps of Engineers. Some of those who believe money talks, such a comparison says a great deal about this country's commitment to limiting the arms race.

To those Congressmen who worried about the excessive cost of the B-1 program, the Pentagon's fiscal officer, Senator George McGov- ern, said the $500-million would seem like a small drop in the bucket. But even that was refuted in some in- telligent debate. Much of what debate did occur, however, ran along the lines of the argu- ment by Representative Robert Price (R- Tex.): "Inasmuch as we are still facing the threat of nuclear holocaust, and since we still face an implacable enemy in com- munism, the B-1 program must continue at full speed."

On June 18, the House devoted less than an hour to a debate on the B-1. An amend- ment by Representative Charles Pike (R-Md.) that would have cut off funds for the bomber was voted 307 to 97. On September 22, with only one vote of the Senate on the floor, the Senate quickly rejected a similar amendment by voice vote. Commenting on these votes, Representative Pike later observed "people are just not yet aware of the B-1. The trou- ble is, by the time they are, it may be too late.... They're still afraid of tampering with anything labeled national defense."

Along with defense strategy, patriotism, and pork barrel, there is another issue in the B-1's flight through Congress: how little the politically powerful aerospace industry has been pressed by the Senate, with the defeat of the SNT, the finan- cial troubles of Lockheed, and the general slump of the airlines. The B-1's prime con- tractor, North American Rockwell, had dropped 2,850 employees and 77,000 men down to 60,000 at the time it received the prototype contract in June 1970. Over the next few years, it expects to hire as much as a few thousand employees. Aerospace engineers who have been out of work for months. If the B-1 program were terminated, the company might find themselves floundering on the already depressed job market. Since North American, like Long Island's Grumman (where Nixon's own Southern California, cancellation of the B-1 program could damage his chances in next year's election.

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Holloway, commander of the Strategic Air Command, which will fly the B-1, said: "We need a new tanker no matter what kind of bombers we have." (General Holloway would also like the Air Force to buy 450 B-1a, instead of only the planned 240.)

Despite its claims to the contrary, the Pentagon has approved a.teasability study on a new tanker to replace the KC-135. The most likely replacement would be Lockheed's C-5A, which the Air Force ordered a billion each in a tanker version. (How the Air Force would manage to buy C-5a's at that price while a tanker is still costing $50 million each in a tanker version.) Counting the tankers, the bombs, the missiles, the extras, and inflation, responsible critics of the Air Force argue that the program cost between $80- and $90-billion. In view of such estimates, Congressional and scientific critics wonder whether the plane is worth the cost. The C-5A program offers only marginal strategic advantages over the current SAC fleet of B-52s and FB-111s.

The Pentagon likes to portray the B-52 as a "giant old lady" of the air that has served the nation well. It has strategic and tactical obsolescence. They point to the fact that the latest-model B-52Gs and Hs are nearly ten years old. However, previous claims about the B-52's obsolescence proved premature. In 1980, for example, the Senate Preparedness Investigating Subcommittee decided that the B-52G "will be one of the basic "legs" of the United States strategic forces through the mid-1980's." By the mid-1980s, however, Air Force Secretary Harold Brown was telling Congress the late-model B-52G and Hs "could be maintained in a satisfactory operational status at least through fiscal year 1975." The following year a Defense Department official testified before the House Armed Services Committee: "There appears to be no reason why the B-52 might not be kept "in the fleet" through 1980, if that should prove necessary." In 1989, in a letter to Senator McCovern, Defense Secretary Caspar Weinberger said the B-52's "life span to "the early 1980s with appropriate modifications."" Some old lady seems to have remarkable recuperative powers. Early models of the B-52 are currently being employed to create impressive if imprecise craters in the Vietnamese countryside. As for the 365 late-model B-52G and Hs, the life span of their strategic effectiveness could easily be extended through the 1980s, according to Professor Marvin Goldberg, chairman of the physics department at Princeton. Dr. Goldberg's view is that the strategic bombers warrant a national security. He was chairman of the Defense Department's Strategic Weapons Committee in the early 1960s and chairman of the National Academy of Sciences' President's Scientific Advisory Committee in the late 1960s. He is currently chairman of the National Academy of Sciences' task force of its strategic weapons committee. In recent testimony on the B-1 before the Senate subcommittee, Dr. Goldberg claimed that "for a cost of only $1 billion the entire fleet of B-52Gs and Hs could be equipped with high-speed turbofan jet engines. These engines would shorten the necessity takeoff distance, increase cruising range by 25 percent, and provide a 50 percent increase in high-speed range. According to Dr. Goldberg, the modified B-52s, equipped with such engines and armed with the same bomb and missile mix, as has the B-1, would be fully effective. In view of the enormous cost of the B-1 program compared to that of ($50 billion) of modifying the already existing fleet of B-52-Gs and Hs, it is in the B-52s' remaining strategic advantages in terms of cost-effectiveness. Whether or not a replacement is needed for the B-52, critics of the B-1 claim it will be ineffective and obsolete by the time it becomes fully operational in 1979. First of all, the B-1's high price tag puts it out of range for both the United States and the Soviet Union. Second, the B-1 seems to be less effective in the long run. Because the B-1's complex avionics have yet to be tested, this may well be further schedule slippage.

During the past few years, the B-1's plane and electronic "penetration aids" that will be responsible for much of the cost of the B-1. Without the need to penetrate deep into enemy territory, such an aircraft could loiter in the air for much longer periods without refueling, thus reducing the need for a large fighter tanker. When pressed by critics of the B-1's future strategic value, the Air Force often tries to cite its use as a "gunboat," but its "versatility, pointing out its potential usefulness as a nonstrategic bomber in such a "conventional" role as well. The Air Force is now testing a "versatility type" of the early-model B-52, the B-111, to prove the same (although fewer) bombers and missiles as are slated for the FB-111. While the FB-111 could also serve as a strategic bomber, although its limited range would restrict it to air-attack missions. In the Soviet Union, compared to the 60 percent reachable by the B-1. In a nuclear war, however, such distinction may well become indistinct. Even with the B-1 and the more advanced land- and sea-based ICBMs should wreak quite enough destruction to satisfy the minimum requirements. To conserve funds for the B-1 program, the Air Force has cut back its planned fleet of FB-111s from more than 200 to 76. Considering that each FB-111 costs $25 to $30 million (at $25 million each for the cost of each B-1), this could prove to be a terribly expensive decision. To fully understand the Air Force's terror for the B-1, one must realize that for the last two years the Air Force has been doing more than anything to be measured in terms of strategic performance or cost-effectiveness. When they describe its capabilities but yet unverifiable claims, one is reminded of the saying: People don't really grow up, they just play with bigger toys. Referring to this phenomenon in his Congressional testimony on the B-1, Jeremy Stone, director of the Federation of American Scientists, told the Hudson Institute, and the author of two books on arms control, stated: "The B-1 is almost the oldest of necessity, technological enthusiasts. They want to get the best, 'incorporate new technology,' and fly faster—and both higher or lower—than any other bomber. These are powerful features for conventional security interests, and they do not provide a sensible argument for building a new bomber, especially when other bombers are available.

Despite the fact that defense technology persistently outpaces them, manned bombers have been built for the last hundred years. The latest are the B-52, B-1, and B-70 bombers. The last three USAF Chiefs of Staff—Generals Curtis LeMay, John McConnell, and John Bream, the current chief—were all SAC men. Under their command, the Air Force launched the B-58, as a proposed follow-on bomber to the B-52. Soon after its development began, however, the Defense Department realized the B-58 was technically obsolete and mothballed the eighty planes already purchased. After the B-58 was canceled in 1959, a supersonic bomber of incomparable quality—on paper. In reality, the B-70 program--got bogged down with one version of the prototypes, at a cost of $18 billion. One of them crashed after colliding with an Air Force plane taking off. The B-52, however, continues to fly securely in the Air Force Museum in Dayton, Ohio. The main reason the Air Force scrapped both the B-58 and the B-70 is that by the time they got off the drawing boards, anti-aircraft technology had made them too vulnerable to fly over enemy territory. They simply could not accomplish their mission.

Despite considerable evidence that the B-1 is headed for similar technical oblivion, the Air Force plans to go ahead. As Representative Pike told the House, upon introducing his amendment to curtail funds for the B-1: "Here we go again, starting out with a new manned bomber. In an age when manned strategic bombers are obsolete."

In his testimony before Congress, PAB Director Stone stressed the fact that a manned bomber has become a technological anachronism: "No really essential task of destruction can be reliably assigned to the B-1, beyond its limited survivability and penetrability of neither of which can be ensured." Besides, he noted, "While the B-1 is taking 4 years to develop, the B-52 is getting eight successive missile salvos—four on each side, and each 'answering' the other—could result in 32 B-52s being destroyed at the same time. The B-1, on the other hand, may well be over before the bombers arrive."

PAB Chairman Marvin Goldberg argues that "there are very few targets that cannot
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be taken out more easily and more rapidly by missiles than by bombers." As evidence, he points out that while the Soviet Union has been increasing its land- and sea-based missiles, it has made no attempt to increase its fleet of 145 long-range strategic bombers for nuclear attack, although we have the "they've-got-one-so-we-need-one" game, supporters of the B-1 have been sounding an alarm against the nuclear airliner, dubbed Backfire, which has already made test flights. According to Western Intelligence sources, the B-1 bomber, armed with new nuclear alternating weapons, is to go into production even though the Air Force has delayed the production due to the B-1's questionable capabilities.

Mr. Goldberg has conceded that some B-1s could conceivably penetrate Soviet Air defenses and destroy cities and other strategic targets. But he feels that the threat posed by the B-1 to the United States is no longer a significant one. The B-1 bomber is not only a threat to the United States, but also to the United States itself. It is likely to be used in future military conflicts, and its deployment may lead to further arms races. In the end, the B-1 bomber is a symbol of our commitment to nuclear deterrence, a commitment that is increasingly questioned by many.

Mr. Goldberg's argument against the B-1 bomber is that it is too expensive and too limited in its capabilities. He points out that the costs of developing and deploying the B-1 bomber are extremely high, and that they will not be offset by any significant improvement in our strategic deterrent.

Farm Subsidies Payments

Mr. Harris, Mr. President, I wish to bring to the attention of my colleagues an article written by Nick Kots that appeared on page A1 of the December 8 Washington Post. The article, entitled "Subsidy Chief's Farm Probed," discloses the fact that Kenneth P. Biester, Administrator of USDA's Agricultural Stabilization and Conservation Service—has been reported in violation of crop subsidy regulations. Mr. Kots' article reports that Mr. Frick's farm, 407 others in Kern County have been cited for crop subsidy violations. The second richest county in the Nation in farm receipts and also ranks second in Federal subsidies. In 1970, 31 farms in Kern County received more than $30,000 in Federal subsidies, 106 received more than $56,000, and 37 received more than $100,000. Kern County is one of the leading areas of agribusiness, as Mr. President, including such familiar farmers as Tenney and Standard Oil. The Federal taxpayer ought to know whether it is these agribusiness giants that are pulling in these huge subsidies, and in many cases, violating the law while doing so.

Mr. President, it is my understanding that the government has been investigating 1,139 farms for a number of years. These investigations have been made by USDA investigating teams. The first, done by a spot-check team, found numerous irregularities in the subsidy program. This prompted a second investigation by the team. The team has visited 1,139 farms. The public has a right to see these reports. Mr. President, and I have written Secretary Butz today demanding copies of them.

Mr. President, we have unanimous consent that Mr. Kots' article and letters I have sent to Mr. Frick and Secretary Butz be printed in the Record.

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

[From the Washington Post, Dec. 8, 1971]

SUBSIDY CHIEF'S FARM PROBED

(From Nick Kots)

Agriculture Department office Kenneth E. Butz, whose farm is one of the 133 of his farmer neighbors in Kern County, Calif., have been reported in violation of crop subsidy regulations. Frick runs the federal program.

Frick, administrator of USDA's Agricultural Stabilization and Conservation Service, confirmed reports to the Washington Post that his own farm, now operated by a trust, and 407 others have been cited for violating program regulations. Kern County is the nation's second richest in farm receipts and ranks second in Federal subsidies. The county's 133 farmers are receiving $30,000 in federal payments this year, primarily from the cotton program.

Defenders are paid federal crop subsidies in return for taking part of their land out of production in an effort to balance supply and demand. The alleged Kern County violations include failure to take enough land out of production, counting non-farm land as retired land, and illegally evading the $50,000 per crop limitation on farm payments.

Frick stressed that official findings have not been made in all cases and that farmers still may prove that they were complying with program regulations. Frick's office is now in charge of all federal crop payments for the several million farmers in the subsidy program.

In addition to an investigation by Frick's farm program office, the Kern County situation now is being investigated by the General Accounting Office and USDA's Office of Inspector General.

Frick said the alleged violations in Kern County would be the most extensive in any county in the country. He said many violations probably resulted from the unfamiliarity of farmers with a new cotton program. The exempions for the federal regulation in the program in Kern county has been suspended.

Frick and his deputy administrator, Charles Cox, said the alleged violations on Frick's farm involved use of improper land as retirement land.

In addition as Frick are required to "set aside" from production acreage equal to 20 per cent of their cotton allotment acreage. The retired acreage must be as productive as the land in production.

Cox said the Frick farm had been cited for using several acres of non-farm land (pork) not used in acreage payment retirement land, and for using other land of questionable value for "set aside" purposes. The retired acreage must be cited as "set aside" land and not used in payment.
FRICK: His farm interests are held in trust by the Bank of America and his farm land is managed by his brother Howard. He said the 3,000-acre farm received $190,000 in cotton payments in 1970 and about $290,000 this year. Both Frick and his brother would be entitled to a maximum $55,000 payment.

FRICK: I have confidence in our inspection system. The system triggered the examination of his farm. As to my farm, my brother is in charge of it and will have to answer for it.

FRICK: His assistant Cox then added: “Our instructions (from Frick) are to treat his farm like any other farm.”

FRICK: His assistant Cox then added: “Our instructions (from Frick) are to treat his farm like any other farm.”

FRICK: Cox said the determination of violations is now in the hands of the Kern county ASCS committee, under supervision of the California ASCS committee. However, he said one member of the three-man county committee is not participating in decisions because his farm is being monitored.

FRICK: He stressed that the county and state committees are elected by fellow farmers and thus are free to criticize any farm, including their own.

FRICK: Cox said the inspection team turned up 54 violations on 40 sites. He said the team counts violations as “serious” on about 200 farms.

FRICK: Cox said farmers could lose part of their federal farm payments for minor infractions and face criminal penalties for major violations. Severe violations, including fraudulent evasion of the $55,000 payment limitation, could lead to criminal penalties.

FRICK: He emphasized that he had initiated the “spot checks” that turned up the Kern county situation, because “we wanted to make sure that farmers understood the new cotton program and that it was working adequately.”

FRICK: “When we found in Kern County, I would have to describe as ‘bad,” Cox said in a joint interview with Frick. “It was not typical.”

REVENUE ACT OF 1971

Mr. NELSON, Mr. President, the Senator from Oklahoma (Mr. Harris) had intended to be here today to speak against this controversial amendment. Unfortunately, an illness in the family has prevented him from being here. I ask unanimous consent that his statement be printed in the RECORD.

Mr. Harris, Mr. President, I oppose the acceptance of the Conference Report on the Revenue Act of 1971. The tax aspects of this bill are not fair, not equitable, acceptable.

Mr. Harris, Mr. President, I oppose the acceptance of the Conference Report on the Revenue Act of 1971. The tax aspects of this bill are not fair, not equitable, acceptable. I did not like this bill before, and I do not like it now. The improving amendments added to the bill by full Senate have been stripped from the bill in Conference. Additionally, the tax check-off for campaign contributions for presidential candidates is not consistent. But I am mortified that it is now almost worse than no provision at all. The campaign contribution check-off was one of the few good parts that came out of this chamber two weeks ago. Without that provision, and without the few improving amendments that the Senate added to the tax provisions in the bill, I cannot support the bill.

The campaign spending amendments to this bill as reported by the conference committee are almost worthless. I say almost because the tax credit and deductions for small contributions to political campaigns are a long overdue reform, even if they will be effective only after 1974. However, the guts of the campaign spending reform is the effective ending of presidential campaigns beginning in 1972 as well as tax credits for all campaigns next year. If we support a bill which strips all of these provisions from the committee. The conference report removes the automatic appropriation for presidential campaign special election spending and all other provisions. Thus, the Congress and the President will have to fight over this issue every four years.

Under the terms of the conference report, every four years the incumbent President can, if he desires, veto the campaign financing legislation. It has been recently threatened to do this bill. Likewise, a Senate minority, unhappy with the presidential nominees of their party, can kill the campaign appropriation by filibuster.

Such a system is not campaign spending reform. The average person in this country is becoming more and more convinced that politicians are beholden to a small number of rich people. If we think we have responsibility to help restore the people’s faith in the openness of the political process, the campaign spending provisions of this conference report by no means meet that responsibility.

Mr. President, the major defects present in this bill is the individual right to receive money from the Administration are still intact. The bill is a blatant giveaway to big corporations at the expense of the individual taxpayer. The bill will give more than $1 billion to big business by 1980, and will only give a small fraction of that to individuals. It is estimated that after 1973, the tax cuts to big business will be at least $8 billion a year, while individuals will get only $2 billion.

Very little of the money for individuals is actually new money and in fact the individual stimulus merely comes from not taking more money from the consumer by adjusting in the existing tax structure, while corporations are being given a whole new tax loophole. Most of the stimulus to the individual comes in the form of a speed-up in already authorized increases in personal exemptions, standard deduction, and low-income allowance. The only new money for the little man is an increase in the low-income allowance to $1,000, effective from 1972. That is a pitifully small piece of the action when compared to the massive tax break given permanently to big business.

Two years ago we debated and passed another tax bill, the Tax Reform Act of 1969. Along with it, we agreed that the Congress was making an effort to bring more fairness to our federal tax system. We cut down some of the more outrageous loopholes. We adopted a minimum income tax income tax to try to stop multimillionaires from being able to dodge their tax responsibilities entirely. That was said and said that as a result the big corporations and the wealthy were going to have to pay more money. But the fair tax of 1969.

I certainly do not mean to suggest that the Tax Reform Act of 1969 was the last word in the fight to give the average person a fair tax. But we would have kept the shake out tax system. It was not then, right direction. The tax bill before us today would make our federal tax structure significantly more unfair to the average taxpayer than it was before. While we are waiting for people to claim the bill balances tax cuts to big business with cuts for ordinary people, the facts are that tax cuts do not cut loopholes.

The Investment Tax Credit giveaway will be a windfall of $4 billion to business because the Investment Tax Credit claim that stimulating new equipment expenditures will increase
jobs. No one seems to be able to tell us, however, how this authority over the TARP will be used. I believe tax cuts will come from the "trickle-down" approach of a tax credit to big business. There is much evidence that the wealthy will not benefit from it. The revenue effects are unfair to the majority of taxpayers who will not benefit from it. Its technical provisions are unclear to those who must implement it, to stimulate the economy, and encourage exports.

There are many ordinary people in this country who wonder why the tax structure is so unfair to them and how the corporations and the wealthy get tax loopholes for themselves. They were here today; they could see that process taking place.

The fact is, Mr. President, as I said at the beginning H.R. 10947 is a tax bill. The only tax bill we have. Of course, it will be substantially and permanently cut taxes for the big corporations and make our tax structure even more unfair than it is already.

I believe the time has come in the Congress to draw the line on corporate tax giveaways. If we are really listening to the millions of people who are telling us in every way they can that they are sick of paying more than their fair share of the党总�會, we will not accept this Conference Report.

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

ACTIVITIES AND ACCOMPLISHMENTS OF THE JOINT COMMITTEE ON ATOMIC ENERGY IN THE 92ND CONGRESS, FIRST SESSION

Mr. PASTORE, Mr. President, as chairman of the Joint Committee on Atomic Energy, I have the honor to present for the information of my colleagues the annual report on the activities and accomplishments of the Joint Committee. This report will cover the first session of the 92nd Congress. I ask unanimous consent that the report be printed in the Record.

Being no objection, the report was ordered to be printed in the Record, as follows:

ACTIVITIES AND ACCOMPLISHMENTS OF THE JOINT COMMITTEE ON ATOMIC ENERGY IN THE 92ND CONGRESS, FIRST SESSION

It has been the practice of the Joint Committee on Atomic Energy, at the close of each session of the Congress, to submit for the information of the entire Senate, the House of Representatives, and the public a report of its activities. (The report for the second session of the 91st Congress was printed in the Congressional Record, vol. 116, pt. 33, p. 44321.)

The Joint Committee on Atomic Energy was organized on August 2, 1946. It consists of nine Members from the Senate and nine Members from the House of Representatives. No more than five from each body can be present at any one time. The chairmanship alternates between the Senate and the House of Representatives with each Congress.


Chet Hollifield, California, Wayne N. Aspinall, Colorado, John Young, Texas, Edmundson, Oklahoma, Craig Hosmer, California, John B. Anderson, Illinois, William M. Bulger, Massachusetts, and others.

The Joint Committee is one of the few committees established by statute rather
than by rule of each House and is unique in several respects. For example, it is the only joint committee of the Congress with legislative functions, including the receipt and reporting of legislative proposals. The committee is also charged by law with legislative responsibilities in the fields of military and atomic energy programs. As part of its responsibilities, the committee follows closely the planned activities of the executive agencies, including the Atomic Energy Commission and the Departments of Defense and State, concerning the peaceful and military applications of nuclear energy. The unclassified activities are closely reviewed as well.

In all of these activities, the Joint Committee on Atomic Energy works with Congress and the public to seek the implementation of the following national policy expressed in the Atomic Energy Act of 1954:

- The development, use, and control of atomic energy shall be directed so as to make the greatest contribution to the common defense and security.

During the 92d Congress, the full committee met on a total of 20 different occasions, 17 of which were public and 16 of which were executive meetings. In addition, there were 20 subcommittee sessions of which 17 were public and 2 were executive.

A total of 7 publications consisting of hearings and committee prints were published by the Joint Committee in the first session of the 92d Congress. These publications include testimony taken in executive session with classified material deleted before printing. A list of the publications follows:

1971 (H.Rept. 92-349)
AEC Authorizing Legislation, Fiscal Year 1972:
Part 1, Hearings Feb. 3, 4, and Mar. 2
Part 2, Hearings Mar. 4
Part 3, Hearings Mar. 9, 16, and 17
Part 4, Hearings Mar. 18, 23, and May 13
Nuclear Energy Research and Development
June 30 and July 8
Nuclear Naval Propulsion Program—1971, Hearings June 10
Atomic Energy Legislation Through the 92d Cong., 1st Sess., Committee print, December
Current Membership of the Joint Committee on Atomic Energy, Committee print, March

AEC Licensing Procedure and Related Legislation (4 Parts)—Hearings June 22, 23, and July 13, 14
Status of Current Technology to Identify Seismic Events as Natural or Man-made, Hearings October 27, 28
Use of Uranium Mill Tailings for Constructions Purposes, Hearings October 28, 29
The Controlled Thermonuclear Research Program in the United States, Hearings November 10, 11
Nuclear Power and Related Energy Problems—1968 through 1970, Committee print, December
Selected Materials on the Calvert Cliffs Decision, Its Origin and Aftermath, Committee print, December

Legislative activities

A. Atomic Energy Commission Fiscal Year 1972 Authorization Act (Public Law 92-84)

The Atomic Energy Commission’s request for authorization and appropriation for fiscal year 1972 was submitted to the Congress along with the total Federal budget on January 29, 1972. Subsequently, on February 6, 1972, AEC received from the Commission on May 8 and June 11. The Joint Committee on Atomic Energy, and its hearings on February 8 to consider the proposed authorization legislation (S. 968 and H.R. 6529). During the following 20 weeks, the committee held 15 additional sessions, five of which were executive. A report summarizing the findings of the committee’s deliberations was transmitted to the Joint Committee. A classified record of the hearing on nuclear propulsion was published in the Federal Register. The hearing on the Joint Committee’s legislation was held by the JCAB on February 23 and 24 under the title “Nuclear Rocket Engine Development Program.”

Following the deliberations on the proposed legislation, the Joint Committee voted to adopt certain amendments by way of report in the form of a substitute bill. The bill was then passed by the House with an amendment, on July 15, 1971. The amendment, offered by Congressman H. H. Hoyer, returned the $20 million ceiling on AEC facilities to the FY 1972 budget. The bill was then reported to the Senate. On July 22, 1971, the Senate approved the amendment, increasing the level of funding authorized by $4 million as follows: Nuclear safety research $2.3 million; terrestrial electronics $1.2 million; and controlled thermonuclear research $1.2 million. The fourth amendment added certain restraints to the acquisition of land for a nuclear waste repository proposed for Lyons, Kansas. It limited the authority of the AEC to acquire property of interest for the nuclear waste repository at Lyons, Kansas, until such time as the Environmental Protection Agency concluded that the Lyons site would not be an environmentally compatible location. The amendment also required the AEC to provide the Department of Energy with a detailed plan for the acquisition of land for the Lyons site. The Department of Energy, in turn, would then be required to assess the environmental impact of the proposed site.

The total authorization bill recommended by the committee was relative to authorization for construction funds for a new gas-cooled reactor and for the development of a liquid metal fast breeder reactor (LMFBR). The bill also recommended $35 million for the development of a molten salt breeder reactor (MSBR) and for the development of the Navajo Nuclear Propulsion Demonstration Project. The bill also recommended $35 million for the development of a 1,000-MW(e) light water breeder reactor (LWBR), the Molten Salt Breeder Reactor (MSR), and the gas-cooled fast breeder reactor (GCFR). The bill also recommended $35 million for the development of a 1,000-MW(e) light water breeder reactor (LWBR)

The budget recommended by the Joint Committee was relative to authorization for construction funds for a new gas-cooled reactor and for the development of a liquid metal fast breeder reactor (LMFBR). The budget also recommended $35 million for the development of a molten salt breeder reactor (MSBR) and for the development of the Navajo Nuclear Propulsion Demonstration Project. The budget also recommended $35 million for the development of a 1,000-MW(e) light water breeder reactor (LWBR), the Molten Salt Breeder Reactor (MSR), and the gas-cooled fast breeder reactor (GCFR).

The Joint Committee recommended that such funding could lead to little or any real accomplishment during fiscal year 1972 and recommended that the amount be increased to 157 million for 1973. AEC indicated that this larger amount would be necessary to assure funding commensurate with that recommended for NASA from 1973 through 1974. AEC and Astronautics, since this program is a joint agency effort.

The Joint Committee noted, as it did for the past several years, that beyond the sharp reduction from the 1971 level of effort, the Joint Committee recognized that such funding could lead to little or any real accomplishment during fiscal year 1972 and recommended that the amount be increased to 157 million for 1973. AEC indicated that this larger amount would be necessary to assure funding commensurate with that recommended for NASA from 1973 through 1974. AEC and Astronautics, since this program is a joint agency effort.

The President’s budget request for the fiscal year 1972 space nuclear propulsion (ROVER) program was only $15 million, a 65 percent reduction from the 1971 level of effort. The Joint Committee recognized that such funding could lead to little or any real accomplishment during fiscal year 1972 and recommended that the amount be increased to $50 million for 1973. AEC indicated that this larger amount would be necessary to assure funding commensurate with that recommended for NASA from 1973 through 1974. AEC and Astronautics, since this program is a joint agency effort.

2. Legislation Regarding AEC Licensing Procedures

The Joint Committee’s Subcommittee on Legislation held hearings on June 22, 23 and July 13 and 14, 1971, on legislation proposed by the AEC to amend the provisions of the Atomic Energy Act of 1954, as amended, which concern the licensing of nuclear facilities (S. 910 and S. 923 and S. 911 and H.R. 9295). An opportunity was afforded sponsors of related bills referred to the committee to discuss matters of concern Federal-State regulation of radioactive efflu-
December 10, 1971

CONGRESSIONAL RECORD - SENATE


The four-volume record of these hearings has several appendices, including a Licensing Procedure and Related Legislation).

The testimony presented at the hearings emphasized the need for procedural changes to improve the licensing process for power reactors. Although the objective of the AEC's proposed early site legislation is to provide a harmonious relationship between the early site and construction permit proceedings, the testimony indicated that the early site and construction permit procedures are not proceeding to other requirements such as the review required to comply with the National Environmental Policy Act (NEPSA), requirements under water quality legislation, and the permits under the Refuse Act of 1899.

The opportunity for hearing at the operating license hearing stage can be compared with the harmony of the siting provisions in H.R. 9286 with general power plant siting legislation. The early siting hearing procedures were not thoroughly developed in the testimony. Furthermore, considerate documentation from the current status of NEPSA could reasonably be made available at the early site determination stage to settle with facility siting site-related environmental effects.

There was general agreement that the Commission, under its existing legislative authority, had the ability to proceed by procedural steps to improve the licensing process.

In view of such questions and in the absence of any clear showing by the other commissions that they would resolve any legitimate problems of scientific research into the licensing process, legislation of the same date as the AEC's referred to above, said:

"The press release also reiterates several earlier suggestions by the Commission that the Commission act under the existing authority bestowed on it to make procedural changes which would make the hearing process during the early siting hearing process which are long overdue.

"Although these matters have been discussed and considered for some time, the medallion action has been slow. It would be very much appreciated if the Commission would address the question of the specific procedural changes which are being considered, and the target dates for their implementation. I would also like to know the extent to which the services of the Atomic Energy Commission could be utilized by the Con- formance of the United States and other interested parties would be used in this effort. I would also suggest that the Commission consider which are foremost in implementing the procedural changes which may be needed to provide a satisfactory program. In the licensing process and to restore vitality to the administrative licensing process."

The Joint Committee on Atomic Energy staff analysis of the testimony presented at the regular hearing as published in the Congressional Record of November 17, 1971 (41 11577).

Subsequent to the completion of these hearings, a major influence on the licensing process was the Calvert Cliffs decision rendered by the U.S. Court of Appeals for the District of Columbia Circuit on October 28, 1971. Practically all of the basic problems raised by that decision stem from the interpretation by the Circuit Court of the Atomic Energy Commission Act of 1970. Corrective legisla-

tion, if needed, would be under the copo- nents of the AEC, the NEPSA and low water quality legislation, and could address the problems involved which are necessary to ensure the effective licensing of nuclear power plants—something all Federal activity within the scope of those basic Acts. In this regard, the Senate Interior and Insular Affairs Committee held hearings on November 3 on the impact of the Calvert Cliffs decision. It is clear that corrective legislation is needed, and that it is not forthcoming from other sources.

It is noted that the Commission has published regulations, which it believes will be adequate, to meet the demands of an evolving program which could face undue delay which would threaten the viability of regional power supplies. That view was expressed by Commissioner Dr. Charles Applegate at a hearing held on November 15 by the Subcommittee on Public Works of the House Appropriations Committee.

During the hearings held in June and July, it was announced that additional hearings might be considered for some time, the re-
impression of interest members of the public on matters associated with nuclear power plant licensing other than in connection with H.R. 9286. These additional hearings also address the corrective action taken under existing authority, and a re-

The Commission act in that regard. It is noted that, during the closing months of this Session, the Commission has taken positive steps to help alleviate some of the problems identified in the June-July hearing record and in subsequent committee correspondence with the Commission.

In that regard, Commissioner Price, in his letter of October 19, 1971, to Dr. Schlesinger, foresees a hearing on the same day as the Council's referred to above, said:

"The press release also reiterates several earlier suggestions by the Commission that the Commission act under the existing authority bestowed on it to make procedural changes which are long overdue.

"Although these matters have been discussed and considered for some time, the medallion action has been slow. It would be very much appreciated if the Commission would address the question of the specific procedural changes which are being considered, and the target dates for their implementation. I would also like to know the extent to which the services of the Atomic Energy Commission could be utilized by the Commission to provide a satisfactory program. In the licensing process and to restore vitality to the administrative licensing process."

"I close in noting that the press release also stated that it is developing a plan and proposal which the Commission forwards to the Congress."

II. Citizen agreements for cooperation

Under the provisions of the Atomic Energy Act of 1954, as amended, proposed agreements for cooperation in the peaceful uses of nuclear energy between the United States and other nations, and amendments thereof, must be submitted to the Joint Committee and a period of 30 days shall elapse while Congress is in session before such agreements become effective. The Joint Committee and Congress had approved one civil agreement was submitted to the committee by the Department of State and the Atomic Energy Commission with the approval of the President.

The submitted agreement involved only re-

spective countries. It was subsequently amended to extend its term for an additional 10 years. In addition, the amendments also contained provisions reflecting the transfer of safeguards responsibilities for materials and facilities received by Turkey to the International Atomic Energy Agency, subject to a tri lateral agreement executed in 1968.

III. Informational hearings

A. Controlled Thermonuclear Research (CTR) Program in the United States

The Subcommittee on Research, Development, and Radiation held hearings on November 11 and 11, 1971, to ascertain the status of the controlled thermonuclear research program (the fusion research program) in the United States. Witnesses from the Atomic Energy Commission, including Dr. Charles Applegate, Director of the industrial and academic sectors tested. Additionally, witnesses from government, in the field of controlled nuclear fusion, and from the field of controlled thermonuclear fusion, testified before the committee, who are not involved in the direct functioning of the program, were heard. Testi-

There was presented on the magnetic mirror program, the high beta pinch program, the status of fusion reactor studies, plasma physics research in tokamak and stellarator devices, and plasma and very high density systems. The consensus of opinion was that scientific feasibility would be achieved in about a decade or slightly earlier depending on the funds committed to CTR research. "Scientific feasibility is defined as a plasma of 100 million degrees centigrade which is essentially self-sustaining, i.e., as many new ions are fed into the system as are lost. "Local feasibility is defined as a plasma system which has a net output of useful energy may be demonstrated by 1985. Commercial feasibility most probably can be available by the year 2000. Each of the aforementioned dates, except perhaps that of scientific feasibility, could be shortened somewhat by the assumption that scientific feasibility must still await a new generation of larger CTR machines. A large infusion of funds at this time would help to advance the date for scientific feasibility.

B. Seismic detection and identification

On October 27 and 28, the Subcommittee on Research, Development, and Radiation held hearings to determine the seismological advances in identifying seismic events as natural or man-made since the last Joint Committee held hearings in 1967. In the intervening 8 years significant advances have been made in improved seismological instrumentation and processing through the use of data processing. The committee heard witnesses from the Department of Defense, the Atomic Energy Commission, and industry members. It was learned that there still exist identification thresholds in parts of the world below which it is extremely difficult to tell if the seismic events are natural or man-made. On the question of what yield test a determined device might conduct with a fair chance of not being identified, it was indicated that, depending upon the weapon technique used—decoupling, detonating in loose, dry, or filling in multiple detonations—a detectable but unidentifiable test as large as 50 or 100 kilotons might be achieved.

The status of unmanneled seismological observatories was discussed. No new work has been done on this field since the early 1960s. It was pointed out that new instrumentation is being developed particularly for the long-period Rayleigh surface waves. It is hoped that this instrumentation will be the most useful discrimination technique will be the comparison of M:ms which is a measure of the teared of Rayleigh long-period Rayleigh surface waves to the short-period body waves which pass through the surface waves.
any place in the Northern Hemisphere would cost about $150 million and take 5 years to construct the necessary stations. This would allow the number of aircraft that could be built for national agreements since many stations would have to be on foreign soil. Representative from the subcommittee indicated that the committee would study the data and might call additional hearings to determine if the program of weapon development could be carried out by a determined adversary under the detection thresholds.

C. Use of uranium mill tailings for construction fill purposes

On October 28 and 29, 1971, the Subcommittee on Raw Materials held public hearings on the use of uranium mill tailings for construction fill purposes. Mill tailings are a sand-like byproduct of the uranium milling process which remain after recovery of uranium concentrate from uranium ore. Tailings have been used as construction material, and, in some cases, as an ingredient in mortar and concrete, in the area of Grand Junction, Colorado. The mill tailings contain naturally occurring radium. The radiation from radium, natural gamma radiation and alpha-emitting isotopes referred to as radon daughter products. Degradation of radium, radon, and radon daughter products could be a public health risk associated with exposure to this radioactivity.

The Atomic Energy Commission, the Energy Research and Development Administration, the Department of Health, Education, and Welfare have been assisting the Colorado State Department of Public Welfare in assessing the levels of activity in public buildings and private residences in the Grand Junction area. The Surgeon General, Public Health Service, in July of 1970, provided to the State of Colorado recommendations concerning the levels of gamma and radon daughter products and the possibility of remedial action should be suggested. The situation under study has legal, financial, and public health implications upon which the committee desired to obtain information, not only for its own use, but also for use of the public. The Federal agencies stated that time is needed—at least 4-6 months—to take additional readings in the structures in an attempt to determine a correlation between the background level and the radon daughter product concentration. If successful, the correlation would aid in the conduct of further investigations and in determining whether the remedial action is recommended in a given case. The Federal agencies agreed that there would be no endangerment of the health of the inhabitants as a result of exposure during this period.

It is recognized that there is wide public interest in this matter. The committee is interested in assuring that all of the necessary information be obtained before a decision is made concerning possible large-scale removal of tailings. Additional hearings may be held.

D. Enrichment cooperation

On March 18 and July 12, 1971, the Joint Committee met in executive session to receive testimony from the AEC concerning the possible sale of highly classified United States gaseous diffusion technology to foreign entities. Subsequent to this meeting, the Bureau of Economic Affairs of the Department of State and the AEC were prepared to undertake exploratory multilateral discussions.

Discussions on the sale abroad of United States enriched technology were held on November 16 and 17, 1971, with Australia, Canada, and Japan. On November 16 and 17 similar meetings were held with the members of the European Community (except Luxembourg) and representatives from Australia, Brazil, Canada, Japan, New Zealand, Spain, and Sweden.

Following these meetings, the AEC advised the committee that the commencement of negotiations would be undertaken only after the United States, Canada, and other interested countries had formulated a proposal for a specific project for the construction of a gaseous diffusion plant using United States equipment, and following reviews of such proposal within the Government. The Joint Committee plans to submit proposals for sponsorship.

The Joint Committee is also following closely developments in the proposed sharing of diffusion and centrifuge technology with democratic countries. The Administration's proposal was reviewed during the hearings on the fiscal year 1973 budget.

E. Naval nuclear propulsion program

The Joint Committee held two separate hearings in executive session on the naval propulsion program during which a nuclear submarine construction rate and nuclear defense were discussed. On March 10, 1971, Admiral Rickover testified before the full committee and on May 5, 1971, Admiral Moorer, Chairman, Joint Chiefs of Staff, Admiral Zumwalt, Chief of Naval Operations, and Admiral Rickover testified before the Joint Committee. The record clearly documents the success of this program that has now produced nearly 100 submarines. The submarine program has accumulated over 700 reactor years of safe operation, more than all other reactor programs combined, and continues to make important contributions to the well-being of both our military and civilian reactor programs.

Of concern to the committee was the confirmation of the continued major efforts on the part of the Soviet Union to achieve a powerful naval and maritime force in the world. The Soviet navy has undergone continuing modernization, building over twice as many combatants as the U.S. Navy. In this area of submarines, the United States in nuclear submarines, has established a nuclear reactor submarine fleet in three times as large as ours; and they have maintained an overall numerical advantage in submarines of all types of nearly three to one.

Although the Soviet lead in all types including ballistic missile launching submarines, they do not at present lead in nuclear powered submarine construction. Based on their present high rate of construction, it is estimated that they will exceed our Polaris fleet set at 4 by the end of the year.

The committee was pleased to note that the high-speed, SSN 688 Class, nuclear attack submarine construction program is full speed ahead. The committee has supported full fiscal year 1972 funding of 5 ships of this class and advanced funding for at least 5 more. The committee strongly supported the rapid development of a new high performance nuclear powered attack submarine capable of firing tactical cruise missiles.

A matter which the committee explored in detail during the hearings was the apparent blurriness in the 1972 plan to stockpile building nuclear powered surface warships. The Joint Committee has long maintained that everything possible be done to minimize the logistic support required to sustain our warships and the proven effectiveness of a major combatant. The advantages of nuclear power. The decision to delay building nuclear powered carriers and frigates has serious implications for our overall security strategy.

IV. Classified activities

A. Intelligence briefings

Representatives of the Central Intelligence Agency, the Department of Defense, and the Atomic Energy Commission have presented classified briefings on intelligence matters with particular reference to Communist China and the U.S.S.R.

B. Strategic Arms Limitation Talks (SALT)

In April and August 1971, members of the Joint Committee visited the SALT negotiations in Vienna, Austria, and Helsinki, Finland. The committee was briefed in executive session from the Arms Control and Disarmament Agency on the talks and the important negotiations. The Joint Committee continues to follow this matter closely.

V. Other matters

A. New particle accelerators

The Los Alamos Meson Physics Facility (LAMPF) at Los Alamos, New Mexico, was re-commissioned on June 21 about one month ahead of schedule. By July 1972, the facility should be ready to operate and conditions were met for the planned energy of 300 Mev protons. This facility will be extremely useful in the years ahead for research in such varied fields as cancer research, nuclear weapons testing simulation, and the production of currently scarce and expensive radiocisopes.

B. Nuclear electric power in space

There are now 3 Apollo-lunar surface experiments packages operating successfully on the moon. The first package was emplaced by the Apollo 12 crew in January 1969; the second, by the Apollo 14 crew in January 1971; and the third, by the Apollo 16 crew in April 1972. All 3 packages were working successfully in March 1971. The SNAP-21 generator of the Apollo 12 is still operating near maximum rated power—about 70 watts—even after more than 2 years.

C. International Atomic Energy Agency (IAEA)

The Joint Committee follows very closely activities involving the IAEA in Vienna, Austria. Both members and staff of the Joint Committee attended the 15th session of the General Conference of the IAEA in Vienna. The Joint Committee believes that the safeguarding of nuclear material is one of the most important tasks of the IAEA. The committee notes with approval the actions of the AEC in making arrangements for the availability of facilities in the United States to assist in the training of IAEA inspectors consistent with its responsibilities under Article III of the NPT.

D. North Atlantic Treaty Organization (NATO)

Since its inception the Joint Committee has watched carefully developments in NATO. This year members and staff of the Joint Committee visited NATO installations and received briefings from the North Atlantic Allied Commander, Europe, and other military commanders on their duties and responsibilities as they relate to nuclear weapons.

E. Confirmation Hearings

The Senate section of the Joint Committee met in public session on May 6 to consider the nomination of Dwight Porter to be Deputy United States Representative to the International Atomic Energy Agency (IAEA). The Senate confirmed the nomination on May 10.

On August 3, 1971, the Senate section of the Joint Committee voted to consider the nominations of James B. Schlesinger and William O. Doug to be Deputy United States Representative to the Atomic Energy Commission. Mr. Schlesinger was nominated for the remainder of the term expiring June 30, 1976, previously held by Glenn T. Seaborg. Mr. Doug was nominated for the term previously held by Theos J. Thompson which expires on June 30, 1978. Mr. Schlesinger and Mr. Doug were confirmed by the Senate on August 6, 1971, and sworn in by the President on August 17, 1971.

THE VETO OF THE OFFICE OF ECONOMIC OPPORTUNITY BILL

Mr. McGOVERN. Mr. President, the President’s veto of the renewal of the
December 10, 1971

CONGRESSIONAL RECORD—SENATE

46281

Office of Economic Opportunity is this administration’s cruelest blow to America’s poor. It marks a new highpoint of insensitivity in the needs of our most vulnerable citizens: Our children and poor.

Mr. Nixon’s objections were basically two: He felt that child care for poor American children was needed it for their youngsters had not been proved necessary or desirable. And he thought that an independent legal services corporation would not be a satisfactory solution.

Objections like these point out the blatant hypocrisy of this administration. We need only go back 2 years to be reminded that the same administration that had made a development legislation yesterday, committed its administration to the “First 5 Years of Life,” to providing “for every child a full and fair opportunity to reach his potential.”

The President who could claim to want to help the poor leave welfare rolls for payrolls, could veto the bill that would have enabled many of the poor to do so by assisting the payrolls containing their veto was justified on the basis of a proposal of his own which has not yet passed the Congress and which would provide only 450,000 day care slots. The vetoed legislation would have provided 3 million day care places of the 5 million that are needed.

The same President who expressed his fears that Legal Services would not be sufficiently “accountable” is the President who warns us that Legal Services will be necessary because the essential of legal services are so crucial and adequate nutrition are most crucial during the first years of life. And yet, the President feels that to assure these essentials to our most unfortunate children is yet unnecessary and undesirable.

The hypocrisy of this act will be seen by all to be there. There is a conflict between promises and performance in helping the working poor marks this administration more than it did any other in recent history. This veto makes impossible our hopes to enable the working poor to provide more adequately for their children. It comes directly on the heels of a tax bill in which the Congress hoped to benefit the business interests of the country at the expense of the working poor. This can only conclusively demonstrate that in Mr. Nixon’s mind what is good for the big guy must suffice for the little guy, but that Mr. Nixon’s view of the little guy was “fiscally irresponsible.”

Giving power back to the people is something Mr. Nixon ascribes to freely enough in his rhetoric. And yet, the same Mr. Nixon vetoes the Legal Services Corporation, a suit designed by Congress to give the poor some bargaining power within our legal system. Even a Legal Services Corporation would not have taken that long overdue step toward equal justice, an essential prerequisite to true power for all of the people.

Yesterday’s veto is Mr. Nixon’s Christmas greeting to America’s poor.

HEW SCHOOL ENROLLMENT SURVEY

Mr. STENNIS. Mr. President, on November 23 I placed in the Record a copy of a letter from November 9 to the Honorable Elliot L. Richardson, Secretary of Health, Education, and Welfare. The letter concerned the HEW survey of racial enrollment in public school districts. I made the point that the results of the survey are needed by the Congress in the consideration of pending legislation. I also stressed the fact that the information should be compiled in a form that would permit comparisons with the survey of racial enrollment that was made during the 1970–71 school year.

I have received a reply from Secretary Richardson dated November 28. I ask unanimous consent that it be printed in the Record at the conclusion of my remarks.

Careful consideration of the Secretary’s letter leads me to the conclusion that his reply is a signal of being responsive to the needs of Congress. The education bill is to be considered in January, according to present plans. Numerous school desegregation issues are to be debated. With the best information that HEW has on racial enrollment in schools, made available in a timely way, and in a useful form. If it is preliminary information, subject to future refinement, to be expected to accept that, if necessary. I do not think it is necessary or proper to accept information that is in a form incompatible with previous surveys, or that is given the Congress too late to serve a useful purpose in legislative considerations.

Secretary Richardson’s letter offered me the opportunity to request specific data from Mr. J. Stanley Pottinger, Director of the Office of Civil Rights. I have sent a letter to Mr. Pottinger, dated December 7, and I ask that a copy be included in the Record at the conclusion of my remarks.

My letter to Mr. Pottinger requests a very limited amount of information, in a form that will permit the Congress to make some comparisons between racial enrollment last year and this year. Within the framework of the information which HEW says they have, I am asking for three percentage figures pertaining to the 100 largest school districts, and the same three with respect to total enrollment in two years.

Mr. President, a month or more still remains for HEW to assemble the figures requested. In these days of data processing by computer, I would expect that this should be sufficient time. I earnestly hope that the Department of Health, Education, and Welfare will cooperate by providing the data requested by the beginning of the second session of Congress. Certainly the legislative department of our Government is not only entitled to the cooperation of the executive department but is also entitled to their utmost and extraordinary effort to supply the basic facts requested. I feel that they will comply.

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


Hon. JOHN C. STENNIS, Senate, Washington, D.C.

DEAR SENATOR STENNIS: Thank you for your letter of November 9 concerning the school enrollment survey which is being conducted by the Department’s Office for Civil Rights.

The fall 1971 survey is still in progress. Although the Office of Civil Rights encourages school districts to complete the survey forms before December 15, many districts need additional time. Because of this delay and the need to edit and process all returns, we are unable to issue final survey results until May 1972.

The current survey is not similar to the surveys conducted during the 1969–70 and 1970–71 school years. These surveys were representative of all school districts with 300 or more pupils and covered more than 8,000 districts. In contrast, this year’s survey is limited to the 2,800 districts which: (1) are in litigation or under court order to eliminate the dual structure; (2) operate one school system containing 80 percent or more minority enrollment; or (4) enroll minority students representing at least ten percent of total enrollment.

As in past years the Office for Civil Rights intends to issue a preliminary release in January 1972 based on unedited and incomplete survey returns. This release will not be comparable in many respects to the reports of last June 18, 1971, which reported final and complete statistics based on the 1970–71 nationwide survey. As I have indicated in previous correspondence, it is not possible to prepare a release of these data since the survey is scheduled for completion after January.

If you have any requests for specific data at this time, I would suggest that you notify J. Stanley Pottinger, Director of the Office for Civil Rights, as soon as possible. I am sure he will do his best to comply with any request you may have.

With kindst regards.

Sincerely,

ELLIOT L. RICHARDSON,
Secretary.

U.S. Senate,
Committer on Armed Services,

Mr. J. STANLEY POTTINGER, Director, Office for Civil Rights, Department of Health, Education, and Welfare, Wash-

Dear Mr. Pottinger: Reference is made to my letter of November 9th to Secretary Richard-

son and his reply dated November 23rd.

Copies of those letters are enclosed for your ready reference.

As suggested by Secretary Richardson in his letter, I am writing to you for certain speci-

fic data concerning the 1971 school enroll-

ment survey. This information will be needed at the beginning of the 92nd Congress for it is expected that the pending education bills will be debated early in that Session.

It is recognized that data is available only for 2,800 school districts that fall in the four categories mentioned in the third paragraph of Secretary Richardson’s letter.

1. Percent of Negro students attending major, 90–100 percent Negro schools.
2. Percent of Negro students attending 95– 100 percent Negro schools.
TO LEAD AGAIN—ADDRESS BY SENATOR MUSKIE

Mr. EAGLETON, Mr. President, in San Francisco on November 8, the Senator from Maine (Mr. Muskie) gave a speech at a dinner which was billed as a Democratic unity dinner. Senator Muskie addressed himself to the problem of unity within the Democratic Party but, more important, to the problem of unity within the Nation; he spoke of the hopes and disappointments, both Republican and Democratic, and of the problems which our Nation must face in the future.

Senator Muskie talked about the policies of exclusion and division, and he called upon the Democratic Party to respond to all Americans, not just to any faction or special interest. Because of the partisan temptations which are faced by both parties as we approach 1972, I think all Members of the Senate could benefit from reading Senator Muskie's remarks, and therefore ask unanimous consent that his speech be printed in its entirety in the Record.

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

TO LEAD AGAIN

(Remarks by Senator EMMONS S. MUSKIE)

This event is billed as a Democratic unity dinner.

But everyone in this room realizes that there is more to our meeting than that. Most of you are here to size up three of us as possible presidential contenders. And each of us hopes to impress you . . . to stir your enthusiasm and secure your support.

In the last few years, I've been through this competition again and again—and I always enjoy it. I suspect Hubert and Fred do, too.

The rules are very simple: we are supposed to talk—you are supposed to respond—and the reporters are supposed to decide who won.

But I think we should focus here and now on a different kind of victory—not a victory tonight for some pledge candidate—but victory next year for our principles and our party.

I believe the Democratic Party may be headed for serious economic crisis, but victory next year for our principles and our party.

For too long, we have seemed ready to stand or fall on a single issue. We have talked about a vast range of concerns, but mostly in passing. And we have concentrated on the question of the blight, as if that were the only thing wrong in America. There was even a time when some of us were betting on the willingness of Richard Nixon to become another Herbert Hoover.

But now the President has acted—and because we are Americans and not just partisanship who wishes for his success and the economy's recovery. The Administration was late. The Nixon effort will fall short. And none of us are so sanguine that he has set—unemployment rate 40% higher than when he took office.

We can say that and the words may lead to different conclusions. But the blunt truth is that the economic appeals which still draw cheers may not win enough votes.

In 1972, millions of Americans may hear but refuse to hear a debate about numbers—the claim that we can grow more—growth and lower unemployment, even higher G.N.P., and even stricter controls on inflation. It is not clear that they will be convinced because we are asking for it because there are people behind the numbers and they are suffering. But there is the economy and the economy is not the only issue.

Yet the invitations I receive from party audiences across the country, still relentlessly suggest a hard attack on Republicans and a soft pedal on other problems. That is an easy and tempting course—after all, it works. The Republican falterers, again as he has so often in the past, no stump speeches will be needed to fix the blame. And we hope for. As politicians, we cannot depend upon it. And as Democrats and Americans, we could write the story of our country by emphasizing economic appeals in the months ahead.

The economy should be an issue next year—and deep down, I believe we can trust this Administration with our jobs and our dollars for another four years. And we have the questions—not just because we need something more than economics to run on—but because our country needs to survive on more excesses and more neglect.

Most of the issues which held our attention a few years ago have disappeared from the center of political debate. It is as though the earth had opened and swallowed up every ghettos where injustice still breeds bitterness and despair. One question, however, remained to untreated because he cannot afford a doctor every home where money instead of talent decided a case, or a son or daughter will have a chance for education in life. And the real—and painful realities—but, in recent years, America's people and America's politicians have been transformed.

Deep down, I suspect that many of us have been afraid to take another chance on change. We have sat back in Dallas, on a motel balcony in Memphis, and on a kitchen floor in Los Angeles. We have seen an obscure civil conflict explode into a disastrous American war half a world away. And we saw our nation divided by doubt and sometimes even despair.

Finally, there was a moment when we simply refused to summon the strength to make another start. In November of 1968, our people voted for the safety of standing still for what would be deemed “the cooling of America.” We reached back to Richard Nixon—to the image of what might happen to our country forward. And since then, we have spent so much of our energy in reemergence about the past. Only a week ago, the Senate voted down a foreign aid bill—not because most Senators thought it was wrong but because the Senator from Missouri put it in the form of resolution to accumulated anger and mounting frustration about the events of the last decade.

Some commentators think that this is what Americans want—a careful consolidation of the present and a prolonged post mortem of the past. I wish those commentators had traveled with me in recent months. For I have seen the mood of this country changing. I have sensed the stirrings of a renewed faith that the work of our own hands will create a more decent future.

I have found Americans ready to reach out and touch the promise of things to come. They are demanding not only a prosperous economy, but a just prosperity.

They are demanding not only an end to what is wrong, but so much more that is right. They demand medical care for all, higher education closed to no one, and the use of our wealth and our power to help the many who are in need instead of the few who are already well-off.

Most of all, Americans want the kind of leadership which will make America as great and as good in the next decade as it did to learn from the past, but not to live in the past. And they want to be proud now as they were in 1945 or 1961.

So this is the Democratic challenge and the Democratic opportunity—to lead again as we have led before—to convert the stirrings of hope into a new start toward a better country.

That is the historic mission of the Democratic Party. That is the message we have heard and answered almost from the day this nation was born. And we cannot respond now by skimming across the surface of an economic issue, only to begin again when we begin to touch America's deepest concerns.

As Democrats, we must speak to those concerns and lead this country toward a better country for the other great danger we face is that the politics of exclusion will fragment our party and destroy our ability to lead.

The politics of exclusion claims that a fourth party would strengthen the Democratic Party—because it would mount a campaign worthy of winning. But a fourth party would be a stunning defeat—for those who join it, for the Democrats who have stood with them, for those who have loved and believed all of our folks. What we need is not a fourth or a fifth party—but the will and the strength to carry the first political party ever founded in this country to victory in 1972.

And on the vital issues which will determine the future and the fate of America, we have so much in common—with each other—and with Americans everywhere. So our task is not just to announce a position for change. Our task is to lead the nation—hard hats and students . . . blacks and whites . . . housewives and clerks . . . and all of those who believe this society can be truly great again.

We can lead them in the struggle for fundamental economic change. We can tell the primarily workers and the poor to ask what they can do for their country. And most of our citizens would join together and say “no” to a tax system which lets some millionaires pay less than their secretaries—lets great fortunes pass through loopholes, virtually unpunished—and allows big corporations lobby for tax preferences and save billions for them.

We also lead in the struggle for social justice. Most Americans have a stake in the outcome. Most of them would support national health insurance—the nation that is first in the world in wealth can become first in the world in health. Most of them would support guaranteed jobs—so 500,000 veterans born in Vietnam—and aid to Vietnam veterans winners with families can move off of welfare rolls and onto payrolls. And most Americans would support equal rights for all Americans. In life, in love, in work, the minority who are not white and the majority who are women.

And the Democratic Party can lead in the struggle for a foreign policy which puts the lives of people ahead of cold war myths—for a foreign policy which stands against the concentration of private power—and for
a law enforcement policy which really can make our streets safer and our homes more secure. And here again the tie of common interest and to achieve a common effort and order, for example, is not a black versus white issue. Black women are five times more likely than white women to be victims of a violent crime. And blacks are at least as likely as whites to join in a campaign to make law and order a reality for people instead of a code word for prejudice.

So we can lead without excluding. As Democrats, the things that unite us are so much stronger than the things that divide us. Surely, then, we can make our party safe for democracy. Surely, from the steroids of our ideals, we can draw the strength to stay together—and then together, we can change America.

Our nation and our party have endured some difficult and painful years. But in 1971, our people are anxious to turn once more to the work of the common enterprise we call America. And in 1972, the Democratic Party must listen and respond. We cannot win on the economy alone. But we can put it in the election. And more importantly, we have the chance to lead again.

So let’s match our party’s vision to our people’s hopes. Let us join again with Martin Luther King in the affirmation that we have a dream. Let us say with Secretary of Defense, Robert McNamara, that we can move America forward.

And let us believe again with Robert Kennedy that we can seek a newer world.

The right issues are all around us.

Now let us build the right real majority.

THE 20TH ANNIVERSARY OF FEDERAL GOVERNMENT ACCOUNTANTS ASSOCIATION

Mr. MOSS. Mr. President, on behalf of the distinguished Senator from Wyoming (Mr. McGee) I ask unanimous consent to have printed in the Record a statement and an insertion by him relating to the 20th anniversary of the Federal Government Accountants Association.

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

Mr. McGee. Mr. President, the year 1971 marks twenty years of the Federal Government Accountants Association’s growth and dedication to improving financial management in the Federal Government. The objectives of FGAA are to:

Unite professional financial managers in Government service to do a better job for the own satisfaction and benefit of the Government.

Encourage and provide a means for free interchange of ideas;

Improve and develop financial management techniques and concepts; and

Improve financial management education in the Government.

From a humble beginning in 1950, with fifty-nine members in the Washington Chapter, the Association now boasts of sixty-four thousand members in seventy thousand men and women in the Government service engaged in accounting, auditing, budgeting, and related financial management activities. The membership represents 125 agencies and major divisions of Government service.

Mr. President, just recently, the FGAA adopted a Code of Ethics which I feel does deserve the attention of everyone employed by our Government, as well as those individuals employed in the private sector. Consequently, I ask unanimous consent that "the ethics" be printed in the Record.
THE MEASLES EPIDEMIC

Mr. HARTKE. Mr. President, a measles epidemic is spreading across this Nation. More than 70,000 cases have been reported to date in 1971—almost twice the number for 1970.

The facts about this epidemic are not widely known because the children who have measles are not of the rich or the middle class. They are the children of the urban and rural poor. In vaccination programs which seek to reach only 70 to 80 percent of all young children, it is not always possible to reach the medically indigent.

With the introduction of measles vaccine in 1963, it was expected that this disease could be virtually eliminated in the United States within a few years. Progress in the eradication of measles was significant through this period. In 1963, before the vaccine was introduced, there were more than 400,000 cases of measles reported to the Center for Disease Control—CDC. By 1966 the number reported had dropped to 204,136 and to 1968 to 22,531. In 1969, however, the number of cases rose to 28,526, and in 1970, to 72,782 cases.

In 1971, 72,782 cases have been reported. It should be noted that not all cases of measles are reported to the CDC. In 1963, for instance, approximately 42,000 cases of measles were reported to CDC, but the total number of cases in the country was estimated to be 4 million.

Mr. President, we can trace the increase in cases to the fact that not enough children are being vaccinated, and we can trace the paucity of vaccinations to the failure of the Federal Government to supply an adequate supply of free vaccine to those in need. The Communicable Disease Control Amendments of 1970, designed to provide grants to State and local governments to carry on a variety of vaccination and other communicable disease control programs, authorized $20 million in fiscal year 1970, $25 million in fiscal year 1971, and $90 million in fiscal year 1972. However, appropriation of funds authorized in 1970 was $25 million and $20 million in 1972. Of this $20 million, $15 million has been earmarked for the fight to eradicate venereal disease. Allocation of the remaining $5 million has not yet been determined.

At the same time, HEW has released 48 million dollars for measles which was not used in its german measles program in fiscal year 1971. Some of this vaccine is still available.

The greatly increased number of reported measles cases so far this year makes it clear that we need a more aggressive, comprehensive approach. It is sometimes very serious childhood disease. I therefore, call upon the Secretary of Health, Education, and Welfare to re-examine all available funds for measles vaccine immediately, before the epidemic spreads further.

Mr. President, I ask unanimous consent that recent articles on this subject be printed in the Record, as follows:

DOCTOR SCORES MEASLES POLICY

A pediatrician yesterday blamed the big outbreak of measles in five years on the Nixon administration's policy of switching funds from fighting specific diseases to block grants.

"Kids in the ghettos are just not getting vaccine," said Dr. Stanley L. Harrison, secretary of the pediatric city of St. Louis, and a practicing child doctor in St. Louis for 30 years. "Immunization programs in the inner city have deteriorated," Harrison said. "In the ghettos the government said yesterday it is buying a measles vaccine for the first time since early 1969. It said it would deal directly with the states and communities to immunize about 8 million children, especially those in the inner city.

CUBAN case of specified notifiable diseases

Measles:

1971: 72,782
1970: 43,297
Median: 85,770

[From Medical World News, Mar. 19, 1971]

EPIZOOTIC HEADLINE

MEASLES IS OUT OF CONTROL: IMMUNIZATION LEVELS LOW IN POLIO AND DIPHTHERIA, EXPERT WARNS

Seven-plus years after the Vaccination Assistance Act, to which a national program eradicates polio, diphtheria, rubella and other communicable diseases, the immunization goal may have been slipping beyond grasp. Even more years ago were talking confidence or eradication are now pinning their hopes on better control methods— and creating the fingers at that.

Large segments of the population remain unimmunized, jeopardizing the herd immunity which other epidemics of eradicable disease have occurred—diphtheria is a case in point (MWN, June 26, 70) or else there have been threats of an epidemic, as with polio.

Worst of all is measles, says Dr. John J. Witte, chief of the Immunization Branch at the Center for Disease Control in Atlanta. Speaking at the Eighth Annual Immunization Conference in Kansas City, Dr. Witte said: "Today, measles is out of control." Measles incidence fell dramatically after mass immunization campaigns were launched in 1966. Cases numbered 62,000 in the 1966-1967 epidemiologic year (roughly October to October) and kept falling. Yet in the winter of 1966, 18,000, 47,000 by the fall of 1967 as the disease cases as well, with 7,500 the previous winter. And for the 1970-1971 year, the total may reach 70,000 cases, far above 1969-1970 figures. Total of measles incidence has been a man (see page following page 54 in most MWN editions). Between last October and this last October, cases turned up at 46% over the same period last year and 176% over 1966-1968 figures. Says Dr. Witte: "We're back where we started five years ago."

[From JAMA, May 10, 1971]

MEASLES: A RENEWED CHALLENGE

When Rhazes (850-923 AD), a physician living in the Eastern Caliphate in Persia, described the Symptoms and Prognosis of this disease, he provided the first accurate description of an ancient and widespread infectious disease. A relatively mild disease primarily affecting children, measles can lead to serious and devastating in less-well-developed lands and can be the cause of serious morbidity among isolated populations.

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[From JAMA, May 10, 1971]
formidable array of public health agencies, should be able to do at least as well proportionately. The goal of eradicating this disease in public health organizations and local and state medical societies should reach every part of this country with effective and comprehensive immunization programs that will control, if not eradicate, morbidity and mortality from this ancient disease.

Assar A. Fageeh, M.D.,
AMA Department of Environmental Public, and Occupational Health,
Chicago.

FOOTNOTES

[From the Wall Street Journal, Feb. 20, 1971]

MEASLES RESURGENCE SPARKS NEW CAMPAIGN TO IMMUNIZE CHILDREN—HEALTH OFFICIALS HAD THOUGHT DISEASE WAS LAN Quinn, Jr; STRIKES IN POOR NEIGHBORHOODS

(From Jonathan Spivak)

WASHINGTON—“Measles Is a Thing of the Past,” says the local Health Department. After several years of dramatic decline, the disease is on the increase, particularly in the black community.

To deal with the problem here, the first mass measles immunization effort in two years is scheduled to begin tomorrow in seven city clinics. It’s hoped that several thousand children will be vaccinated and that the local outbreak, which has affected 300 children, will be contained. Until lately not a single measles case had been reported in Washington for more than a year. “It gave us a false sense of security,” says Dr. Rosen.

For tomorrow’s battle, 20,000 doses of measles vaccine are being shipped from the Ponea-Kanso Island Vaccine Center in Atlanta, which keeps an “epidemic stockpile on hand for just such emergencies.” Department of Health, who has notified all county health departments across the Maryland border; in adjoining Prince George’s County, mass immunization will also be conducted.

A STUBBORN RESURGENCE

Measles, once a nearly universal childhood disease, causes high fever and an annoying red rash, and the complications can be serious. The combined efforts of those who have been vaccinated over the Maryland border, in Prince George’s County, mass immunization will also be conducted.

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Reprinted cases fell from 400,000 in 1962 to a mere 22,000 in 1968, and public health officials had predicted imminent eradication.

Now, however, the disease is staging a stubborn resurgence. The incidence is running at 120,000, or more, for cities, including New York, Cleveland, Chicago and Baltimore, have been hit by epidemics. (Wilder’s sharp reduction was based on an assumption that a large proportion of cases now warrants as an epidemic.) To a lesser degree, rural areas in Louisiana, Virginia and Idaho have also been affected.

But mainly the measles virus is concentrating on a special target—poor children in the central cities. In addition, American doctors and local government officials have been hit by the virus, including New York, Cleveland, Chicago and Baltimore. There have been epidemics in large, rural communities, including New York, Cleveland, Chicago and Baltimore. There have been epidemics in large, rural communities, including New York, Cleveland, Chicago and Baltimore.

Last year for the first time measles outbreaks in five counties, confined to a handful of Latin-American children; now the disease has spread to the entire city west side ghetto. A measles outbreak started last fall in Chicago with 169 youngsters, and now nearly 2,000 cases, including nine deaths, have been reported, most of them preschoolers.

MONEY IS lacking

Public Health officials estimate that measles immunization has reached well over 80% of American middle- and upper-class children, but only 40% of the poor. Among the poor, with officials believe, is the large potential for occurrence of the virus, and it is spreading to 23 other children. City health officials moved in rapidity and vaccinated 100 other susceptible children and by September congratulated themselves that the outbreak had been nipped in the bud.

But within two months the disease had spread widely throughout all ghetto areas of the city. Experts say that the actual number of cases to date may be two to three times the 300 reported. Significantly, none has been reported in the predominantly white middleclass neighborhoods. The poorer neighborhoods were, indeed, the number of new cases has already begun to rise from a post-Christmas peak of 58 a week.

But controlling the current measles outbreak won’t prevent new ones. In the pre-intervention era, measles cases occurred nationwide every two years, and that pattern may persist in the city ghettos while the other neighborhoods remain free of the disease.

One preventive step contemplated here is to arrange the schedule of routine immunizations at the city’s free clinics, giving the measles shot priority over the smallpox vaccination.

Another step would be to modernize the District of Columbia’s 64-year-old compulsory immunization law by requiring a measles shot before admission to public school; now only students who are ill need be vaccinated.

The change could be time-consuming, however, because in this city it will take the act of Congress to make the law work. It is largely because the health experts say there is a continuing need to immunize each year’s 3.5 million newborn children, as well as to wipe out the remaining reservoirs of the disease.

The Senate, spurred by Texas Democrat Ralph Bankhead, has passed an extension of the vaccination assistance program, part of the 1975 national health bill. The program is not only to deal with the problem in the long run, but also to provide a two-year extension of the current law. Senator Bankhead has been working on the bill for several years.

The result is that the 1975 law, which is due to expire next year, will now go into effect in 1976. Senator Bankhead’s bill provides for an extension of the current law until 1978, giving the states time to make up for the budget cuts in the past year.

M.S.

Mr. HARTKE, Mr. President, this crisis raises questions which many of us have long been aware of. It does little good for Congress to appropriate funds for an important program such as this if the President and his deputies fail to spend it. Perhaps the President wishes us to believe that he supports the bill in order to react to his initiatives and to sit back with apathetic indifference when he ignores our decisions. This is one Senator who will not let our country be held hostage to any more weak efforts.
children of the poor suffer. We can take comfort in the fact that most of them will recover, but some will not be so fortu-
tunate, and their will be doomed to a life of retardation. When we look at these children, will we remember that the vaccine was available to spare them this agony but that someone in a position of high public responsibility decided that it would not be released?

OPPOSITION TO FURTHER U.S. MILITARY INVOLVEMENT IN SOUTHEAST ASIA

Mr. FULBRIGHT. Mr. President, yesterday the Senate received a petition signed by members of the U.S. armed services on duty in Southeast Asia reading as follows:

We, the undersigned American Servicemen on duty in Vietnam, wish to express our opposition to further United States military involvement by air, sea or land forces in Vietnam, Laos, Cambodia or other countries in South East Asia. We petition the United States Congress to take whatever action necessary to assure an immediate cessation of all hostilities in South East Asia; to set a new policy of complete military withdrawal; to insure a rapid and peaceful return of American Prisoners of War; and to provide for the responsible determination of future American Foreign policy.

More than 800 American military men on active duty in that area of the world have signed this petition. Without regard to the effect of such action on their careers, they have made known to the Congress their opposition to the war.

Their action has the effect of supporting the Mansfield amendment and I commend their initiative and courage to Members of the Senate. The petitions are on file with the Committee on Foreign Relations for Members who may wish to see them.

BIRTHDAY GREETINGS TO SENATOR WILLIAMS

Mr. HUGHES. Mr. President, since December 10 is the birthday of one of our most esteemed colleagues, the senior Senator from New Jersey, I would like to add a few words of personal tribute to the happy birthday messages he is receiving.

I know that Pete, whose friends and admirers are legion, is receiving many congratulatory messages today. But it occurs to me that if all the people in the United States who have benefited greatly from Senator Williams’ constructive work in the Senate were aware of this, it was his birthday and were to send him a card, the mail would fill the Capitol Rotunda.

City people and suburbanites would want to wish him happy birthday because of his leadership in mass transit, housing, and other legislation to benefit urban America.

Elderly people would wish him well on his birthday because of his fight to increase social security benefits, his work to improve Medicare and his other good works for senior Americans.

Working men and women would wish him many happy returns of the day for his continuing battle to provide safe working conditions for American labor and for his leadership in other causes on their behalf.

Minority citizens, consumers, environmentalists, educators, veterans, migrant workers and other groups of rank-and-file Americans have reason to wish Senator Williams many happy returns on this day.

As a member of the Committee on Labor and Public Welfare of which he is chairman, I have particular reason to be appreciative of his strong and sensitive leadership in the membership’s critical health needs, including the struggle to develop enlightened national programs to alleviate the suffering of drug abuse, narcotic addiction and alcoholism. In my own association with Senator Williams, I have found him to be an able, doggedly determined public servant in fighting for human interest causes that are often uphill. More than that, he is a warm and kind person being.

I know all Senators join with me in wishing Pete a happy birthday. He has earned it.

FAILURE OF U.S. POLICY IN SOUTH ASIA

Mr. KENNEDY. Mr. President, a tragic and senseless war in Pakistan is being waged and as senseless as all wars—continues to spread today across South Asia. There has been during the last few days a great deal of handwringing and rationalizing over who has the other side, who is responsible for it, and what can be done about it.

Over just the last 3 days there has been an unusual flurry of briefings by nameless high-level spokesmen within both the Department of State and the White House attempting to clarify this administration’s policy toward the crisis in South Asia—a policy which still, to many Americans, defies understanding.

For despite these briefings, and counterbriefings, and off-the-record statements, our nation’s policy toward the 8-month-old crisis in East Bengal remains as unclear and as contradictory as it has from the beginning.

During these last 8 months of bloodshed and tragedy in East Bengal our Government has placed our foreign policy toward Pakistan on an altar of leverage, insisting that silence could bring influence—that by avoiding the condemnation of genocidal acts by the West Pakistani Army against the people of East Bengal, it would somehow stop that genocide—that by continuing the shipment of American military equipment to the government, the Army would somehow stop using it to subjugate East Bengal. But surely there is no more spurious an argument than this, which says that to have leverage we must contribute to, and support, the very problem we seek to address.

As outlined this week by anonymous White House spokesmen, the United States over the last several weeks has engaged, in what they call “A Hectic Race Against Time” to achieve a solution that would avoid war. But, Mr. President, it is fair of us to ask when, if ever, this “race against time” began.

Did it begin, for instance, in mid-July? Certainly the situation then in South Asia was not basically different than it is now or has been from the beginning. And between July 7 to the 14th our Government had a peculiar opportunity to influence events on the subcontinent.

To refresh our memories, the situation at that time in East Bengal was that the Pakistan Army was touring the countryside killing members of the banned Awami League Party, and slaughtering in the process thousands of innocent men, women and children, the refugees found it necessary to flee to India in order to escape the bloody terror of repression—some 40,000 were fleeing each day. The freely elected leader of East Bengal, Sheikh Mujibur Rahman, was still in jail. In West Pakistan, President Yahya Khan was vowing to condemn Sheikh Mujib for treason and to militarize the situation in East Bengal by forming a government of politicians sympathetic to the military regime. Martial law was tightening its grip on the cities, and the threat of famine stalked the land.

In India, relief workers were struggling to deal with the largest human tide of refugees in modern history: Attempting—but not succeeding—in providing some assistance to the deluge of people fleeing from a people’s war to a hopeless people dying by the thousands under the monsoon rains. As India strained under the refugee burden, so a cost which had totaled more than all the funds it had received from foreign aid for economic development this year—Indian leaders complained that they could not withstand the pressure much longer, that the refugee flow must be stopped, that it would be cheaper to go to war than suffer this intolerable drain on its society.

Such, then, was the desperate situation in South Asia last July, when Mr. Henry Kissinger traveled to India and Pakistan while on a world tour. He was, we were told, the President’s personal representative to speak to the leaders of India and Pakistan. But almost nothing was done in East Bengal, and its repercussions on the stability of the region. Many Americans were gratified that the intensifying conflict in South Asia was finally receiving the attention and the priority it deserved by the highest officials of our Government. Until then, many of us in Congress had worried over the silence and inaction that had characterized our Government’s policy toward the Indians—a policy which defies silence and a leathery made clear to me during hearings on June 28 of the Subcommittee on Refugees, for which I serve, chairman.

When Mr. Kissinger disappeared for several days from public view while visiting President Yahya Khan in Islamabad, many speculated—and all of us hoped—that he was searching for the root of the problem in South Asia by visiting Sheikh Mujib, jailed in secret, near Islamabad.

But, as we now know, Mr. Kissinger was neither negotiating nor primarily concerned about the root cause of the conflict in South Asia, but rather about America’s policy toward China. Mr. President, if we have been in such
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a "race against time" for peace in South Asia, as White House spokesmen now tell us, then where was the President's representative racing off to last July? Consider the president's statement that the intensification of the conflict raging in East Bengal—a conflict that was then already 4 months old. Rather he had headed toward Peking and more substantial issues about which the Indian refugee tragedy—which he refused to see first hand in South Asia.

Mr. President, as I said in this Chamber just 3 days ago, I believe the administration has not been in a position to reestablish contact with one-fifth of mankind's population in China. But we are at the same time—no doubt, by wrong-headed, short-sighted policies—going to allow one-sixth of mankind, located in India, the world's largest democracy, to become permanently alienated from the United States? In our race to play a major role in China, are we going to simultaneously relegate India—a nation with which we have had 25 years of productive relations—to a new low in our priority?

The fact is that throughout the past 8 months of crisis, our Government has consistently sought to minimize the seriousness of the situation in South Asia. At the beginning of the crisis during the first days and weeks following the bloody night of March 25, and after our Government knew of the situation from secret cables sent from Dacca by our Mint General, the Department of State refused to be candid, publicly or otherwise, in announcing the emergency evacuation of Americans and dependents. Instead of calling it an evacuation—what would have implicitly confirmed the reports of violence and repression, which the Pakistan Government was explicitly denying at the time—the State Department reached into its bag of euphemisms and called the exodus of U.S. personnel a simple thinning out of Americans.

My concern over these early signs of disaster in East Pakistan, and over our Government's inaction, were first stated on the Senate floor last April 1. I reiterated these views on April 6 in a letter to Secretary of State Rogers. My letter stated in part:

Reports from East Pakistan continue to tell of human tragedy as a result of the current civil war. Indications last week of indiscriminate killing and the threat of famine prompted me to express my deep concern over this situation on the Senate floor. The latest evidence from the field serves to confirm my worst fears.

Frankly, it distresses me that our Government is at this late date both private and publicly—on the disaster overtaking Pakistan.

I fully appreciate the immense difficulties involved in the East Pakistan issue. However, I believe our Government should be aware of the fact that the widespread and indiscriminate shootings of civilians, particularly when American arms are being used. More importantly, we should do all we can both private and publicly, to help the humanitarian needs produced by the conflict. It would be reassuring to me and to many Americans, if we could be informed of our Government's active concern in these matters.

Subsequently, our Government downplayed the threat of food shortages and famine in East Bengal, and understated the role of neglect and misadministration in our relations with the Yahya regime. These facts, Mr. President, are well documented in the hearings of the Subcommittee on Refugees and as outlined by your Administration in November by Mr. Volicler. I ask unanimous consent that these excerpts from my report be printed in the Record at the conclusion of my remarks.

Mr. President, we find that after 8 months of calculated indifference to the escalating tragedy in East Bengal—after months of silence in the face of massive human tragedy—the highest officials of this Administration tell us that they were in a "race against time" to preserve peace. But it is apparent that this "race" began only a few weeks ago—and far too late to be effective or even relevant.

American officials have weekend condemned India because—to use the words of one unnamed State Department source—"India wanted to move too rapidly for the process of political solution in East Pakistan and the United States was promoting." What is too rapid a crisis that has stretched 8 long months—where in refugee camps children are dying at the rate of a hundred a day, and where hundreds of thousands more go without food or shelter. If Americans were faced with starving and wounded refugees pouring over our borders at the rate of 45,000 per day, we, too, might then move quickly.

Although the resort to armed force to settle international disputes can never, of course, be condoned, we cannot but be dismayed that there is a clear indication that South Asia has been neglected to the point where both Pakistan's and India's armed forces are now involved in the fighting launched by President Yahya Khan's attack on Dacca. But to now assign "blame," in the way that this administration has, is not only counterproductive, but dishonest.

The reports I have received this week from White House spokesmen leave several serious impressions. Mr. President, as well as deliberately misrepresent certain facts. For example, the assertion that the Government of Pakistan agreed "in principle" to negotiations with Bangla Desh representatives, and that the United States offered a "plan" to India to avoid war and provide negotiations.

The facts are not coming out, and they document that the scenario of events was far more complicated than these spokesmen would have us believe. and the so-called plan for negotiations seems to be quite vague. In fact, official reports from the field indicate that at no time did President Yahya Khan ever agree, without many qualifications, to a pledge to undertake negotiations with high-level Bangla Desh representatives. More importantly, at no time has President Yahya Khan agreed to release or even to directly negotiate with Sheikh Mujib—the man who remains at the heart of the East Bengal crisis.

More distressing still, Mr. President, is the evidence of Pakistani intransigence reported this week by the distinguished Senator from Ohio, who recently returned from a visit to both India and Pakistan. In his visit, Senator Saxbe states, and I quote:

I suggested to President Yahya that he proceed with granting at least a degree of autonomy to East Pakistan to do this and he seemed very sincere. But 10 hours later, Pakistani planes bombed six military airfields inside India in turn, triggered a land invasion by India.

Yahya Khan lied to me. He had planned the bombing whether or not he lied to me. I believe the shooting war could have been averted and India could have been kept from launching an invasion if Pakistan had granted autonomy to East Pakistan.

Equally as disturbing, Mr. President, are reports yesterday from officials in the field that indicate that as long ago as the middle of October, the U.S. Ambassador to India was instructed to begin discussion with the Indian Government on East Pakistan. If this is true, a major role for the United States in the Middle East and the Bhutto-Bangla Desh intensified their activities along the eastern borders in East Bengal. Indian leaders were officially warned that such an escalation, even if undertaken by India, would have "serious effects on Indo-American relations." There was little suggestion that such a development would effect United States Pakistani relations. No plan for peace or discussion of any kind was undertaken. The suggestion I received from Indian officials in October—2 months ago—without any meaningful alternative offered to India by U.S. officials.

Mr. President, as our national leadership has been incredibly silent during a period of humanitarian deprivation and violence that has engulfed South Asia. It is now a late stage in the crisis, but the opportunity still exists. I urge that our Government join the international community to make a positive contribution toward the peace and relief of the area.

By ourselves we cannot solve the crisis, and by no means should we become directly involved in it. But to a degree we are already "involved"—our guns and equipment are involved, our economic aid, and our diplomatic efforts. A more effective role could be assumed by our leadership, and the international community to make a positive contribution toward the peace and relief of the area.

As Prime Minister Indira Gandhi wrote in a letter to our Government just weeks ago:

I hope that the vast prestige of the United States and its wisdom . . . will be used to find a political solution. The Representatives of East Bengal and their leader Sheikh Mujibur Rahman. On my part I shall make every effort to achieve a peaceful solution. I would be less than honest if I were not to repeat that the situation in which we find ourselves has long been an unbearable one.
Mr. President, for the international community to help resolve this crisis we must press for a standstill cease-fire that will provide the "cooling off" period necessary to begin immediate and simultaneous negotiations between India and Pakistan—and between Islamabad and its Bengali opposition. The only purpose of the Indo-Pakistan talks would be to restore the 1965 cease-fire along the western borders, while the Islamabad-Bengal negotiations would determine the future status of East Bengal.

Anything short of this will mean the continuation of the war and even greater tragedy. And so I urge again that our Government has steadfastly sought to minimize the seriousness of the situation in East Bengal and South Asia. Our Government does not have available in the United States large quantities of food or medical supplies to assist in the war-torn areas, including East Bengal and the confederation of Bangladesh.

In our view, public statements inconsistent with this line likely impair effectiveness of our efforts. Our foreign policy statements...should reflect recent field reports.

It started on July 22. In response to questions from members of the Subcommittee, that Department of State officials publicly and clearly recognized the problem and speculated why our government refused, for so long, to speak candidly of the potential for famine in East Bengal; for the net effect of minimizing the problem was to reduce the urgency of our response and to defer needlessly those substantive efforts that were needed to save human life.

Although in the early days of the East Bengal famine we concluded our government's positions suffered simply from a lack of candor and a lethargy towards the urgent humanitarian needs involved, it did seem as though we were ending our military participation with the government of Pakistan. On April 30, the State Department announced an end to the shipment of further American arms to Pakistan. In a letter to the Chair on that date, the Department stated:

"...we have a modest program of cash and credit sales to Pakistan of non-lethal military equipment and some spare parts and ammunition. We have been informed by the Department of Defense that none of these sales is to be made to the Pakistan Government or its agents since the outbreak of fighting in East Pakistan March 26-28, and nothing is presently scheduled for delivery.

Yet on May 8, the Pakistani ship Sunderbans left New York harbor for Karachi. Pakistani planes were not being supplied as U.S. military aide planes. Neither the press nor the Congress knew of its departure. Its sailing said a great deal about the direction of the Administration's policy towards South Asia. And contrary to every impression, U.S. military supplies were continuing to flow to Pakistan.

Some have tried to explain the apparent discrepancies between our officially stated policy and the continued shipment of arms by noting that the phrase "scheduled for delivery" has a more intricate meaning than commonly understood. Officials in the Department of Defense, for example, say the transfer of title, which occurs long before actual shipment, once military goods have been "delivered," and those attached to the Department of the State's Office of Munitions Control before actual shipment. All three views are correct.

But such intricate descriptions of the military aid process, or apologetic claims of "reversible bungling," cannot explain away the continued shipment of military equipment to Pakistan. This was made clear in June 28 testimony before the Subcommittee. After a reported White House-Japanese review of the arms policy toward Pakistan, Deputy Assistant Secretary of State Christopher J. Hill, acting for Secretary of State Kissinger, announced that arms may be sent to Pakistan and that certain items moving in the future based upon items turned over by the Department of Defense to the Department of Commerce licenses that are still outstanding.

In other words, the Administration determined not to end 57.4 million dollars worth of arms still in the pipeline on March 28. Such an embargo could have been effected with little additional phone calls.

Under current law, therefore, military supplies have been flowing to Pakistan—not in the quantities that might have been shipped, but in sufficient quantities to help the Pakistani army in its suppression and to carry enor-
mous suffering.

The State Department, as outlined in Mr. Van Horn's testimony, has given three reasons for this policy. First it is said that an embargo would "be seen as an unwarranted intrusion into an essentially internal problem which the United States is not in a position to handle." The implication is, of course, that our government can somehow maintain law and order in Pakistan while still sending military supplies to its military government. But surely this is a contorted interpretation of an obvious fact that our government is already investing billions of dollars and money, with more than a decade of economic and military assistance, American aircraft and equipment, and men and women even by U.S. officials. So the question is how America should be involved; whether our government is not taking measures to support more arms, or supporting instead efforts toward political settlement in East Bengal and humanitarian programs for the millions in need.

A second argument advanced by the State Department to justify not cutting off military supplies is that it "would cause Pakistan to rely exclusively on other sources of supply." In other words, if we don't supply the equipment, somebody else will. This is, and always has been, a weak and very defensive argument, capable of justifying any long-term interference in the affairs of the world who will fill the void if we abstain. It relies not on the positive merits of a policy of non-interference, but on the negative merits of a policy of non-cooperation that Pakistan might be willing to do what we should not be willing to do. The fact is that in Pakistan we have an American arsenal; it has not been destroyed, it has not been captured. Our supplies are only a small portion of the total Pakistan military imports. Why not cut our symbolic ties?

The State Department replied rather obliquely that the third reason for continued military sales is the "close economic relationship." This is a symbolic sanction if we imposed an embargo. As Mr. Van Horn testified, "Such sanctions are precisely those efforts to maintain a productive political relationship with the Government of Pakistan, in order to encourage the Government of Pakistan along constructive lines in the areas of mutual interest, namely in the areas of relief, of refugee return, and of political accommodation." This argument has become the heart of the Administration's position, even though the Government of Pakistan has shown only a limited capacity to cooperate as humanitarian relief and political accommodation or settlement.

But Administration has put the rationale subsequently, military aid is required to maintain our "leverage" over the Paki-
stani government, the order for push to the killing of the people. But surely there is no more specious an argument than this, which says the establish-
ment of "leverage" requires regular contributions to the very problem being addressed. It would be better to cut off military aid, as well as general economic aid, and then make its restoration contingent upon some demonstra-
tion of humanity on the part of Paki-

...
The main [relief] effort will have to be through the U.N. and the [Pakistan] government's national food distribution system. The U.N. is that they are seeing to the distribution of food to the major inland ports. From the big ports on the Arabian Sea and the port of Gwadar, the humanitarian has chartered vessels to bring rice and wheat up to the big river ports—and from there it gets to be distributed by local distribution channels. The Army will not have anything to do with the food distribution—that is the work of the U.N. of course. The U.N. is only acting in a supervisory and advisory capacity. For example, they have a transportation expert here to give advice on the logistics of food grains in large quantities. They are bringing in 1,000 tons of food in trucks to aid in the distribution by road. However, it is not actually doing the distribution. All the distribution of relief supplies is to be done only by the government of Pakistan. The national food distribution system is through fixed price shops or ‘ration shops’. The people have to get a ration card and then they will be able to buy the food from the ration shop and not be able to get their food from that source. Moreover, they need money to buy the food. Therefore, there is supposed to be some emergency distribution of food grains by the government and the government will have to determine where there is an emergency area. So really, the food distribution will be done only with the efficiency that the government can get into it—and not actually doing for carrying it out. In addition, there is the obstacle of the activities of the Freedom Fighters (and their sympathizers) who control these Freedom Fighters, who have expressed an animosity toward the U.N. operations, since the U.N. did nothing for East Paki but instead a time when the Army was committing great atrocities. For about 4 months the U.N. did nothing and then, at the invitation of the Pakistani government, they came in. So the Freedom Fighters are, in general, opposed to the U.N. activities here. They say that they will only be able to buy the food to take place, provided that the Army has nothing to do with it.

Quite clearly, the U.N. effort is having many problems getting off the ground. These problems not only involve the sheer intricacies of organizing a relief effort on a relief effort—problems that are involved, but also the local people are situations, they have been essentially the U.N. Relief Mission at Chittagong and Chalna, the U.N. Relief Mission is obtaining, with U.S. assistance, some 36 vessels. In testimony before the Subcommittee on October 4, Maurice J. Williams, Deputy Administrator of AID and U.S. Coordinator for Relief Assistance to East Pakistan, stated that even the fully loaded, can move over 100,000 tons of food per month. To ensure that the boats and other material are Muslims, it was only loaded, a mix of rice, wheat, and soap. There is no room for any cargos, lost somewhere that humanitarian grain is mixed with something else. Return trips of boats and trucks do not carry jute, since it could be construed by the guerrillas as being foreign exchange support to the government. He said: “The U.N. Relief Mission in East Bengal is, in fact, insisting on these rules. We insist on them. Only by clear-cut separation can food and other material be shipped. In response to the Chairman’s questions, Mr. Williams testified further that a meter of assurance has come from those who support the battle—the Pakistan army and the Mukti Bahini—that they would respect the purpose and integrity of the U.N. program. An effective and hard-to-achieve task, however, remains more of a hope and an aspiration than any else. From the outset, U.N. relief efforts have been termed elaborate and slow, perhaps, under the circumstances, that is all it could be. But the fact that it has brought rice, blankets, medicines, and good intentions toward the people in need and optimistic rhetoric in many quarters, truly effective operational plans have not been necessary, the Subcommittee makes these comments.
enough that Moscow would not veto a resolution which acknowledged a Bengali political party's claim to hold a cease-fire. The divisions which have reduced the United Nations to impotence in the past week will surely increase the chances that the U.N. will not give Pakistan the grim emotional satisfaction it received from the American resolution that failed to reach a vote last night. The U.N. may not give all the same. Incidentally, it would allow President Nixon to appear before the world as an effective peacemaker.

This last is particularly necessary reservations about Mr. Nixon's pro-Pakistan policy. But if he is determined to pursue it, he may do so without regard to the side that helps Pakistan and the cause of Asian peace.

[From the New York Times, Dec. 9, 1971]

MR. NIXON AND SOUTH ASIA

By John F. Lewis

PARKCROFT, N.J.—The Nixon Administration's South Asia policy, which had been edging toward disaster for the last eight months, finally, in a cloud of proue iniquities, plunged into this fatal plane, Thursday night. Presumably for the time being the policy is beyond redemption. What now selflessly committed by the Administration's commitment to the idea that it is the will of the people of Pakistan is that the Administration's present aberrations represent a thoughtful and enduring American opinion.

All the evidence suggests that within the Administration the aberrations trace directly and primarily to Mr. Nixon himself. For eight months he has remained officially blind to the massive forces of the world's most unceasingly inhuman of inhuman. He has been biologically to his good friend, the chairman of the Savvy, Yasser Arafat, and by his hand-hold and any hidden leverage on the Pakistan regime has had evident effect in advancing a political solution in East Bengal.

To an Indian Government that, in the face of moral and human outrage next door and of an outlandish refugee burden, was showing remarkable restraint until recently, Mr. Nixon offered mainly counsels of restraint. He supplied no moral support. Instead for months he has continued to trudge arms to Pakistan like so much gasoline onto smoldering Indian passions. The President has been fulsome in his inflammatory, explosive, and political risks the refugees posed in Indian Bengal and of the way they have totally de-

[From the New York Times, Dec. 9, 1971]

The EMERGENCE OF BANGLA DESH

Defying a United Nations plea for a cease-

fire, Indian forces appear on the verge of completing their conquest of East Pakistan. These are the defeat of West Pakistan military repressions in the disas-

[From the Newport Times, Oct. 9, 1971]

To the Editor: The Administration has announced a policy of strict neutrality in the India-Pakistan conflict and there must be many others who will join me in wishing that it would observe it. In speech as well as in deed, I am sufficiently on record in my opposition to appeal to military force, whether by India or Pakistan, and have even denounced the use against Pakistan in Gones. The history of this conflict did not begin with the Indian army's move against East Bengal or (for that matter) when Pakistan bombarded the Indian airfields last Sat-

[From the New York Times, Dec. 9, 1971]

CLEAR-CUTTING IN THE NATIONAL FORESTS

Mr. McGee, Mr. President, this month's Reader's Digest contains an article titled "Our National Forests," written by James N. Miller. Mr. Miller has done an excellent job of pointing out the vital necessity of developing new and much more far-reaching unity in the management of one of our greatest national resources—our timber stands on our public lands.

Mr. Miller tells us of the devastating consequences of our failure to properly manage numerous national forests due to poor management prac-

And, finally, Mr. Miller builds an ex-
The cutting down of every tree of every age in a given section of forest, as opposed to the selective cutting method. In only a few of the mature trees are cut down.

The congressmen were considering a bill to conserve the Bitterroot National Forest, which would have prevented any further clear-cutting of the forest. The Bitterroot, one of the last remaining great stands of virgin forest in the United States, was under attack by commercial loggers and developers. The congressman were divided on the issue, with some supporting conservation and others favoring economic development. The debate highlighted the tension between environmental preservation and economic growth, a conflict that continues to this day. The congressman's speeches and the debate in Congress reflect the broader struggle to balance the needs of the economy with the preservation of natural resources. The Bitterroot controversy was a precursor to the larger debate over the management of public lands in the United States, a debate that has continued to this day.
Wyoming Council on the Arts

Mr. Hansen. Mr. President, most Senators know that Wyoming has little more than three people to the square mile, on the average.

I can assure them that there is no complaint about this in Wyoming, because it allows the people to live in the State to enjoy a pollution-free environment second to none, and this certainly is an enticement to the millions of other Americans who visit Wyoming annually.

But it may come as a surprise to many to know that despite the sparseness of the population in Wyoming, there are continuing significant contributions to the promotion and preservation of the arts in the State.

The coordinating organization for much of this outstanding activity in our State is the Wyoming Council on the Arts. A major part of some of the accomplishments in this field during fiscal year 1971, and expressing gratitude for the help received from the National Endowment for the Arts, has been provided by Mrs. Robert Forristal, the executive director of the Wyoming Council.

Mr. President, I ask unanimous consent that the excellent report by Mrs. Forristal be printed in the Record.

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

**Narrative Report: Wyoming Council on the Arts, Fiscal Year 1971**

Wyoming Council on the Arts

With the $75,377.00 matching fund grant from the National Endowment for the Arts for the fiscal year 1971, cultural activities in Wyoming were able to be undertaken: 41 through sub-grantees and 2 by the Council itself. The matching funds were raised entirely from local sources, state legislative funding was not available until the beginning of fiscal year 1972. The Council's role was instrumental in the growth. Dollar amounts of the matching funds totaled $161,932.97, or nearly $2.50 for each federal dollar, however, the total could be deceptive, for it includes in-kind as well as cash matching. The in-kind matching includes services, supplies, materials, travel costs, and other similar items of very real dollar value, given with dedication and devotion of a sort which has in itself value far beyond its mere monetary form.

An additional sum of $68,832.00 was allocated from the matching fund grant for operating the center for arts and cultural purposes. This sum marked a great step forward for service available to artists in the state, for it provided for a newsletter which provided for artists in the state an opportunity to communicate with others interested in the same and different arts areas, e.g., dance, theatre, symphony, sculpture, crafts, music, etc. Published also for the first time in Wyoming was a directory to the state. The directory, as for instance when support is to a local dance patrons group who are importing touring groups and artists from outside Wyoming's vast space and sparsity of populations means that some 'touring' is a part of any project, and since so many of the programs assume innovative roles, almost all are "special projects."

In addition to the financial statistics generated in the final report, the population figures tell quite a story. Wyoming's 1970 census population figure was 271,931. The total number of people reached by arts programs in this report, even on conservative compilation are at 1,680,721! This figure includes an estimate of the population of Jackson, at the south gateway to Yellowstone Park and in the heart of Grand Teton National Park. Figure for the million figure, but with even that fact taken into account, it's obvious that the arts programs are reaching all Wyoming's residents. In addition, students are participating in at least two arts programs, or a great many tourists are enjoying arts in Wyoming in addition to the scenic wonder of nature.

At the opposite end of the scale of the million figure for the Jackson Hole Arts Association, there is the figure of 65 attending a music teachers clinic—a most deceptive figure, since each of the 65 music attending this session which gives them fresh
ideas on teaching methods, approaches, and techniques as well as general inspiration in their field, has probably at least 65 students who also benefit from their teaching? Improved approaches, making the figure stand at 4,226 instead of a mere 65. Incidentally, the total cost of the Jutland which cannot have a real impact on the music appreciation of many youngsters is $200,000 in federal funds, thus is this which the teachers provide, and again dedication beyond price is a factor in the program.

During the meeting of the Wyoming Council on the Arts, the committees which the board select on legislative achievement in 1967, selected the following five members for the Board for the Council. They have followed many queries as to "what is it" and "what's it mean.

In fiscal 1971 the meaning began, finally, to appear as the seeds blew on the winds, began to take root, and blossoms popped into view in many areas. It might be said that the dandelion is a weed, but it is as persistent as man himself, its persistence produces blazes of beauty and it is a hardy flower, as are the arts. One or those who attended the conference which closed fiscal 1971 for the Wyoming Council commented after the sessions "you can't walk down the street without planting a dandelion might produce." At the close of this fiscal year, looking to the added help of local and state support, the arts for fiscal '72, and the growing support among the more than a million and a half people who participated in arts projects in 71, it is hoped that the seeds are taking root and there may be a harvest of rich crops of better life quality for Wyoming in 1972.

For this, the Council and Wyoming's people are indebted to the National Endowment for the Arts for providing the funds, the programs possible, and for providing, too, the flexibility to permit Wyoming and each state to develop arts as best suits individual state needs and environments.

FRANCES FORRESTER, Executive Director.

THE CHIEF JUSTICE ADDRESSES THE NATIONAL CONFERENCE ON CORRECTIONS

Mr. DOLLY, Mr. President, the cause of penal reform and improved functioning of our Nation's correctional systems has taken on new and widely-publicized urgency in the last several years. This has been due, in large part, to the efforts of many years, criminologists, penologists, jurists, lawyers, and many concerned citizens have recognized that the present state of incarceration and criminal rehabilitation programs is a blight on American society.

In recognition of the many serious problems which exist in this area of our criminal justice system Presidents Nixon in 1970 and Johnson in 1967 convened the conferences of a National Conference on Corrections to undertake a similar function as that of the highly successful National Conference on the Judiciary held several years earlier this year. The conference on corrections was held this week in Williamsburg, Va., where on December 7, it was addressed by the Chief Justice of the United States, Hon. Warren E. Burger, and the President.

The Chief Justice, speaking from many years experience as an attorney, law professor, assistant U.S. Attorney General and Federal judge, presented a comprehensive and well-considered series of recommendations for steps to find solutions in the most pressing problem areas.

As he said, large amounts of money will be required to effect solutions. But still more important is a sense of public recognition of the need for solutions and a continuing growth in a trend of public opinion and legislative resolve, to achieve them.

I believe that the remarks of the Chief Justice merit careful scrutiny by the Senate and by all Americans who now that death and violence have shocked us into awareness, most realize that words and concern alone will not bring the degree of change and reform that are of critical importance to the survival level of our society. I ask unanimous consent that his remarks be printed in the Record.

There being no objection, the remarks were agreed to be printed in the Record, as follows:

REMARKS OF CHIEF JUSTICE WARREN E. BURGER, NATIONAL CONFERENCE ON CORRECTIONS

I am sure that everyone concerned about problems of punishment and prisons was heartened by the action of the President in convening this Conference. It is time for a comprehensive approach by the state and federal governments.

It is also highly appropriate that these sessions be held this historic place for it was a distinguished Virginian, George Keith Taylor, brother-in-law of Chief Justice Marshall, who, as a member of Virginia's House of Delegates, spoke here almost exactly 172 years ago—on December 1, 1816, to be precise—on behalf of legislation to improve the penal system of the Commonwealth. He said if we took a realistic national inventory and determined how many states meet minimum standards that were set 10 years ago, the result would be a melancholy commentary on a 20th century society. The rise in crime has continued and problems beyond any reasonable hunch and new structures are needed. We know, however, that many of our problems flow from having institutions that are too large, that are poorly located and inaccessible to the family of inmates, too far away from facilities for work release programs that are located in the community. We are not sure of adequate housing for personnel of the institution.

As we all know, bricks and mortar do not make a sound correctional institution any more than bricks and mortar make a university, a newspaper, or a hospital. People and programs are what make institutions. And two of the last and most affluent states are evidence that more than good "plant and equipment" are needed. With all that has been said and written about the problems in New York and California, there has been almost nothing communicated to the public about the fact that the particular institutions in question are among the more modern penal institutions in a physical sense. Attica and San Quentin serve to remind us that even the best of buildings have not provided solutions.

Some years or when we finally eliminate the 19th century dungeons and terrible overcrowding that prevails in so many places, we will still have serious problems because the pressures left to solve it will take millions of dollars to accomplish the changes needed, but it must be done and must not have passed the point where it constitutes a correctional institution in a purely physical sense, where it should be located and how large it should be.

You are well aware, but the public is not, that well-trained personnel is far more important than the bricks and mortar. Just assigning buildings and equipment to an institution any more than "just anybody" can make a good parent or a good teacher. We
have yet to understand that the people who operate prisons, from the lowest guard to the highest administrator, are as important in their role as any who are directly responsible for the people who teach in the schools, colleges and universities. I suspect some experts would say that our failure to recognize this is that the reasonably normal people who go to schools can overcome the handicap of poor teaching. We know that most prisoners are reasonably normal emotionally and therefore need something more than normal people require. Guards and guards alone will not do.

As we are now slowly awakening to the need for more intensive training for police—more training in the streets—we must sense that the guards, the attendants, the teachers, and the management of prisons must be specifically selected for their temperament and attitudes and then specifically trained for their crucial part in the task of helping prisoners to help themselves.

I am sure that every person who has been elected over the Attorney General's proposal to establish a National Corrections Academy patterned after the great training programs of the FBI Police Academy. The management and operation of penal institutions has developed its own system of coordination programs to train every level of prison personnel from guards to wardens, as the Department of Justice has done with police administrators.

The decision on the part of the President and the Attorney General could be one of the milestones in correctional history.

IMPROVED CLASSIFICATION PROCEDURES

In many institutions we know that overcrowding and understaffing have led to a breakdown of classification procedures. In some institutions there are no such procedures. One of the high prices we pay for that lack is a mingling of youthful offenders with old timers with reoffenders, incorrigibles, drug addicts and others who are seriously mentally disturbed. A very high priority must be given to separating inmates, and this is particularly important today with respect to the riot-prone inmates. Those who wish to disrupt and every penal institution must be separated to protect those who are trying to learn and to prepare themselves for the future. Every inmate has a right to be freed from those who are bent on lawless acts.

BALANCED PROGRAM

We need to have an age of inmates to see at once the need for athletic and other recreational facilities so that these young men can burn off the surplus energies of their youth, before they would do them wrong or wrong them. The corrosive impact of enforced idleness at any age is bad enough, but on young men it is devastating. Playing cards, watching television or an occasional movie, with nothing more, is building up an expensive accounting when these men are released—if not before. Such crude recreation may keep men quiet for the time, but it is a quiet that is ominous for the society they will try to replace.

RECREATION

Some states have recognized these needs and provided for them, but many have not. If anyone is tempted to regard this as "codding of criminals" let him visit a prison and talk with inmates and staffs. I have visited some of the best and some of the worst prisons in the country, and have seen some of the state's finest. I have known some who have been accused of "codding" but I have seen the terrible effects of the boredom and frustration of empty hours and a police presence.

EDUCATION

Recreation and education programs really go hand in hand in prisons as they do in society. When society places a person in confinement, it deprives him of most normal opportuntities and much of the motivation for self-improvement. When society does this, it has a moral obligation to try to change that person—to make a reasonably successful human being out of him. Common sense and the self-interest of society dictate this conclusion. Common sense, decency and our religious beliefs are to redemption.

Here perhaps our failure is the greatest. The percentage of inmates in all institutions who cannot read or write is staggering. Another, and largely overlapping category, is the unemployable who cannot even develop marketable skills on which to base even a minimally successful life.

The dimensions of illiteracy alone are enough to make one wish that every sentence imposed could include a provision that would allow every inmate to go to school to read and write, to do simple arithmetic, and then to develop some basic skill that is salable in the marketplace of the outside world to which he must some day return and in which he must compete. Since the best of human beings need motivation and hope, we surely can think of no better way than to see why both? We should develop sentencing techniques to impose a sentence so that an inmate will be released out of a minimum security prison as we now try to let him earn his way out with "good behavior."

We know that today the programs of education in many institutions are inadequate, with all too few exceptions. However we do it, the illiterate and the unskilled who are sentenced to confinement must be given the opportunity, the means, and the motivation to learn his way to freedom.

Meaningfully, we should make certain that every inmate works and works hard. With countless thousands of law-abiding citizens "moonlighting" on second jobs to make ends meet, why should every healthy prison inmate not be required to work to earn at least a part of his "keep."

REHABILITATION

One of the most important needs of our penal institutions is the introduction of rehabilitation demands that inmates be kept busy with productive work, with learning and self-improvement. With this must come an expansion of psychological and religious counseling to instill motivation and maintain hope.

COMMUNICATION

We know that one of the deepest hungers of the human being is communication with others on his hopes, his fears, his problems. It has been need to the house of Man does not vanish and indeed we know it is greater than ever. There is a means of regular communication established between inmates and those who run the institution. We cannot turn the management of a prison over to the inmates, but society, as represented by the "keepers," can listen to what the inmates have to say.

To the extent it is feasible and consistent with orderly administration, therefore, the inmates need to have a chance to regulate some limited part of their lives, however strange and abnormal and unwise choice. If we tie a person in a chair for a long time, we can hardly be surprised if he can't walk without a cane. We cannot make regulations necessary for basic order, inmates should be allowed to think and walk and think about what they are doing—they are released. What can be wrong with allowing prisoners to practice, on a small scale, the very things we will insist they do when they are released?

SPEED IN ADMINISTRATION—JUSTICE

Finally, a few words need be said about the functioning of the courts in relation to the correctional system. This does not permit discussion of standards for sentencing and related matters that you are dealing with now. But we are confident we would all agree the judicial system has a responsibility to see to it that every criminal charge is tried as promptly and conclusively that the appeal is swift and decided. In some places the time lag between when a trial is heard and decided is longer than a public disgrace. Some of this is due to the maneuvering of lawyers who misconstrue the function of our courts and thereby compounds the trial data as long as possible; some is due to overworked defender legal aid staffs, overworked prosecution staffs, and overloaded courts to some poor management of the courts.

Whatever the cause, the impact of the delay is often very significant, especially in a criminal case because there is a range of consequences:

(a) For any person, guilty or innocent, a long delay in justice is destructive of confidence; it is an enforced idleness in an environment often worse than the poorest community institutions.

(b) Prolonged confinement after sentence and before commitment to a conventional corrections institution is likely to erode whatever may be the prospects of making a useful and law-abiding citizen out of the convicted person.

We have all seen examples of defendants who have exploited procedural delays to postpone the final verdict of guilt for years, and the family and the community with society has embedded and intensified their hostilities and rendered prospects for future improvement hopeless.

(c) Delay in final disposition also exposes the public to added dangers when the accused is in fact an incorrigible criminal whose release back into society is the commit of new crimes. Sometimes this rests on a belief, widely shared by sophisticated criminals, that if they can delay the institution of prosecution they can avoid consecutive sentences.

(d) In the final analysis, all the laws and procedures are of no value if the police, the courts, the judges, the legal aid staffs, the prison system, the parole boards, the public, the press, the community, and all, are not held to the standard of behavior that are to be held to behavior that the public expects of them.

PRISON VISITATIONS

Two and one-half years ago, in discussing corrections problems at the ABA meeting in Dallas, Texas, I urged that lawyers and judges—and indeed citizens generally—visit prisons and form their own judgments. The Young Lawyers' Section of the ABA took the garden of the Public Defender and created the Visitor Program. I am not currently informed on all the details but I do know that in some states larger and larger, and is having the public fully informed on the problems of prisons and the burdens of those who administer them. A visitor has a know a great deal of what ought to be done and none of my cursory observations at this Conference presume to be better than this. What is desperately needed is that you have the resources and the ability and the opportunity to understand, we have had, and to provide. The people of this country can bring that about if you will see firsthand how the institutions are being run and what support and understanding all of us need to find offenders can be salvaged, as we know that
not all lives can be saved from disease, but like the physician, we must try.

The answer is "Yes." There is a solar-heating system in Washington, D.C., which does it. Known as the Thomason House, it is warm when it is zero degrees outside, warm on days with 8 inches of snow on the ground, warm even on cloudy days. Warm means 72°F inside.

The extraordinary story of this house, and of its intrepid designer, was told in the Potomac magazine section of the Washington Post, September 29, 1971. Mr. President, I ask unanimous consent to have the article entitled "Solar Homes," by Omer Henry, printed at the end of my remarks.

Mr. GRAVEL. Mr. President, is it possible to heat a home with almost no fuel except sunshine during winter in Washington, D.C.?

Mr. GRADY. Yes, Mr. Chairman. Mr. President, there are about two dozen houses in the United States which use sunshine for a major part of their heat requirements. Some designs are more successful than others. All the houses are custombuilt. Custom-crafted homes are one thing. Developing plans for modular mass-produced solar houses, which would incorporate solar heating, would be another. The problem of preventing heating-cooling losses, is the goal of Dr. Maria Telkes, a thermal storage expert and solar energy pioneer at the University of Pennsylvania. She aims to have complete plans ready for the summer of 1973.

According to the article about solar energy written by Wilson Clark, and published in the Smithsonian magazine, Mr. Clark quotes Dr. Telkes as follows:

"These solar houses must be factory-built so that the initial costs of installation will be no more than comparable houses without the solar heating systems."

The goal is to develop houses that can be located anywhere in the southern two-thirds of the United States and will use solar energy for at least 90 percent of the residential heating needs, reports Mr. Clark.

Solar air-conditioning units are to follow.

Proven Capabilities

The heating of household water by solar energy is a demonstrated capability, also. There are a million solar water heaters in Japan today. They are also used extensively in Australia and Israel. They were used widely in Florida and California, but natural gas heaters displaced them.

Proven solar heating and cooling capabilities are never mentioned, of course, though the electric utilities say that the public must either submit to additional powerplants without limit, or go without the comforts of life.

Reducing the need for unlimited power

The potential of solar heating systems to reduce pollution and the "need" for unlimited powerplants is clear from the fact that about one-sixth of the country's energy consumption is devoted to heating buildings. It is estimated that better building insulation could reduce that share by about 30 percent.

The utility industry, which expects to treble electric sales by 1985, says that increased demand for heating and cooling will account for a substantial part of the sales increase.

Though the fact is not related to solar energy, I would like to point out that it might well be possible to attain the same amount of electrical heating and cooling with perhaps 20 percent less electrical consumption, if the equipment were designed differently. Certain changes would raise the initial cost of the equipment, but reduce its operating costs and the many costs of electrical pollution.

Electric Homes

Heating with electricity is the most polluting method of all to heat a building. Since electric powerplants are only 20 to 40 percent efficient, about three units of fuel are required to deliver one unit of heat to people who "live electrically," as the advertisements say. Electric powerplants throw away about two-thirds of the heat in the fuel they consume. Consequently, they waste two-thirds of the coal or oil or gas or uranium they consume. That is why electricity, so clean when it is used, is so polluting where it is made.

By contrast, a well-designed home furnace can capture up to 75 percent of the energy in the fuel, and make it available for space-heating, according to the article entitled "The Conversion of Electricity" by Claude M. Summers, in the September Scientific American. The same article notes that when wood or coal is burned in an open fireplace, less than 20 percent of the heat contained in the wood is trapped in the room, the rest escapes up the chimney.

A thought for Nuclear Apologists

It is obvious that available measures, including a much greater use of direct solar power for space and industrial heating, would substantially reduce the use of electricity without reducing our standard of living.

In fact, if we reduce waste by just 5 percent in space heating alone, which consumes about 17 percent of the energy now used in this country, we could easily turn off all the nuclear powerplants now in operation. Altogether, they produce only 8 percent of the total energy consumed in this country in 1970.

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

[From Potomac magazine, the Washington Post, Sept. 29, 1971]

Solar Homes
(By Omer Henry)

The man reached for the sun and brought it into his house, and it was warm and awfully cheap.

Some years ago Harry E. Thompson, local government employee, dreamed the impossible dream. With his own open ground, he built a solar energy system. Solar energy was there for him. The dream seemed to be possible.

Since Thompson is a man of action, he did just what one might expect him to do. He set out to make the dream come true. He undertook to heat his home with solar energy.

Thompson reasoned that if he could heat his home with sunlight, he could eliminate heating bills for the rest of his life. That would amount to thousands of dollars which he could use in educating his children. More, he could heat his home while others could do the same. The idea was packed with far-reaching potentials.

One thing was certain. Solar energy was available. Nor was it liable to diminish in the foreseeable future. But Thompson did not know that Massachusetts Institute of Technology was building a solar heating system. It would cost $3,000, with a worth of $50,000 that would supply only one half of the heat needed for a comparable house.

"Had I known that," Thompson admits, "I probably would have discarded my idea. But, not knowing, I went forward with my plans."

Was Thompson technically qualified for such a mind-bending job? A comparison to the MIT experts, he was not. He had an AB in physics from Catawba College, Salisbury, N.C. During World War II, he had been in the Merchant Marine as a Refrigeration Engineer. Since then he had served as Patent Examiner for the Patent Office, and as civilian Patent Attorney for the U.S. Navy Signal Corps.

Thompson married, and fitted the house. He had no money, but not the least bit worried. Rather, he found it necessary to spend his funds wisely. And since he had a full-time job, he could work on his project only on weekends, holidays and evenings.

Notwithstanding his handicaps, Thompson went straight to the core of his problem. If he were to heat his home with solar energy, he must trap the heat. How could he do that?
TRAPPING HEAT

It occurred to him that he might trap the sun's heat in running water, store the warm water in an insulated tank, and transfer that heat to various rooms in the house as needed. In doing this, he would require a heat trap—a device by which he could capture solar heat, place it in a confined, metal-solar-heated surface over which many small streams of water would run, thereby picking up heat. To be efficient, this heat collector would have to be well insulated and covered with a transparent material.

Thomson built a heat trap. He used a wooden tank, placed in a paddock, and he placed a thickness of fiber glass as insulating material. Above that he fastened corrugated aluminum, the top side painted black that it might absorb more heat. And, for the final layer, he used ordinary window glass to intensify the heat.

Now Thomson set up his heat trap—corrugations vertical—facing the sun so it would receive the direct rays of the sun. He devised a system by which he could pump water to the top of the heat trap and let gravity pull it down slowly in the valleys of the corrugations so that it could be circulated again and again as a means of increasing its temperature.

He tried out the system," Thomson says, "we discovered that we could bring the water temperature to 120 degrees Fahrenheit even higher.

But trapped power was not enough, Thomson must store it for nights and extended periods of time when clouds obscured the sun. This might be for days at a time.

Thomson's solution to this problem was a heat bin. The heart of the heat bin would be a 1,000-gallon tank filled with solar-heated water and located in an insulated compartment in the basement. Five-room house

Now Thomson was sure enough of his plans that he began building a house which he intended to heat with solar energy. This structure would be 28 by 37 feet, contain five rooms on one floor, a bath, basement, recreation room, and even a bomb shelter.

The heat bin would be 7 feet by 10 feet by 2 feet deep. It was most carefully constructed. On the bin floor, Thomson placed several concrete building blocks with the openings in a horizontal rather than vertical position. These serve as a part of the distributing system.

Next came the 1,600-gallon steel tank, the core of the heat collector, which Thomson lined with 3 inches of fiber glass, made the bin air tight, and built an inner wall of rough lumber, insulated with the same material. Around the tank Thomson placed 50 tons of fist-sized stones. His logic was that the solar energy would heat the water for the tank and that the water would heat the stones—which would store additional heat. With this apparatus, Thomson reasoned that the temperature inside the heat bin could be kept at a constant temperature for four or five consecutive cloudy days.

The top of the heat bin would be near the floor of the living quarters, and since hot air rises, Thomson used 6 inches of fiber glass insulation between floor joists to minimize heat leaks. Then he covered the room with a heat collector.

Next, Thomson faced the problem of regulating both the heat and the heat escape. To this end, he set up a fan system which would circulate a current of air through the outside and these concrete blocks, on their irregular spaces about the stones and around the hot water tank.

He was the heat expert," Thomson explains, "we installed a thermostat which could be set at 72°F, for example. This temperature is kept within the heat bin and register to warm the home."

PLAYING SAFE

All of this looked good so long as there was plenty of sunshine. But what about the possibility that the solar heating system might become cold because of a temporary cloud, or because the burning out of a pump, a motor or a control which could not be replaced for a week or so?

"Also," Thomson says, "it was possible for our coldest weather to come on the heels of 10 cloudy days when the solar heat reserve had been depleted.

To insure that he could always have heat when needed, Thomson installed a conventional water heating system, thus protecting himself against the time might well come when we would have no heat at all from the sun, a choice of full capacity furnace.

As a means of making his solar heating system practical, Thomson added several features, i.e.,

Air conditioning. If he could heat his house with solar energy, it seemed logical that he could cool it by reversing the process. His method was simple: Instead of running hot water into the 1,000-gallon tank, he would cool water into it. He hoped to obtain the cool water by circulating it over the normal floor heat. Radiation and evaporation would help in the cooling process.

By running cool water into the tank, Thomson would also cool the stones in the bin. Then, with the fan system, he could circulate cool air throughout the house.

Domestic hot water. For this, Thomson installed a 275-gallon drum which contained a 42-gallon hot water tank. He planned to bathe the small tank in solar-heated water, thereby heating the water in the small tank.

This he could utilize on a year-round basis.

Swimming pool. If, Thomson reasoned, he could heat his water with solar energy, he should also be able to use the same plant to heat water in his swimming pool. The necessary mechanical arrangements were relatively simple.

Nervousness

Since Thomson's heat collector was a new idea, he applied for a patent. And, as rapidly as he could, he put the whole system together. "We moved into the house," he says, "early in the morning, our guess, we eagerly watched the heating plant."

During the mild days of early fall, the house was amply heated. Then, one morning Thomson awoke to find inches of snow on the ground and the temperature outside at near zero. Clearly this was the first real test of the system. Would it deliver the necessary heat?

Before going to the office, Thomson checked every item. So far as he could see, the system was in good condition. "Still," he says, "I was anxious. In my mind lurked a big, ugly question: Would this system deliver the heat necessary to keep the house warm? If not, my system was worthless."

At last he prepared to go to the office. "Let me know," he said to his wife, "how the temperature runs." More uncertain than he had ever been, he drove away.

Near 11 o'clock that morning Thomson's office phone rang. He answered and his wife reported that the House was warm. Everything seemed to be working fine. "Then," Thomson confided, "the rest of the day was easy and breath. I even dared to ask about the temperature of the water going from the heat collector into the swimming pool."

"One hundred and eighteen," Mrs. Thomson said.

"Better check that," Thomson said. "That seems to be high."

When Mrs. Thomson called back, she confirmed the reading. Still Thomson found that figure hard to accept. "You see," he explains, "the temperature hadn't been that high on the previous day when there had been snow."

Thomson asked for a second report and when Mrs. Thomson, a bit impatiently, confirmed that the water was warm, he knew that the heat collector was working, the answer became apparent. "I have concluded," he says, "that the sun's reflection on the snow sent added solar energy to the heat collector. This intensifies the heat on the heat trap and brings the water to a higher temperature than is the case when there is no snow."

Now Thomson began to be impatient about his patent. As a means of insuring that his patent was granted, he invited a number of officials—including the Chief of a Patent Office Division—to inspect his solar heating system.

On the appointed day for the visit, sadly enough, clouds overcast the sky. Certainly this was no day to demonstrate a solar heat trap. Yet Thomson dared not cancel the visits. To do that would be deadly to his hopes for a patent.

In due time, the distinguished visitors arrived. Thomson gave the visitors a running tour of it in detail. And eventually the crisis came. Thomson had no choice but to apply the final touches to prove the value of the heat trap.

His first move was to apply a thermometer to the water running into the heat collector. With the weather 68°F and the heat from the heat trap 68°F. Now, if the heat trap actually worked, the temperature of the water coming from the heat trap should be higher.

Thomson must give his system a chance to prove itself right. When he withdrew the thermometer, he glanced at it. It read 78 degrees!

"Frankly," Thomson says, "I was amazed!"

"You aren't be right," said Chris Sondberg, Chief Building Inspector. "Take another reading."

"Right," said the Patent Examiner. "Try again."

Cooperatively, Thomson tried again. And again the thermometer registered 78 degrees! It was clear the system worked, Thomson said. "Me, too!" said the Patent Examiner.

"And as for me," Thomson says, "I drew a big breath, a real big one. I'd pointed my patent and the patent, I knew, would be granted."

With that dramatic incident, Thomson learned that a solar trap can collect some heat even if the sun is not shining. This is what happened on that day which Thomson will never, never, never forget.

ECONOMIC PERFORMANCE

In actual practice, how well did Thomson's system work? Here are the facts: Thomson kept the day-time temperature in his home at 72°F, night temperature at 68. And by Christmas of the first year the plant was in operation, Thomson had used only 30 cents worth of fuel oil. The heat bill for the entire year was only $4.51.

What did the plant cost? Is the system practical? The entire system cost about $2,500. "There are some problems," Thomson says, "but they can be overcome. Even now, from an economic standpoint, this plant will more than pay for itself."

As one might expect, Thomson's achievements have brought him certain recognition. Dr. Charles Abbott, sometimes referred to as
the "Dean of Solar Energy," has praised Thomson's system. Solar scientists from many countries—even as far away as Australia and Turkey—have visited his plant at California's University of California, Davis. The leading Soviet solar scientist, spent a couple of days with Thomson inspecting the plant and discussing solar energy.

In 1961, at the request of the National Science Foundation, Thomson traveled to Rome to present to the United Nations Conference on paper on solar heating.

A year later, Senator Hubert Humphrey introduced a bill designed to establish an Office of Solar Energy. Although the bill did not pass, Humphrey remained intensely interested in the subject and, while Vice President, appointed his friend to be director of a number of solar energy reports.

Since he completed that first solar house, Thomson has built two more. All three are in Washington.

And as for Thomson's impossible dream—It has grown into a reality. Its potential is truly mind-stretching.

TRIBUTES PAID TO SENATOR SAM J. ERVIN, JR., BY THE FEDERAL TRIAL EXAMINERS CONFERENCE AND THE CAPITOL HILL CHAPTER OF THE FEDERAL BAR ASSOCIATION

Mr. Allen, Mr. President, our colleagues, Senator Sam J. Ervin, Jr., of North Carolina, has recently been honored by two groups of lawyers.

On May 13, 1971, the Federal Trial Examiners Conference presented its award of merit to Senator Ervin "in recognition of his outstanding contributions to constitutional liberties and due process.

On November 10, 1971, the Capitol Hill Chapter of the Federal Bar Association of Washington, D.C., presented its distinguished service certificate to Senator Ervin for the reasons set forth in the citation, which I ask unanimous consent to have printed in the Record.

There being no objection, the citation was ordered to be printed in the Record.

CITATION FOR DISTINGUISHED SERVICE AWARDED TO U.S. SENATOR SAM J. ERVIN, JR., BY THE CAPITOL HILL CHAPTER, FEDERAL BAR ASSOCIATION

The Honorable Sam J. Ervin, Jr., as a United States Senator, has sponsored and actively advocated important legislation for the Nation's benefit and particularly those measures of special interest to Federal lawyers, members of the Bar, Government officials and employees, as well as legislation to uphold Constitutional Government and to advance the science of jurisprudence. Particular reference is made to his "Federal Employee Bill of Rights"—S. 1438.

In recognition thereof, The Capitol Hill Chapter, Federal Bar Association, awards its Certificate for Distinguished Service to the Honorable Sam J. Ervin, Jr., this 10th day of November, 1971, in Washington, D.C.

Following:

President

JusStus GomB
Chairman, Awards Committee and Past President

IMPROVEMENT OF CRIMINAL JUSTICE

Mr. Hart. Mr. President, a short time ago the distinguished junior Senator from California (Mr. Tunnell) wrote an article for the Journal of the Beverly Hills Bar Association about the need for and possibility of improving criminal justice in our country.

I have had the opportunity to work with Senator Tunnell, who merely asked me whether I would be a member of the Committee on the Judiciary, and I believe his comments on this subject are most valuable.

I ask unanimous consent to have the text of this article entitled "Improving Our System of Criminal Justice," be printed in the Record.

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

IMPROVING OUR SYSTEM OF CRIMINAL JUSTICE

By Senator John V. Tunnell

Criminal justice in this country is creating under the burden of all that is wrong in our society compounded by the accelerated, and often uncomfortable, social changes which society is facing daily. In the last five years, the Federal court system has been tested by riots in our cities, crime in our streets, bloodshed on our campuses, and a war that has led some young people to choose exile and others to be tried for murder. Never before in our history has it been demanded so much of our courts of laws. And never before has the task of lawyers been more obvious and important. If our legal system is to develop and retain the strength to bear these burdens, then it must have both the assistance and the good will of the bar.

If our criminal justice system is to prove adequate to the challenges which lie ahead, then each of its component parts—police, courts, and the State must be provided the resources to do the job.

During the past few months, as a member of the Senate Judiciary Committee, I have had the opportunity to view first hand the status of Executive and Congressional efforts toward improving and strengthening the criminal justice system and to make assessments of success and failure. In some ways the record is an encouraging one. In others it is dismal.

It is important at the outset to indicate one's biases. Lawyers share a common purpose and the pursuit of justice. But today many of the fundamental concepts of our system of justice are being challenged by those of us ourselves. Some of them come from within the courtroom by disrupting the judicial process. Others challenge it from public office by disrupting the judicial processes with the very rights which guarantee justice. It is my own belief that both of these extremes must be resisted if our legal system is to survive. Democracy is a fragile institution. It is all the more fragile however, when the basic rights upon which it is founded are subjected to the destructive polemics of partisan debate. The discussion that follows will reflect that belief.

I. LAW ENFORCEMENT AND THE LEAA

In February, 1967, the President's Commission on Law Enforcement and Administration of Justice issued a ten volume report which began:

"There is much crime in America, more than ever is reported, far more than is ever solved, and too much for the health of the nation. Every American knows that. Every American is, in a sense, a victim of crime." That report and its recommendations formed the basis of legislation which was to be a massive attack on crime—the Omnibus Crime Control and Safe Streets Act of 1968.

II. THE STATE COURT ASSISTANCE ACT

As virtually every lawyer in every major city in this country can testify, the docks of State and local Government are the scene of multiple jurisdiction. In Fiscal 1970, for example, the backlog of civil cases in Los Angeles County Superior Court was 62,000 cases. The average time from filing a civil complaint to actual trial was two years. In Philadelphia and Boston it is almost four years and in Chicago it is five. On the criminal side the delays are only slightly less drastic. The average time from arraignment to sentencing in most major cities in 1970 was from 16 to 24 months to more a typical average of one year.

The social costs of this delay have led to a crisis for society. For a democratic society depends in large part on the willingness of citizens to take their complaints into court rather than into the streets. The sense of frustration and frustration of the swelling backlog of cases could crush faith in their judicial system, and lead to violence and a dangerous and destructive alternative. Thousands of our citizens can testify personally to the truth of the adage that justice delayed is justice denied. It is every citizen who waits ten months to testify against his assailant, the ghetto mother who leaves her furniture outside with the result that the self-appointed judge, the motorist who spends two days since that report was published. The Federal Government is now $4½ years, two elections, and $23 billion into that effort.

This year LEAA will spend almost $700 million for law enforcement and related criminal justice programs. The nation will spend $7 billion on criminal justice each year. How much of that money will go toward the development of tough, intelligent strategies against crime?

The past record is not too promising. In fact, a recent study by the General Accounting Office shows that LEAA money may to some extent merely be financing old programs from other agencies such as OEO and HEW under new names. In New York City there is evidence of a failure to develop even the most rudimentary kinds of evaluation and information systems to provide local police the most elementary knowledge about programs and projects that have already been tried.

For this reason, it is essential that maximum attention be focused on the most effective use of the massive amounts of money that will be spent on criminal justice. Congress must finally begin to insist that LEAA concentrate on establishing priorities for the use of funds and develop and retain the adequate strategies to accomplish those goals. The thrust of legislation which I will shortly propose is designed to ensure that some members of the Judiciary Committee of both parties.

Such strategies are familiar to all. For example, the experiments of one or two municipal bus lines have led to the establishment of exact fare policies. In turn have ever been as successful as the experiments of bus drivers. Countless other strategies could be developed in much the same way if LEAA were to place such an effort a matter of high priority.

Similarly, LEAA must begin a crash program to develop evaluation and information systems to inform state and local jurisdictions about programs currently being funded, and about the effectiveness of these programs. It makes no sense to spend hundreds of millions of dollars on programs to curb crime and then keep police in the dark about what is worthwhile to be appropriated under the next program.

Until the commitment to both of these problems is forthcoming, federal assistance to law enforcement efforts will continue to be needlessly sacrificed.
in court waiting to protest an unjust traffic ticket—these are the true measure of the crisis we face.

Delays and congestion are only a part of the current crisis. First there is the manifest challenge of the state judicial systems. We have entered an era in which the high promise of free legal services is threatened by application of political litmus tests by State Bar Associations. These challenges to our policies by the poor. The result is a dangerous perception of "law and order" into "law and poverty.

Second, the quality of legal representation can become destructively unbalanced in many cases. We now face a time when corporate polluters can hire hundred-man law firms while indigent defendants rely on public defenders who must spread their efforts among scores of defendants.

All these concerns have contributed to a general crisis of confidence in the fairness of our judicial system.

These problems trouble me greatly. As a first step to encourage effective state and local reform, I have joined Senator Quentin Burdick, chairman of the Subcommittee on Judicial Machinery and Senate Minority Leader Edward M. Kennedy in introducing the State Court Assistance Act.

This bill responds directly to the summons issued by the ABA in its report and the Call to Action in February at Williamsburg, Virginia, for a national center for state courts. It creates an independent office for the creation, operation, and control by state court judges. The Institute would serve as a national center for information and assistance to state judicial systems, and would make grants to state and local courts to study and evaluate judicial systems and to develop and implement improvements.

This legislation benefits from a gradual process of refinement designed to answer underlying concerns that Federal interference in the administration of state judicial systems. This bill originally contemplated an office within the Department of Justice. The bill now provides for a governing board of the institute composed of two State appellate judges, two State trial judges, two State court administrators, and one attorney in private practice. Additionally, it requires the approval of the highest court of the State to establish for any purpose a Federal office in the State. It also prohibits the Institute from exerting any control over the conduct of judges.

It is always tempting—and often helpful—to propose further studies when faced with daunting issues. However, it has become clear to me that many state judges are convinced such studies are already available, and that the need now is for money to implement them.

The recommendations of some of those studies indeed show great promise. California has long been noted as a leader in court reform and innovation. Some of the reforms which have already been implemented include a system to evaluate the presence of a judge, short-form procedures for personal injury cases, broader court-annexed arbitration services and settlement conference panels. Through the Institute to be created by this bill, California's experience with these programs could be examined and evaluated by other states.

At the same time further recommendations can likewise be launched through the Institute. For example, there is much work to be done in the area of judicial reform to focus on the entire suite of imaginative substantive reforms designed to remove from the courts the burden which can more properly be handled outside the courtroom. The Committee has recommended a series of quasi-judicial panels to handle technical and complex controversies such as medical malpractice litigation, or the interpretation of policies.

Grants by the Institute could allow some of these recommendations to be tested.

In this way, our state judicial systems can continue to be a source of strength for our whole nation, and we can heed the call for "a House of meagre Looks, and ill smells: for Lice, Drink, and Tobacco, are the Compound: Of Dr. and Robber, and the Persons much the same as there." John Bunyan, 1688.

"Protection should be so constructed that even their aspect might be terrible and appear like absolos of guilt and wretchedness.

There might also be substantial gains in the administrative efficiency of the ABA Commission on Correctional Facilities and Services. This is a hopeful sign because its mandate is the development of a program of action. It is a task for which the ABA Commission is particularly well suited and one which should be given the highest priority. The legislative process has been marked by delay and stasis, and I suggest that lawyers become focal constituents.
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which gives the nonfarm reader an indelible briefing on the corporate invasion of agriculture.

The article outlines how several conglomerate corporations are pursuing their goal of integration from the ground up, to support their growth in the food business. History has shown that successful integration of this sort by corporations seldom benefits the rural area, the farmer, or even the consumer.

One example used is a detailed account of how supermarket chains in one area forced cattle prices from 29 cents down to 21 cents per pound. Although the cost of meat to grocers in the chain was reduced proportionately, retail prices by consumers stayed the same.

Mr. President, nothing I have seen or heard concerning the corporate invasion of agriculture has shown much different. There is much evidence that these conglomerates will have an ill effect on our independent farmer families. Also, without the family farmers to provide the business which supports them, our rural communities will decay and even disappear. On top of this, large corporations do not show promise of doing any better job than our family farmers are now doing.

The American family farmer has proven again and again that he is the most efficient food producer in the world. His productivity has offered the American people the widest variety of top quality foods available to any people in history.

Mr. President, I ask unanimous consent that the article be printed in the Record.

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

[From the New York Times, Dec. 8, 1971]

RISE OF CORPORATE FARMING A WOES TO RURAL AMERICA

(By B. Drummond Ayres Jr.)

KANSAS CITY, Mo., December 3.—Few things are growing faster down on the farm these days than corporate influence.

As soon as a state moves from the wide-open prairie surrounding this cattle and grain center to Maine’s fertile potato fields and California’s growing grapevines, the corporate changes are diversifying and moving in on what once was strictly a family enterprise, a way of life.

International Telephone and Telegraph now produces not only transistors but also Smithfield hams.

Greyhound now runs not only buses but also soy processing plants.

John Hancock now sells not only insurance but also soy beans.

Corporate farming or conglomerate farming in any name it strikes—deep fear in rural hearts, such deep fear that the new Secretary of Agriculture, Dr. Earl Butz, was almost rejected by the Senate after he had espoused the advantages of agricultural nationalism and had disclosed membership in a large number of such paper farms as Ralston Purina and Stokely-Van Camp.

Senator Gaylord Nelson called Dr. Butz’s views “brazen” and has begun to institute corporate farming legislation. The Wisconsin Democrat says: “Corporate farming threatens an ultimate shift in control over the production of food and fiber away from the independent farmers, a shift of control of small town economies away from their

The Agribusiness Accountability Project—a non-profit study group with headquarters in Washington, has been looking into corporate farming for over a year and reports:

“Corporations have become the dominant forces in rural America. Their control of the marketing and marketing, and their power over rural people is increasing every day. Control of American agriculture has moved from the traditional markets to the board rooms of New York, Kansas City, Los Angeles and other centers of big business.”

Farmers themselves speak even more directly when they express their fear at the direction of one of the largest farmer associations, the National Farmers Organization, Rogers Bichsman of Ohio:

“A corporate takeover of the food industry would be a national disaster.”

Corporations everywhere deny any takeovers are threatened.

“We’re not trying to run anybody out of business,” says George Kyd, a spokesman for Ralston Purina.

A MISLEADING PICTURE

At first glance, corporations do not seem to loom large on the agricultural scene. Of the 2 million farmers in the United States, only about 1 per cent are carried on the Agricultural Department’s books as corporations. And most of the incorporations still insist in “natural persons.”

But that picture is misleading.

Corporate farms are big farms. Many consist of the 400 acres or more that are obtainable. Their owners often have backlogs of development capital and, if diversified, obtain tax advantages.

On the other hand, the average American farm, the unincorporated farm, consists of only about 400 acres, some of them non-productive, of some of which the owner, this relatively small plot probably has no big capital backlog, 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 dollars have replaced $60 mules.

This surrender, in one form or another, takes place 2,000 times a week all across America. That is the average number of farm sales weekly, according to the Agriculture Department. Since the corporation moves in to fill the void, or maybe a wealthy city doctor looking for a tax deal or maybe a busy corporation has some way found the means to expand and is on the brink of incorporation.

Actually, it seems that all corporations owns land. Some own lease and thus do not show up in farm statistics.

Other farming corporations neither own nor lease land. They simply contract for crops, an operating method that now accounts for about a fifth of the country’s total agricultural output.

METHODS COMBINED

A few corporations use a combination of operating methods:

For instance, 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 dominant agricultural forces in one of the biggest farming areas of a state that provides more than a third of all vegetables eaten in the United States.

Thus, there is no monopoly on the vegetable market. But the large oil and other agriculture sectors, corporations have achieved dominance or time are powerful. Three companies—Purex, United Brands and Bud Antle—produce a large share of the soft drinks, and their Antle division has led to a rare agricultural antitrust investigation by the Federal Trade Commission. Many Government officials contend that a corporation cannot control the market, that a small 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. There they buy up the processing companies, producing everything from chicks to feed to packaged drumsticks. Among these companies are Associated, Perdue, and Bayard, with which Secretary Butz was associated.

CHANCE AFTER WORLD WAR II

Until shortly after World War II, many broilers were raised in the barnyards of family farms. Small flocks of chickens, though always underfoot, supplied added income, cash for birthday presents or a winter weekend in the city.

Today, there is virtually no market for barnyard chickens. Instead, the family farmer is selling growing broilers under contract for one of the big agritants.

In a shed built with a loan from a corporation, the feed is provided by the corporation to chicks hatched in the corporation’s incubators. When the birds are mature, the corporation, which is effectively the broiler farmer, slaughters them in its own processing plants, packages them prettily, then ships them off to supermarkets—perhaps its own.

The farmer is paid for every 1,000 chickens raised. But in any year, if times are hard or management particularly tough, the corporation may cut the growing fee in half.

Should the farmer refuse to sign a new contract, fine—so long as he pays off his loan on the corporation-financed chicken house. Only last week, chicken farmers on the Delmarva P discount business. The farmer agrees to sell his Delaware, Maryland and Virginia—threatened court action when some broiler corporations proposed cutting the growing fee.

And two years ago, in northern Alabama, growers became so incensed about reduced growing payments that they refused to sign new contracts and began to picket the offices of broiler companies. The companies refused to sign, however, and eventually the strikers gave in and returned to work.

Commenting on the strike’s failure, one grower, Crawford Smith of Cullman, said: “Our people are the only slaves left in this country.”

George Kyd of Ralston Purina counters: “This is no more than reality today than it was after World War II, and besides, a lot of farmers have been given work.”

THE LESSON IS THERE

To which Harrison Wellsford, one of Ralph Nader’s agriculture “raiders,” replies: “Poultry penage. One economist cranked in every applicable factor and concluded that most chicken farmers make minus 86 cents an hour. The broiler industry is the most corporatized in American agriculture and the lesson is there.

The lesson of corporate farming refer to the broiler industry as being “vertically integrated” —that is, the corporations control at almost everything from egg to table. Few other segments of agriculture are so thoroughly integrated. But the trend is in that direction. Tenneco recently told stockholders:

“Tenneco’s goal is to bring chicken farming into total integration from seedling to supermarket.”

In fact, the corporation has almost achieved its goal. Nader’s crusading, yes, but it also makes tractor, tractor fuel and pesticides. Furthermore, it packages farm products and sells them in little groceries attached to its supermarkets.

In the potato industry, some companies have achieved total integration. This became known to farmers who tried to get more money for their potatoes.
by withholding them from processors for several months.

The processors refused to give in. Instead, they dipped into storage houses filled with spuds they had quietly grown themselves or had obtained through growing contracts.

Eventually, the growers surrendered. Their potatoes were beginning to rot.

In the hog and cattle industries, vertical integration remains limited. But corporate influence is being felt.

For instance, concerns like Balston Purina now rent gits and boars to farmers sell the farmers grain to feed the resulting pigs when offered to market; the pigs once they reach maturity.

In the cattle business, a few petroleum corporations have set up huge feed lots in the South west, some with 50,000 head or more. As a result, oil companies are steadily becoming an influential force in cattle feeding, encouraging on the family farmer, the man trying to pick up a little extra income by raising a dozen steers out in the barnyard where the chickens used to scratch.

Big food chains often buy directly from feed lots or set up their own feeding operations. Thus, there is the need for a Parallel to the place where the family farmer can always be sure of getting the best price for his cattle because the bidding there is always competitive.

Victor Ray, an official of the National Farmers Union, a large farmers association, concludes that settler farmers again face a choice: Zoned supermerkets will sweepsteed prices down from 25 cents a pound to a few cents a pound simply with the stockpiling of supplies, or take a lot to stockyards and back to feed lots.

Mr. Ray says:

"When the prices aren't buying at the yard, the prices naturally would drop. Of course, the chains dented any connection. But interestingly enough, all the while that wholesale meat prices were going down, the retail prices stayed the same. I figure the people of Denver paid at least $44 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 cattle and other livestock operations. Called Oppenheimer Industries, it takes on no client with a net worth of less than $50,000. It takes 50 per cent.

Its specialty is "cowboy arithmetic," tax savings. Its typical approach depends on favorable capital gains levies and other legal loopholes. One of its 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 he steers away from the United States Treasury and into farming actually helps keep the family farmer in business and does not contribute significantly to the corporate invasion of rural America.

Federal tax records indicate that at least those who qualify, those 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 their nonfarm income. If Federal tax laws seem to help the city corporation that farms on the side more than the farmer who farms on the side, they are not the only ways in which Federal programs tend to work against the little man.

The biggest farms—the ones with the biggest facilities, the biggest acreage, the biggest agri-culture subsidies. The biggest farms also get the biggest dollops of Government-supplied irrigation.

Recently, Congress was given some limits on subsidies. And the courts are beginning to crack, noting that under water users, usually those who do not live on the land they farm.

But still the gap widens between the rich and the poor.

"We lost the battle against Earl Butz but the struggle sure swung attention toward the farm issues. I've never seen Washington so interested in agriculture. And I hope that Butz will turn out to be the best thing that ever happened to us."

WHITE HOUSE CONFERENCE RECOGNIZES NEED FOR CONTINUING EDUCATION

Mr. MONDALE. Mr. President, today education is increasingly regarded as a lifelong process. Most Americans now recognize the importance of education and training to prepare our young people for occupations needed in a dynamic economy. But for older Americans, education has a low priority.

Efforts to provide preretirement counseling for older workers, for example, have been woefully inadequate. As a consequence, millions are now ill-prepared for the shock of retirement from work. The need for retirement and the preparation for retirement will continue to be one of the most difficult adjustments.

With the length of retirement projected to increase during the years ahead, the need for a comprehensive preretirement assistance and continuing education program becomes all the more compelling. Equally important, our tradition of work and work values are now undergoing major changes. Today we are moving toward a new "mixture" with regard to work and nonwork activities.

In terms of sheer numbers, continuing education and preretirement counseling should also be of major concern to our Nation. There are now about 42 million Americans in the 45 to 64 age category. Each year about 6 million individuals celebrate their 65th birthday. And approximately 45 million middle-aged persons will become senior citizens during the next quarter of a century.

A few days ago, the White House Conference on Aging was held in Washington. One of the key issues considered by the 3,400 delegates was the need to make education a basic right for all Americans—the old as well as the young. Moreover, the conference provided further persuasive arguments for my Federal Employees Preretirement Assistance Act, S. 1392.

Briefly, this measure would establish a comprehensive preretirement counseling and assistance program for all Federal employees who are eligible for or approaching retirement. Additionally, this bill would authorize the Civil Service Commission to provide training for agency retirement advisers and to publish guidelines about related work-life programs, such as phased retirement, training and learnings, new types of part-time work, and sabbaticals.

Mr. President, I commend the educational recommen-dations of the White House Conference on Aging to the Senate and ask unanimous consent that they be printed in the Record.

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

EDUCATION

Education is a basic right for all persons of all age groups. It is continuous and henceforth one of the ways of enabling older people to have a full life. Education is also seen as a means of helping them develop their potential as a resource for the betterment of social institutions.

BILINGUAL AND ETHNIC CONCERN

All issues and recommendations which will affect or serve linguistically/culturally different populations must enlist the necessary support from linguistic and culturally qualified experts in the development processes of such proposals so as to ensure that all programs designed for the elderly will result in maximum utilization and participation of the constituents in question.

Particularly urgent are Federal, state, and local funds for bilingual/bicultural education to the non-English speaking elderly pertaining to instructions relating to the requirements of Federal and state Government agencies, e.g., gaining citizenship, applying for social security, housing applications, etc.

EXPANSION OF EDUCATIONAL PROGRAMS

Education for older persons should be conducted either apart from or integrated with other programs according to their specific needs and individual preferences. Wherever possible, the aged must be granted the opportunity to take advantage of existing programs with those of their age and skill level, and other. However, alternatives must be provided which emphasize the felt needs of the aged and other particular stage in the life cycle.

The expansion and/or revision of programs having a demonstrated record of success should receive higher priority with due consideration being given to experimental and innovative programs.

Educational opportunities must be afforded all older persons, with special effort made to reach those who, because of low income, poor health, social circumstances or ethnic status are less likely to respond voluntarily. Outreach programs should be provided, including channels and delivery systems.

For older persons to participate in education programs, there must be a sufficient number of courses available. The government must provide incentives. These incentives should be aimed at eliminating barriers to educational opportunities, accessibility of educational services for older persons including transportation, free attendance, and substance, auditing privileges, relaxed admission requirements, flexible hours, convenient locations and subsidies to sponsors and removal of legal barriers.

Public libraries serve to support the cultural, informational and recreational aspirations of all residents at many community levels. Since they are traditionally spending heavily on programming, they are well positioned to be a primary community learning resource. Adequate and specific funding for this purpose must be forthcoming from all levels of government and most importantly from private philanthropy.

I recommend further that the Library Services and Construction Act be amended to include an additional title to provide libraries with transition services. Emphasis should be given at every level of education to implement and expand the opportunities for educational pursuits as well as to foster internal skills and appre-
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FOOKING PROGRAMS

Money and manpower for educational opportunities must have high priority throughout all services offered to older persons by any approved public or private agency or organization. To the extent to which these offerings are planned to meet the needs of older persons, they must be adequate. This is also true of educational programs. Educational opportunities must include basic and advanced education and training about needs for better use of services, cultural enrichment, and more successful health habits. MAJORITY OR PLURALITY POLICY PROPOSAL

Public expenditures for education for older persons must be increased and directed directly to the proportion of older persons enrolled in education programs. The need for educational programs should be the concern of all older persons, not just a select group of older persons. The design and curriculum must be active participation by older persons.

The President must consider the whole educational programs of older persons in a greater equity of allotment. The responsibility of the President is to deflect the funds for educational programs.

Where matching funds are required for Federal educational programs aimed to assist older persons, it is recommended that the life long contributions toward building this country by the now elderly be considered as a significant contribution. The President must be responsible for matching funds.

INCREASING INFLUENCE OF OLDER PERSONS

Education should place emphasis on instruction to help the older persons understand issues, procedures, and action in regard to political processes to enable them to meet more effectively and quickly their special needs as individuals or as a group.

MATERIALS, METHODS AND CURRICULUM

Appropriate materials and methods about all aspects of aging must be developed and introduced in the curricula at all levels of education from pre-school to higher education. MASS MEDIA

A national awareness campaign must be initiated through the print media and through educational systems to promote better understanding by society of the nature of the aging process and the problems, and influence the positive contributions and potentially untapped resources of older persons.

All educational resources must be pressed into service for the needed leadership in the preparation and implementation of (a) leadership training, (b) teaching training, (c) curricula and (d) teaching materials for focusing on the educational needs of the older ages.

PRE-RETIREMENT

Pre-retirement education programs must be established to help those approaching retirement age to achieve greater satisfaction and self-esteem later years. Pre-retirement education must be the primary responsibility of the public education sector in cooperation with other relevant and potentially untapped resources in the areas of industry, labor, all levels of government, voluntary service and private associations.

PROFESSIONAL PREPARATION

We urge that institutions of higher learning provide opportunities for special preparation of those who will and are working in social work, recreation, education.) More attention must also be given to workshops, institutes, and in-service for those who now work with older adults.

STATUS OF ADMINISTRATION ON AGING

To implement the educational policies suggested by the Conference Aging, the Administration on Aging must be accorded status and financing appropriate to the task and must be made an independent agency within the Department of HEW as provided for in the Older Americans Act of 1965.

Primary responsibility for the initiation, support, and conduct of education programs for older persons must be vested in the existing educational agencies and local with active participation and cooperation of specialized agencies. A Division of Education for Aging should be established in the Office of Education immediately, to initiate supportive educational services for the aging. Similarly, all State departments of education should designate full-time responsibility to key staff for the development and implementation of programs in education for aging.

A NEW GAME: LOVE THE NEW PROSPERITY

Mr. HARTKE. Mr. President, for the past few months, an organization called the Citizens for a New Prosperity, has been soliciting funds from the country's major corporations. It is the intention of this group of private citizens, to launch a "Love the New Prosperity" campaign upon the American people. With the contribution of $2,000 to $25,000, the organization has bought bumper stickers, decals, posters, even yardsticks, emblazoned with "Follow the Yardstick to a New Prosperity," to fulfill their promise.

The campaign aims to support President Nixon's recent economic actions. Backed by J. Willard Marriott, Robert Lewis, the president of Beauty Digest, and chairman of the group—has contacted more than 13,000 chambers of commerce and 90 major retailers. To date, 70 of those chambers have responded already.

Making its debut September 27 with a full page advertisement in the Washington Post, the organization asked for a "nationwide and nonpartisan" coalition of citizens in support of the "prosperous" Col. Lee Choate—USAF, retired—said the citizens for a new prosperity seek a "well-balanced membership." Despite that Choate concedes that most of the 125 members are active Republicans.

With stopping inflation as its major goal, the organization calls their action a "positive effort." However, the stakes are high—too high. Using the "Love the New Prosperity" methods to encourage national pride and confidence is a dangerous game. National pride, built on Madison Avenue tricks is a false pride: a pride and confidence that will falter if Mr. Nixon's economic measures do succeed. The citizens for a New Prosperity are playing this game, and, in the end, the American people will lose.

OIL DRILLING OFF THE EAST COAST

Mr. HANSEN. Mr. President, there is a day in the not too distant future when the persistent critics of the oil industry, the oil import program, and the minerals depletion allowance will welcome the sight of drilling platforms off the east coast.

Since joining this distinguished body in 1967, I have noted a remarkable change in attitude of some of those who represent the northeastern areas, the Middle Atlantic and New England States. When I first arrived, there was a great outcry for approval of a giant refinery to be built in the State of Maine to operate on foreign crude brought in from abroad. Such a refinery, its advocates said, would solve all of that area's fuel and gasoline problems including lower prices.

Now, however, the situation in the Middle East and North Africa when petroleum supplies from those areas became scarce and prices skyrocketed, the stock for a refinery subsided. In fact, the offer of another company to build a refinery to operate mostly on domestic crude oil was declined because of opposition from environmentalists.

However, the situation is different in other parts of the country where more imports of heating oil and the continuing criticism of the domestic petroleum industry has not subsided but rather has gained new advocacy from the recent announcement by the Department of Energy of the possibility of oil and gas production off the Atlantic coast including New England.

Mr. President, no other area of the Nation is so completely dependent on oil and gas for its existence as the east coast megalopolis. A substantial percentage of the fuel needs of this great population is now imported from foreign sources and more and more will be needed in the future.

Gas is already in short supply and almost certainly will become not only more expensive but more expensive in the years ahead.

Almost all of the plans to supplement east coast supplies of natural gas are for importation of liquefied natural gas from Algeria or other foreign sources including Russia or for offshore production from foreign sources more from imported crude oil or naphtha.

When the able Senator from Texas (Mr. Tower) offered an amendment recently to the Department of Energy Act which I and several other conservative Senators opposed, the House fell in on us in an outpouring of criticism of the petroleum industry because of its so-called tax privileges and alleged favored treatment under the oil import quota program.

In remarks here a few days ago, the able Senator from Texas (Mr. Tower) answered some questions the distinguished Senator from Massachusetts (Mr. Kennedy) had raised about the value of the oil import quota system.

The Senator from Massachusetts (Mr. Kennedy) has also introduced an amendment to the commerce department bill, S. 582, to provide for an independent investigation of the environmental risks and alternatives to Atlantic coast offshore drilling. He and others have introduced another bill to prohibit oil and gas leasing off the Atlantic coast for 2 years.

It seems ironic to me that a study such as this to be conducted by the National Academy of Sciences at a cost of $500,000 should be necessary when thou-
sands of wells, drilling, and production platforms, undersea pipelines, and all of the attendant installations and facilities now exist in the Gulf of Mexico off the coasts of Louisiana and Texas.

Citizens of Louisiana and Texas seem happy enough with their offshore oil and gas operations and this includes commercial and sport fishermen as well as the oilmen themselves. There were certainly those who pay the taxes for State education, welfare, highway, and other public expenditures are highly appreciative of the oil and royalty income from the oil and gas produced from these offshore operations.

There have already been studies made of the environmental effects of oil production off Louisiana and Texas and a paper by Dr. J. G. Mackin, professor emeritus in the Texas A. & M. biology department was presented this week at the annual meeting of the Interstate Oil Compact Commission.

Mackin told the session that—

Marine life is in no sense the delicate assemblage such as they are often portrayed as being, but a very adaptable group of organisms to substitute for missing links in the food web.

Mackin found that a “flood of papers, books, commentaries, and other contributions in recent years have been anything but objective.”

And, he observed, “surprisingly few of the papers present basic data which can be used in estimating effect on marine communities.”

Mr. President, Mr. Mackin’s remarks and those of a prominent geologist who has studied the environmental effects of the offshore oil industry in the gulf were carried in “Oil Daily.” I ask unanimous consent that the article be printed in the Record following my remarks.

Also, Mr. President, I ask unanimous consent that an essay letter to the editor published by the Washington Star on the same subject be printed in the Record and that another article from the OIl Daily be printed in the Record.

Mr. President, there is a way to solve this Nation’s immediate and short-term energy crisis and that is through realistic pricing of domestic natural gas, crude oil, and oil products plus realistic Federal taxing and regulatory policies including mounting obstacles and hurdles thrown at the energy industries under the guise of environmental protection.

Development of the still abundant supplies of oil and gas that exist both onshore and offshore will undoubtedly be expanded because it could be much cheaper than imported LNG and crude oil, heating oil and other oil products once we become substantially dependent on foreign sources. And we are near the peak of our oil production and now we have not already past it.

Those who refuse to recognize the seriousness of the energy situation for what it is and who join the environmental extremist crusaders in creating the unreasonable, excessive, and impossible conditions for the development of vitally needed energy resources may see the day and soon when they would welcome the sight of oil and gas producing platforms off their shores. And while to many the environment has become a national issue and a matter of great importance, the environment will be in sad shape without the energy to keep the economy moving upward.

Too many of the environmentalists have not considered the vast amounts of oil and natural gas in the environment which are available and would have to be put aside any longer. The problem is here and now, especially in the Northwest and it will not be solved but only postponed by continuing reliance on imports which are, in the process of being disrupted, could not be made up from domestic sources.

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

[From the Oil Daily]

OIL HUNTER AIDS SHALFIE, IOCO TOLD

[By Billy G. Thompson]

BLOOM—Mankind is reaping greater harvests of seafood and other marine resources because of the quality and quantity that has taken him to the oceans in quest of petroleum supplies, the Interstate Oil Compact Commission was told here Monday.

"There is a tremendous blanket of fish and marine life that is held out in Louisiana waters over and above the natural environment only because of the interconnected network of manmade artificial reefs created ‘offshore oil platforms’ and ‘埕’ and other devices,” a driver-naturalist reported at a joint session of technical committees at IOCO’s annual meeting.

Morrice, observed Ret Tettleton, senior Gulf Coast geologist for Sohio Petroleum Co., the wonderment migration of fish toward these waters will continue until drilling is stopped."

"There lies the truth," maintained the Sohio geologist in sounding this appeal: "Before it’s too late, I think the oil industry should only have to point the general public to Louisiana, not defensively, but proudly as the prime example of compatibility (of the offshore oil industry) in the marine environment."

Tettleton also made these points about offshore oil operations and marine life in the Gulf of Mexico:

(1) Commercial fishing—“the most lucrative” in the U.S. today—amounts to $150 million each year in Louisiana. Sport fishers bring in $32 million worth of pompano, alone.

(2) Some 10,000 wells have been drilled in the Gulf of Mexico but only 26 have been declared a complete success, eight of them securing oil with no pollution. More than 11,500 wells offshore have been drilled in the U.S. with only one accident incident... one of the order of magnitude of Chevron, a production mishap off Louisiana, and only one oil well exploding, one, worse over accident, also off of Louisiana."

"But that’s a pretty fair record and doesn’t rate all the fear that hysterical reporting has created, that every well from now on will be a blowout,” he appraised.

(3) In its brief, the Louisiana, off-shore oil industry has grown to supply more than 17 percent—7,000,000 b/d of total world production and more than 20 percent of world oil reserves. The briefing noted that within the next 20 years a minimum of 80 percent of the production must come from the Gulf of Mexico which has been the delicate assemblage such as they are often portrayed as being.

Mackin presented a paper on environmental effects of oil production on marine communities. He stressed that “they possess a remarkable capacity to substitute for missing links in the food web.”

Mackin found that a “flood of papers, books, commentaries and other contributions on oil spills” has been nothing but objective.

And, he observed, “surprisingly few of these papers present basic data which can be used in estimating effect on marine communities.”

Mackin said his other studies have shown all oil spills have caused some damage when oil was washed into inter-tidal zones, but he added, “in most cases the damage was small and fairly quickly repaired.”

The Torrey Canyon spill, Mackin noted that most of the data are apparently rendered from injudicious use of toxic dispersants in clean-up operations. He warned against permit oil spills in inter-tidal zones where “most damage is the nuisance to humans.”

[From the Washington Evening Star]

LETTERS TO THE EDITOR

"EAST COAST OIL"

Sir: Your editorial, “East Coast Oil,” was both encouraging and discouraging.

It was encouraging in that his writer, while waxing poetic, manifested what seemed to me complete lack of information on the subject. He referred to the City of New York, Maryland, as “the Galveston of the East, with derricks offshore, tankers plying alongside the coasts and refineries standing tall against the sunset.”

Unless they have been erected overnight, there is no forest of oil or gas derricks within many miles of Galveston Island. Texas had eight rigs running in offshore waters on November 15, more than in the Corpus Christi area beyond the 10-mile limit, with most derricks far out in the ocean.

Louisiana’s prolific offshore oil fields are probably well beyond the three-mile limit, with most derricks far out in the ocean. Some are more than 110 miles offshore. We have had no experiences to compare with that of Santa Barbara, where oil was spilled in a relatively narrow channel between the mainland and coastal islands. As a matter of record, offshore seaweed has increased rather than decreased since the accident was brought in off Louisiana in 1949.

The best way to agitate over the spectre of polluted beaches, the people of Maryland, Virginia and Delaware might be to try to have the federal government take over the coastal states the bananna which it is re-stored for minerals production off Louisiana and which it has far to get active from production off other coastal states.
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Providing services for the crews who work the offshore rigs and their families has been expensive for Louisiana. We have received nothing to compensate us for this added expense and a marked reduction of the cost of the offshore oil that operates in and around the Louisiana area on the offshore operations.

Having Congress treat offshore federal lands and federal lands are treated would be an equitable solution of this problem. Wyoming and other states receive 25 percent of the revenue from offshore federal land, and other production from federal lands within those states. Coastal states are entitled to the same consideration.

GEORGE W. BRATY JR.

NEW ORLEANS, LA.

[From the Oil Daily]

CHEAP FOREIGN OIL, GAS "MATTE" LAID TO REST

(Bill Mullins)

CHICAGO—Four foreign officials appeared here today to dispel any myth that the United States can enjoy an endless supply of cheap foreign petroleum products if it will stop restricting imports.

The 11-member OPEC, which controls 65 percent of total world oil exports, includes Algeria, Indonesia, Iran, Iraq, Kuwait, Qatar and Saudi Arabia. Algeria, Indonesia and Venezuela were represented at the Chicago symposium and the attitudes they expressed are typical of OPEC members. A Canadian who took part in the symposium expressed even tougher views.

Americans who have been listening only to the U.S. politicians who claim an easing of import controls and said result in plentiful supplies of cheap foreign oil might have found the symposium disconcerting. But in all, it was a far truer view of what lies ahead for those who choose (or who must) rely on foreign petroleum supplies. 


"Our willingness and enthusiasm as an exporter of LNG to the U.S.A. is, however, going to be dependent on changes in the United States' attitude toward the all-important question of providing the right economic climate for this commodity," Martinho said.

Estimates show the cost of Nigerian LNG at $3 to $3.50 per million BTUs at a cost of $3.50 per million BTUs and it has been suggested that figure is not acceptable in the United States, he continued.

The continued pursuit of a repressive pricing policy will effectively deny valuable reserves to the U.S. market, he said. And he emphasized that includes Nigerian LNG.

"We consider that if the United States market is to absorb gas from Nigeria, it would have to go on to pay some premium for the commodity itself and for the stability and security innate in supplies from Nigeria," Martinho said.

And Martinho said the need for the United States to provide incentives and make available facilities to organizers of projects for supplying U.S. LNG to states, he said.

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"We do not contemplate here the handing out of A.I.D. or similar 'lagniaps' but the facilitating of processes of raising capital, particularly by developing countries whose periods of development may not necessarily be compatible with the enthronement of American entrepreneurial interests, materials and technology from Louisiana to the offshore operations.

The second is to pay similar or higher prices than the Canadian price to develop oil shales or coal for gasification," he added.

Until these conditions do occur, it is not likely that future additions to Canadian gas reserves will be made available to the United States, either by the free market or by the Federal government. It should be noted that the desire of foreign nations for higher prices is not the only factor that is giving the price of natural gas a run-up.

Furlong summed up the factors in his own nation with this sentence: "Consumers from which they (gas supplies) must come are very high cost in exploration, production and transportation and these programs will not continue and be successful at present price levels."

In the case of LNG, the nations and companies involved have to invest in plants for liquefying the natural gas, special ships for transporting it and terminals for unloading it. Only then can it be put into natural gas pipelines in the United States.

But the desire of foreign nations for higher prices will continue. And in a marketplace which is highly competitive, the nations which control the gas are holding most of the surplus supplies and sets policy on prices, prices will continue to rise.

NATIONAL SICKLE CELL ANEMIA PREVENTION ACT

Mr. HUMPHREY, Mr. President, the recitation of this passage by the Senate of the National Sickle Cell Anemia Prevention Act, S. 2876, marks a decisive first step toward launching a major national effort to bring this painful and life-crippling blood disease under control.

It was my privilege to be an original sponsor of this comprehensive measure, designed to establish counseling and testing programs across America to prevent the further spread of sickle cell anemia, and to support intensive research to find a cure for this disease that almost exclusively afflicts black people.

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Moreover, during an 18-month screening of over 5,000 recruits at Fort Knox, Ky., the director of the Blood Transfusion Center of the Army Research Institute found that 200 soldiers had the sickle cell trait. And since World War II, over 518 deaths due to this disease have been reported to the registry of the American Society of Hematology.

These profoundly disturbing statistics ought to shock this Nation into a major effort to control and overcome this dread disease. To a black child, sickle cell anemia is but one of an extraordinary array of chronic fatigue, and consistent absences from school. To a black adult, these problems are compounded by the knowledge that he or she may well be denied a normal life span.

But as the medical research effort progresses, improved methods of treatment and care are also being applied on behalf of those who presently bear this disease. And further efforts are being made to bring screening and counseling services directly to the neighborhoods of black Americans.

These programs must be greatly expanded. And we must assure that adequate financial support is directed to research efforts where there is a total and immediate identification with the medical problems confronted by minority groups in America. Such programs at Meharry Medical College in Nashville, Tenn., and at Howard University in Washington, D.C., where Dr. Leonard B. Scott has been conducting research since 1948, fully merit Federal as well as private assistance.

And I am greatly encouraged that this provision is made in the National Sickle Cell Anemia Prevention Act for a 3-year authorization of $12 million for a required program of research and research training in sickle cell anemia by the Veterans Administration. In addition, the administrator of Veterans’ Affairs is authorized to provide screening examinations for sickle cell trait or anemia to any veteran who is receiving VA-dependent medical care or V benefits. And a veteran found to have the trait or disease can request counseling and the treatment of related disabilities.

Finally, it was my privilege to join in helping launch a fundraising drive by the Black Athletes Foundation for Sickie Cell Anemia Research to establish an International Research Institute in New Jersey. At that time, I noted that there is a disproportionate amount of pain, suffering, and disease among minority groups, and I called for an international effort to concentrate on these problems. The Black Athletes Foundation has established the Sickle Cell Anemia Prevention Act can be a major first step in this direction. It is essential that Congress enact legislation without delay.

**SCHOOL FINANCES A NEW APPROACH**

**Mr. HUMPHREY.** Mr. President, historic changes are taking place in the financing of schools in this country. My State of Minnesota recently enacted some groundbreaking legislation in the field of State-local fiscal relationships. This legislation followed a decision in Van Dusart et al. against Hatfield, a judicial finding that raised constitutional doubts regarding the traditional reliance upon the local property tax in financing elementary and secondary education.

Close on the heels of a similar ruling in California by its Supreme Court in the case of Deukmejian v. Williams, the Honorable Charles M. Lord, U.S. district judge for Minnesota, stated that—

Plainly put * * * the level of spending for a child’s education may not be a function of wealth, rather than the wealth of the state as a whole.

He went on to agree with Serrano that the equal protection clause of the 14th amendment gives pupils a right to have money expended on their education “unaffected by variations in the taxable wealth of their school districts or their parents.” For several years many of us have been increasingly concerned about the wide variations in educational opportunity from school district to school district within our respective States and across the Nation as a whole. Equality of educational opportunity has been a constant theme of my legislation in the field of education.

It is, therefore, most encouraging to me that the Minnesota State Legislature has responded to this judicial challenge and enacted legislation that goes a long way toward erasing the earlier inequities in educational finance in the State. For quite some time our distinguished Governor, the Honorable Wendell Anderson, has been advocating that the State assume not only the predominant share of school financing. The combination of gubernatorial leadership, judicial prodding, and legislative response has produced a product in which we can all take comfort.

Prosper is also being made in other States. Governor Milliken of Michigan for the past 2 years has been urging the State legislature substantially to reduce, if not eliminate all of the non-Federal share of elementary and secondary education. Last year Gov. Marvin Mandel of Maryland, proposed a similar legislative program for the State to assume an increasing proportion of the State’s share of the public school financial burden. The combination of better public school financing, equality of education opportunity, and quality education are factors that I believe will mean the end of the local property tax as a primary source of school finance, regardless of whether or not the final decision in *Serrano* is against the State and its amended legislation.

The California Supreme Court decision in *Serrano v. Priest*, with its mandate of one student, one dollar, has spawned a host of cases. And the results are already forcefully indicated. For example, in one of the test cases brought to the courts, the legislatures must move promptly to restructure the financial system of education to provide equality of opportunity, at least in terms of fiscal resources placed behind the trend.

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December 10, 1971

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ome jungles of terror; they must operate in decrepit and unsafe buildings; they are faced with administrative and technical revolts; and, through recent years, quite a few of these cities have been themselves mired in the morass of pernicious formulas. Make no mistake about it—if our deteriorating city public schools go under, an economic debate involving the well-being of millions of our citizenry, investment will surely follow, and “saving the cities” will have become an academic concept instead of a viable enthusiasm. Because the critical issues of the survival of responsive and responsible government. For there exists the distinct possibility that the education will be assuming legislative powers by default, thereby impairing for all time at the state level the concept of checks and balances and sharing powers among the executive, legislative and judicial branches of government.

Judicial redistricting of state legislatures, while offensive to the separation of powers concept, is a fairly straightforward, mathematical proposition, if seasoned by a reasonable amount of local knowledge and common spirit of fair play. To redraw school district lines or to revise state financial formulas is to delve into the very heart of legislative bloc building.

So it is up to governors and state legislatures to take the actions necessary to pro- vide educational excellence. The challenge is more crucial for the legislators than for the governors. The latter can propose the bills and the former can act decisively; the alternatives of judicial legislative or nationalization of school finance are to be avoided. (It should be noted that equality of dollars is a matter of constitutional principle. It is not just a first step, albeit a mighty one, in assuring equality; it is well known that the cost of education will be decreasing with children is considerably more than for children from adequate environments.)

The legislatures will need to consider a range of actions including at least three major options: (1) full state funding of nonfederal educational costs with a limited supplemental aid to the local districts; (2) complete equalization of both state and local costs, the state paying the role of Robin Hood between rich and poor districts; and (3) a redrawing of school finance formulas to provide for essentially equal fiscal resources (as measured by equalized assessed valuation or by personal income, or a combination of the two). It is up to each school district to serve the people in the district to Serra. The five or six states were at or nearly at the point of substantially full state funding, and it was under serious consideration in Michigan, Minnesota, Maryland and several others.

As legislatures move to cope with these and other educational issues they need to equip themselves for the policy-making role so often neglected. Education committees need to be staffed by people a year or so earlier in their careers and empowered to hold hearings and conduct other business between sessions. Too often these committees have been active only during the legislative sessions and have had to rely for staff assistance on the state education agency or the state teachers’ association. The workbenches must deal with a public and political climate in which many citizens have come to believe that the education system is out of control. It has been over-spending and under-achieving. This means greater public resistance to the drasti re-shaping of school finance.

In commercial-industrial property tax base and the special unit of government in the seven-county Twin Cities area.

A partial shift in financing county highways from the property tax to a special revenue tax, accompanied by an authority for the Metropolitan Transit Commission to levy a limited property tax.

A reorganized local government fiscal information system under the Commissioner of Taxation, working with a new Intergovernmental Information Service Advisory Council, designed to assure a complete, computerized, up-to-date record of local government revenues and expenditures.

A joint executive-legislative Tax Study Commission assigned, in part, to review purposes and effects of intergovernmental disputes, alternative sources of tax revenue for local government, and levy limits.

A State Board of Assessors charged with establishing qualifications and certifying assessors throughout the state.

A partial reform of the state’s system of property tax classification, which will include (a) determining assessed value on the basis of full market value, of property, rather than one-third of market value as at the past, (b) exempting all business inventories and equipment and (c) gradually eliminating the use of purely personal property, including oil refineries and certain parking lots which had had in the past.

A 17-member Quality Education Council, with a $15,000,000 grant in 1971 to fund local school district experimentation in “new approaches to the learning process, better utilization of professional staff and community resources, different requirements as to course offerings, course content, grading, graduation and school attendance.”

THE ENERGY CRISIS

Mr. BAKER. Mr. President, earlier this year President Nixon became the first Chief Executive to send to the Congress a major message on the subject of energy production. He correctly recognized at that time that the Nation is on the verge of a national energy crisis and that the production of abundant, clean, low-cost energy is essential to the future growth of our economy.

On December 7, 1971, Senator George A. Lincoln of Illinois, Chairman of the Committee on Energy Preparedness, shared some of his own thinking about the energy situation with a meeting of the National Coal Association. I ask unanimous consent that the text of 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:

Mr. President, Hon. G. A. LINCOLN

This is a postponed meeting. On the previously scheduled date, I was the fellow charged by the President with managing the meetings in the past year I’ve been going to talk about that subject. Now we are in another phase of our economic stabilization and the management is no longer mine. As I count them, eight agencies now divide the job. My small office had a month ago. My stabilization job is now limited to my one role in the Cost of Living Council.

I still want to talk in part about economic stabilization because it is a central part of the single most important programs before our country today—the President’s new economic program. But I am also going to talk for a moment about the most important national program, in the long
term—our energy program. Our way of life, and our very national strength, are shaped by our energy policy.

The two programs, economic stabilization and energy, come together, rather naturally in the President's Energy Office, where the President's Executive Office, which is emergency preparedness.

And here there were a preparedness mission exists, that mission shapes the actual organization for execution. If an emergency should arise, we have the field offices, the communications, the experience with coordinating the Federal Government in emergency situations, the experience in quick response, the experience with the initial stabilization management job.

We were lucky in one way. We didn't have the mental pain of wondering how we were going to do the job. I learned of the assignment August 15, the same day the President made his speech to our country announcing the 90-day freeze.

That evening—and the speech—I told my regional offices, which were located remote from the more likely nuclear targets, to open up the next day in the nearest large city Federal centers.

The first guidance the President's Executive order and the organization chart in our manual on economic stabilization for nuclear war were useful, but very general. We had doubled, the eight regional offices had expanded to ten offices and personnel had increased sixfold. We had borrowed the services of specialists and have called in the Agriculture Stabilization and Conservation offices for our information assistance.

And, equally important, we were channeling through this organizational network the policy guidance set by the Cost of Living Council. I found myself owner of a communications and responsibility job, which was handling incoming questions and outgoing policy answers in a way reminiscent of my experience with the World War II Operations Division of the Army General Staff. So, being short on time for innovation, we followed generally the operational principle of that staff. We had, as capital to draw on our mobilization preparedness relations throughout government and our agency experience in coordinating Federal efforts for natural disasters, fuel shortages, work stoppages and other emergencies.

The first 90 days of Phase I, I have been involved centrally and did provide policy quickly.

2. The teamook of Federal administration was good and my organization profited and survived by that teamwork. After all, you can't manage a freeze with our permanent staff of 306 people. The great Federal agencies loaned OEP their best professionals—personnel from 41 agencies worked for us—and those agencies gave priority to the staff work on our projects.

3. The people and the economy, except for a comparatively few dissenters, supported the freeze. I do not fault the people for being un- wide acceptance and voluntary compliance.

4. Our President provided an understanding leadership which all thinking people sought and his mind, because of the job of the job of the President's Executive Office, which is emergency preparedness.

And here there were a preparedness mission exists, that mission shapes the actual organization for execution. If an emergency should arise, we have the field offices, the communications, the experience with coordinating the Federal Government in emergency situations, the experience in quick response, the experience with the initial stabilization management job.

We were lucky in one way. We didn't have the mental pain of wondering how we were going to do the job. I learned of the assignment August 15, the same day the President made his speech to our country announcing the 90-day freeze.

That evening—and the speech—I told my regional offices, which were located remote from the more likely nuclear targets, to open up the next day in the nearest large city Federal centers.

The first guidance the President's Executive order and the organization chart in our manual on economic stabilization for nuclear war were useful, but very general. We had doubled, the eight regional offices had expanded to ten offices and personnel had increased sixfold. We had borrowed the services of specialists and have called in the Agriculture Stabilization and Conservation offices for our information assistance.

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The production of electricity from geothermal steam and hot water is a proven capability. It is being done today in California, Russia, Japan, New Zealand, Mexico, Italy, and Ireland. Several articles on geothermal energy have appeared in Fortune magazine, June 1969, and in the Saturday Review, December 5, 1970.

To facilitate the leasing of geothermal areas, the Conga 1 passed S. 365, a bill introduced by Senator Bilde of Nevada, authorizing the Secretary of the Interior to make disposition of geothermal steam and associated geothermal resources. The Senate report on that bill is No. 100, dated September 4, 1970. In December 1970 the act was signed by the President into law—Public Law 91.581.

It is true to say that the world is filled with resources that far more hot water than steam will be found in geothermal exploration. Perhaps the ratio will be 20 to 1.

CHEAPEST POWER IN THE SYSTEM

A discovery of superheated dry steam is the ideal, thermodynamically and economically. Dry geothermal steam is what the Pacific Gas & Electric Co., has at the geysers.

Last year, that steam made the cheapest electricity in the utility's whole system. According to P.O. & E.'s form No. 1, on public file with the Federal Power
Commission, the 1970 operating cost for the Geyser geothermal plants was 3.95 mls per kilowatt-hour. The closest competitor in that system was a 750-megawatt coal plant at 3.35 mls per kilowatt hour. Clear electricity output from the Humboldt plant cost 5.62 mls, and a steam plant at Humboldt cost 8.56 mls.

The likelihood of finding superheated dry steam elsewhere is low. So far, it has been found only at the Geysers and at Larderello, Italy.

**Wet Steam Versus Hot Water**

Therefore, what is usually meant by geothermal electricity is electricity made by flashing hot water into wet steam, which drives a turbine. This is done successfully. However, it can have certain disadvantages, one of which is corrosion of valves and turbines if there is substantial salt or minerals in the steam. The well itself may become plugged with deposits.

A new geothermal design, called Magmamax, is likely to eliminate these disadvantages. Instead of flashing the geothermal steam, a design uses a vapor-turbine driven by isobutane, which is heated by the geothermal hot water via heat exchangers.

**Dealing with Fouling**

If mineral deposits can foul up valves and turbines, will they foul up the tubes of the heat exchanger? The big difference is that the water never flashes to steam in the Magmamax process. Therefore, the dissolved gases in the water, which help keep the minerals in solution, do not escape. In the Magmamax process, the geothermal hot water stays water, and is pumped under pressure through the heat exchanger. Although silicas and perhaps some other minerals will tend to solidify out as the temperature of the water goes down in the heat exchanger, there seems to be no insurmountable problem.

The geothermal well at Brady, Nev., has been extremely successful. The well was pumped at a pressure in excess of the pressure corresponding to the flash point temperature, and the water was purified through a single heat exchanger. Upon discharge, it was then cooled and circulated back through the tubes of the heat exchanger before discharging at a pressure approximately equal to the inlet pressure. There was virtually no corrosion or other trouble.

**The Question of Salt**

J. Hilbert Anderson, who is the principal designer, points out that the geyser salinity is the same in Nevada and California. The California water is saltier, more like seawater at 3 percent salt. Mr. Anderson says that additional measures can deal with the difference, however.

North of the Imperial Valley, in the Salton Sea region, the salinity of the geothermal water is nearer 30 percent.

Mr. Anderson said:

We don’t pretend to be able to use that water economically, but we don’t need to. There is so much good water under the Imperial Valley, that we wouldn’t bother with 30 percent salt. The recoverable geothermal at Imperial Valley supply were only 10% correct; that’s a huge amount of power.

**Reasons for Different Estimates**

One reason for the wide range in those estimates is the uncertainty about the distribution of salinity in the wells.

Another reason is that the power estimates include different methods of recovering the energy. For instance, Dr. Robert Rex at the University of California in Riverside, bases his estimate of electrical power potential on use of the flashing wet-steam method, which is a less efficient use of the water’s heat than the Magmamax method; Dr. Rex also postulates the use of geothermal water, which is not usual, and other water, whereas the water can be recycled underground in the Magmamax process.

**Papers Placed in the Record**

The Magmamax process itself must produce reductions in various costs, in order to justify the cost of the heat exchangers and additional pumps which it requires. Mr. Anderson explains why he is satisfied that these costs are well justified, in two ways which I would like to place in the Record.

The most recent one is entitled “Geothermal Heat, Our Next Major Source of Power,” by J. Hilbert Anderson, consultant. He presents the paper in January 1972 at the American Institute of Chemical Engineers, meeting in Dallas.

The second one is entitled “A Vapor Turbine Geothermal Powerplant,” also by Mr. Anderson. It was presented in September 1970 to the United Nations Symposium on the Development and Utilization of Geothermal Resources, held in Pisa, Italy.

A third article, reflecting some of the questions which were being asked in the industry a year ago, is from the Oil Digest, January 1971, and is entitled “Geothermal Energy Looks as Economic Factor.”

Mr. President, I ask unanimous consent to have these three items printed in the Record at the end of my remarks.

Unpublished papers and diagrams from Mr. Anderson’s papers cannot be reproduced here, but they can be requested directly from J. Hilbert Anderson, 1015 Hillcock Lane, York, Pa. 17403.

**A Most Unusual Test**

Mr. Anderson is very well known in the turbomachinery world. Prior to becoming an independent consultant in 1963, he was chief engineer at the York Corp., a division of Borg-Warner, where he designed the company’s entire line of centrifugal pumps. He has probably designed more compressors and turbo-machinery handling halo-carbons and hydrocarbons than any other man in the world today.

He says that when he first presented his geothermal plant designs to Magma Energy in 1969, the company had them widely circulated, and offered a $10,000 reward to any engineer who could demonstrate that the work was unsound.

No one could.

In fact, the concept has already been proven to work. The Russians have made electricity from geothermal hot water in a small, experimental plant designed along similar lines.

**Geothermal Heat, Our Next Major Source of Power**

(By J. Hilbert Anderson, Consulting Engineer)

Geothermal power, power from the Earth’s own heat, has been known for a long time. In reality the first power was produced in 1904, and in the United States the first power was generated in 1928 at the Geysers, in northern California. Fig. 1 shows the first steam engine driven generator installed at the Geysers.

It was not until 1960 that any appreciable amount of power was generated in this country, when B. C. McCabe and his associates built the first commercial 15Kw power plant at the Geysers. Getting this first plant under way took a tremendous amount of effort and persistence on the part of a few dedicated people.

Despite the success at the Geysers and similar developments in Italy and New Zealand, geothermal power has practically been ignored as a possible major source of energy. As late as September 1971, the Schematization (1) stated that geothermal power could potentially furnish a total of about 60,000 megawatts for only 50 years over the entire world. Fortunately, there are two easy ways to recognize this as a very poor estimate of the potential.

A Powerhouse Beneath Our Feet

First, the rate of heat continually flowing from the interior of the earth to the surface is estimated to be 32 x 10^9 megawatts, (1) or 957 x 10^9 Btu/year. If we could convert 13% of this heat to power we would produce 4,100,000 megawatts continuously. This is approximately ten times the world’s present average power output.

Second, if geothermal power is used at a rate of at a mean rate of 420,000 megawatts (1970 mean world usage rate), neglecting radioactive heat inputs, we would use up the conversion from heat to power, then the earth would cool down by only one degree F in 41 million years.

From these simple calculations we can see that there is plenty of heat available in the earth to produce power. The only real questions are: how accessible is it, and do we have the ability to use it?

While very little exploration has been done, the evidence shows that there is almost certainly a far greater reserve of accessible geothermal power than any other conventional fuel source.

*Illustrations not printed in the Record.*
THE WESTERN STATES
Let us look at the potential in a few specific locations, where available energy has been surveyed. At the Geyseras in California, there are at least 1,000 hot springs, and it is estimated that the total available energy is 12 billion kilowatt-hours yearly, which would be nearly one percent of the 1970 U.S. production.

The only other area in the U.S. that has been surveyed with any reasonable degree of accuracy is the Imperial Valley in California. There Dr. R. D. Smith and his associates have estimated that 1.6 to 4.8 billion acre feet of hot water are available. If we use one percent of this water per year for power production, and return it to the ground for reheatng, we could produce 487 to 1462 billion kilowatt-hours per year. The U.S. utilities' logical and simplest way to produce power from hot water is to use the high temperature steam. The main problem is to find a location, or find the source of the heat.

Another way to look at this is to note that the heet energy in store in about 600 square miles of the Imperial Valley equals 27% to 65% of the heating capacity of the entire world's oil reserves.

In the western United States, at least 1,000 hot springs have been identified and mapped (5). Bowen and Groh (6) also report large reservoirs of hot water on our Gulf Coast, covering an area of more than 25 square miles. There seems to be no doubt that vast quantities of heat are available to us, with a total energy of more than any that of our total fossil fuel reserves.

The real challenge to us is not finding hot water, but learning how to use it effectively. It is doubtful that we will find many steam domes such as the Geyser area, but there is more than enough hot water to supply all our needs for improvement.

In New Zealand and in Mexico, geothermal hot water is brought to the surface and flashed to steam, which is then expanded through condensing turbines to produce power. At first glance this appears to be the most logical and simplest way to produce power from hot water. However, when we take a closer look we find that it has numerous disadvantages:

1. It is thermodynamically inefficient because much of the energy must be utilized in lifting the water from the well to the surface.
2. Low pressure steam turbines are very costly per kilowatt because the specific volume of steam is so high.
3. Steam is generated at low because high condensing temperatures must be used. Turbines become too costly at low condensing temperatures.
4. Steam is wet at turbine inlet, and wetter as it passes through the turbine. This causes blade maintenance problems.
5. When steam flashes dissolved gases come out of water. These gases must be pumped out and disposed of in a manner that will not pollute the atmosphere.
6. When dissolved gases come out of the water they change the chemical composition. Usually this leads to precipitation of scale on the walls of the well. This can completely plug up a well in as little as one month's time.
7. Hot well waters can be corrosive as well as fouling. This can require high turbine maintenance, and high condenser cost and maintenance.
8. Pipes between well and power plant must be larger to carry steam than to carry and equivalent amount of energy in hot water.
9. Because of low thermal efficiency more wells must be drilled per megawatt capacity than would be the case for a more efficient plant.

Design of a New System

While hot water flashing plants are being used successfully, many disadvantages of this problem offer a better way to generate power from hot water. We now see a better way. It is called "Magmanax", patented by Dr. D. E. Bowen, which opens the door to the development of a new large-scale development of hot water power.

The basic principles of the "Magmanax" process are simple.

Hot water is pumped and boils a separate fluid. The vapor at high pressure expands through a turbine to produce power. The turbine exhaust is condensed, and this liquid is pumped back to the heater and boiler to repeat the cycle. This is shown in simple form on Fig. 2.

Instead of lifting water to the surface by hot water, we use a single-stage jet pump, and pressure is kept about saturation pressure throughout the heat exchangers. The fluid used in the first "Magmanax" plant is low. This was chosen to reduce cost, high thermodynamic cycle efficiency, small turbine size, high condensing pressure and noncorrosive nature of the working fluid.

Fig. 3 shows the theoretical cycle efficiency for isobutane for 50 psia condensing pressure at various turbine inlet pressures and temperatures. The best cycle is at 80 psig turbine inlet pressure and 750 F inlet temperature where theoretical cycle efficiency is 37.3%. Estimated net plant efficiency is approximately 13.5%.

Fig. 4 shows typical easily obtainable power using a single-stage 30 inch diameter radial flow isobutane turbine. Output is many times that for the same size steam turbine, and illustrates why the isobutane turbine is called a steam turbine for the same power output.

Fig. 5 shows typical water and isobutane heat-exchanger designs. At 295 F supply temperature, the water must be rejected at a fairly high temperature because the boiling point of isobutane. As a result, much of the heat in the water at the lower temperature must be wasted. In order to utilize all of the heat in the water, large heat exchangers must be used to keep the temperature difference small at the boiling point.

With 295 F supply temperature difference is much better and the water can be rejected at a lower temperature, thereby getting more power per pound of water.

Fig. 6 shows typical, easily attainable water rates for isobutane plants. (4) Considerable variation from these values is possible by changing heat transfer surface per kilowatt. Notice the large effect of condensing temperature, water consumption is only about 60% of that at 140 F condensing. This illustrates why it is important to use the most efficient cooling system possible in a geothermal plant. The first "Magmanax" plant is designed for 325 F water at a rate of approximately 0.5 kwhr/hr. The breaks in the curves occur approximately where the closest temperature approach changes from the boiling point to the condensing temperature, as illustrated on Fig. 5.

Economics and Advantages

The economic success of the "Magmanax" process is dependent on solutions to many new problems. Many of these are briefly:

However, there are three easily observable differences:

1. Hot water deep well pumps are required.
2. A boiler feed pump is required.
3. High temperature heat exchangers are needed to transfer heat from water to isobutane.

The cost of these three items must be paid for by reduction in other costs. In order to justify the "Magmanax" plant. Needless to say, I would not be writing this paper, if we were not satisfied that these costs are justified.

The "Magmanax" process opens up new horizons for geothermal power by having high temperature flash steam plants. Some of them are:

1. Keeping water under pressure prevents escape of gases and this eliminates problem of well plugging.
2. Keeping water under pressure keeps gases in solution, so that they are returned to the system with the water discharged from the system.
3. Water reaches heat exchangers at full well temperature, reduced pressures required amount of heat transfer surface.
4. Water pipes from wells to plant are smaller than steam pipes would be in a flash plant.
5. No gas removal system is required.
6. Turbine is smaller, simpler and lower in cost than a steam turbine.
7. Isobutane expands completely in the superheat region. There is no liquid released in the turbine.
8. Isobutane is above atmospheric pressure throughout system. Therefore air will not enter system, and air removal equipment is not required.
9. Oxygen can enter system. This eliminates one of the greatest potential causes for corrosion.

The turbine has lower wheel speeds than steam turbines.

10. High density of isobutane makes economic use of lower condensing temperatures possible. This improves cycle efficiency and reduces water usage.

11. Isobutane is compatible with oil. This means that internal turbine bearings can be used, and shaft sealing system is much smaller and less complex than that of a steam turbine.

The Main Parts

It is a three stage turbine with two casings in parallel. Wheels are simple, rugged, radial inflow type, braced into one piece. We anticipate nearly zero maintenance with this turbine. Speed is approximately 7000 RPM.

Generator runs at 1200 RPM and will be housed in a pressurized building to keep any oil and steam from generator. Entire isobutane system will be outdoors.

A new cooling system greatly improves economic life of the plant, eliminates water evaporation loss, and effectively reduces condensing temperature to a minimum value so as to avoid corrosion. It also permits coldest condensing water to be used when demand power is highest.

Much study and many new innovations have made the "Magmanax" process possible. We believe it will rapidly replace fuel-fired plants as our major source of electric power.

Because of all this, it completely eliminates air and water pollution.

REFERENCES

2. "The Exploration of Geothermal Resources in the Imperial Valley", B. W. Rex, University of California, 1970
A VAPOUR TURBINE GEOTHERMAL POWER PLANT

By J. H. Gilbert Anderson,
Consulting Engineer

The world is in search of more power, cheaper power, and non-polluting power. Geothermal power has stimulated our efforts to develop power from geothermal heat sources. This is a real evidence of the great interest in this subject.

In the United States, geothermal power development, started by the McLaughlin Company in 1958 at the Geyers in California, has grown into a major power source. New fields being built and planted, this power field will soon be producing 600,000 kilowatts, and the potential appears to extend well beyond this.

HOT WATER TURBINE STEAM

The success of geothermal steam plants has stimulated the search for other steam fields. Much exploration has shown that there are substantial the heating and boiling heat-exchange water available, but very few sources of superheated steam such as the Geysers area. Generally, hot water has more problems than generating power from steam. Many theoretical studies have been made on the problem with different proposed cycles. In a superheated steam plant, the fluid is in operation, using R-12 as a cycle fluid in a boiling and condensing cycle. (Ref. 1)

It is possible to flash steam from hot water at various temperature levels and expand the steam through a steam turbine. This cycle is simple, and is already in successful use, but has numerous disadvantages.

1. Wet steam from geothermal water is likely to be corrosive.
2. Cycle efficiency is low and water consumption is high.
3. A low temperature steam turbine is large per unit of power, and therefore costly.
4. Because of the high specific volume of steam, it is not economic to use the low condenser pressures required to attain a reasonably good cycle efficiency.

A VAPOUR TURBINE CYCLE

The vapor turbine cycle we will use on the Magma Energy plant is shown in simplified form on Fig. 1. In this cycle, water is pumped from the wells at approximately 325 F. The hot water boils and superheats isotobane to 800 F at 650 psa. The superheated vapor expands through a three-stage radial flow turbine, and condenses at approximately 85 F. Condenser cooling water is furnished from a cooling pond supplied by makeup water from shallow wells. The condensate is pumped into the boiler by a turbine-driven centrifugal pump. Waste hot water is returned to the ground.

By this cycle, the plant output will be approximately 8000 kw. Since there are numerous unknowns, such as exact water temperatures, etc., it is impossible to predict exact performance of the plant.

ADVANTAGES

The vapor turbine cycle has many advantages over the flashing steam cycle:

1. Availability of vapor instead of steam permits the use of a much smaller turbine than a steam turbine. Fig. 2 shows the comparisons of steam and isotobane turbines for similar operating conditions. The value Q/ND is the dimensionless flow coefficient at the turbine exhaust. (Ref. 2)

The vapor turbine cycle has numerous characteristics that make it advantageous.

1. It has a reasonably high density at operating conditions.
2. Vapor pressure is above atmospheric at all operating conditions.
3. Critical temperature is high enough to fit well within the graph of Fig. 3.
4. The thermal characteristics match the cycle very well.
5. It has good thermal conductivity.
6. Turbine efficiency is high.
7. It is non-corrosive.
8. It is non-toxic.
9. It is low in cost.

This advantage of flammability is a major advantage. Since hydrocarbon handling technology is well known, and this plant will be outdoors, it is believed that this plant will not be a hazard to handling fuel in a gas-fired power plant of any conventional type.

CONSUMPTION OF FUEL

The water consumption of a water-heated geothermal plant is proportional to the fuel consumption of a combustion power plant. This is primarily a function of water temperature, condensing temperature, heat exchange design, fluid, turbine efficiency, etc., and is complex. Obviously these are too many variables to permit easy and complete presentation of plant performance.

How, Fig. 3 shows fairly typical water consumption for an isotobane plant as affected by water temperature and condensing temperature. The temperature difference between hot water and isotobane was arbitrarily fixed at 18 F. Isotobane boiling temperature was taken as 800 F.

These are not necessarily the best operating conditions for all water temperatures. They are fairly close to the conditions chosen for the Magma Energy plant.

As would be expected, hotter well water reduces consumption. Note that condensing in corrinent at about 5% large effect on consumption. The lower condensing temperatures are typical under conditions where low temperature cooling water is available. The higher condensation temperatures are typical where cooling towers must be used.

The breaks in the curves occur approximately where the temperature difference in the heat exchangers occurs at both boiling and condensing temperature. The effect of this is a temperature enthalpy chart for isotobane, with hot water temperatures superimposed on the chart. If we use a countercflow heat exchanger, to heat the isotobane, this chart shows the temperature difference through the heat exchangers.

For the case that we consider here, the water comes in at 325 F and leaves at 179 F. Each lb of water gives up 148 Btu to heat isotobane. It requires 320 Btu to heat each lb of isotobane. Therefore 1.4 lbs of water are required per lb of isotobane. Going to Fig. 3, water consumption is 165 lbs. per kw of power at 18 F condensing temperature. The rate of water usage per lb of isotobane determines the slope of the water temperature curve. This can be on the curve of temperature difference occurs at the boiling point of isotobane.

The other case shown is for 450 F water supply and 180 F water out, giving 480 F and goes out at 96 F, giving up 302 Btu per lb of water. To heat 1 lb of isotobane through the cycle, 302 Btu of water. Therefore the slope of the water temperature curve is much steeper. Only 64 lbs. of water are required. It is possible that the minimum temperature difference of 18 F now occurs at the isotobane condensing temperature.

The disadvantage, by variations in cycle design, to reduce the water consumption below that shown on Fig. 3. However, this set of curves is sufficient to show what can be done with one simple cycle.

ECONOMIC AND ECOLOGICAL SUCCESS

While the theory of the vapor turbine cycle is simple, many new ideas had to be added to the basic cycle in order to make it practical and economical.

We now feel that all of the major problems are solved, and that the new Magma power plant will not only be a technical success, but also an economic success.

This can open the door for us to tap the limitless quantities of heat under the earth's surface, and produce the great quantities of power that we need so desperately. Best of all, this can be done without any pollution of our atmosphere, or our waters.

This paper would not be complete without a word of thanks to all the people who stand out above all others in making practical geothermal power a reality in the United States. Mr. B. C. McCabe was the designer of the Magma Energy Inc. Those of us who know him realize that without his vision, imagination, salesmanship, persistence and encouragement, this
December 10, 1971

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paper and what it represents would not be possible.

REFERENCES


[From Oil Digest, January 1971]

GEOTHERMAL ENERGY: BOOKS AS ECONOMIC FACTORS

Geothermal energy, perhaps accompanied by the commercially profitable extraction of minerals from geothermal brines today, might become a significant factor in the economy of California and other western states where geothermal reserves appear to be abundant.

Already, in The Geysers area some 85 miles north of San Francisco, steam wells are generating electricity from hot water which is being purchased under contract by Pacific Gas and Electric Co.

By 1975, electricity generated from these geothermal reserves is scheduled to be increased to 600,000 kilowatts, and it is planned to add 100,000 kilowatts annually thereafter for an indefinite period, as new wells are drilled and additional turbine generators installed.

California electricity already contracted for by PG&E is being supplied from wells taken down by what is now a joint venture of Pacific Gas and Electric Co., Southern Pacific Co., Los Angeles; Thermal Power Co., San Francisco; and Union Oil Co., of California's geothermal division headed by Dr. Carel Olt. Union Oil is the producer.

Other acreage in the area has been leased by a number of oil and geothermal companies.

The Geysers area, because its wells produce dry steam and the geothermal waters are low in salinity, appears to be ideal for electrical generation, which is the reason so much attention has been centered there.

Now, however, Dr. Robert Rex, professor of geology of the University of California at Riverside, who, with a team of UC-Riverside colleagues, has been conducting surveys for more than a year of the western section of California's Imperial Valley, contends that he has located seven geothermal fields with a total potential of 1 million acres "borders on south by Mexico and on the north by the line parallel to the Mexican border three miles north of the Salton Sea in the east and west by basement outcrops."

The UC-R professor has repeatedly asserted these steam fields were discovered by geologists and geophysical surveys and the drilling of 100 shallow (100-500 feet) temperature-measuring holes as well as from data taken from the old hole oil wells taken down earlier in the general area. He says these fields have the potential to produce 30,000 to 30,000 megawatts of electrical energy and 5 million to 7 million acre feet annually of distilled water.

Late in October, he told a State Geothermal Resources Board meeting in Sacramento that, while a special type of hypersaline brine containing approximately 25 percent dissolved solids compares Mexico’s Baja California, is also found over almost the entire U.S. section of the Imperial Valley, he stated.

However, if California’s famous professional geologists, several of whom have con-duced operations in the Imperial Valley north of the Mexican border, are inclined to view these pronouncements with considerable skepticism.

Discussing Dr. Rex's report on the study made by his team, they note that much of the data has been taken from old geological and magnetometer work and tests (about which the U.C-R professor has been somewhat vague) and that feasibility studies have not been done.

Geothermal operations in the California portion of the Imperial Valley date back to the 1920s, when a few so-called "steam wells" were drilled and a modern exploration and development efforts (which are estimated to have cost between $7.5 million and $10 million) have been launched more than a decade ago.

To date, however, these have been centered in the area around Niland, near the Salton Sea, where some 11 wells have been taken down. They found wet steam, highly saturated with mineral brines containing large quantities of sodium chloride and small quantities of potash and other compounds.

The geology of the Imperial Valley contains large basins in the septentrional area of the Coachella Valley, which is the source of heat sufficient to generate geothermal steam, but all exploration conducted in the Salton Sea area has indicated that the extremely high mineral content renders the steam produced unsuitable for generation of electric power under any methods perfected to date.

Dr. Rex, as conceded by professional geologists contacted by the Oil Delegation, may be correct in assuming that the utility of the geothermal water in the area his team has surveyed is far lower than that around the Salton Sea.

They caution, however, that this is a fact as yet unproved. "The only real test of the economic worth of these geothermal reserves is the drilling of test wells," commented a prominent California geologist whose judgments are widely respected.

"No real production can be made until wells have been drilled and the brine content of the produced steam has been carefully analyzed," he said.

What is known is that below the Mexican border, in the Cerro Prieto geothermal field 35 miles south of Mexicali, the steam produced from 17 wells completely lacks the degree of mineral contamination which have thus far been found in any of California's geothermal power in the California portion of the valley.

Dr. Rex expects, in fiscal 1971, to drill a well on one of the geothermal fields he says he has located on the California side of the border. That well will be drilled-test, he has assured the field's drilling rights are held by the UC-R Professor has indicated that five are the most probable areas for geothermal development. These five are located near North Brawley, Buttes, Heber, Glamis and Dunes.

West Coast oil companies, energy companies, public utility firms and agriculturalists will be eagerly awaiting results, but only after each field has been tested by competent geologists, will their contentions be verified or disproved.

USDA ECONOMISTS HELP UNDERMINE RETAIL SALES IN SMALL TOWNS

Mr. McGovern. Mr. President, the Agriculture Act of 1970 commits the United States to a policy of balanced growth. Any program of Agriculture has been satisfied with the efforts of the administration in making this policy work. In view of the fact that 2,000 farms a week are being closed due to geothermal reserves, the House of Representatives have maintained that the first thing that should be done to stem rural to urban migration is to raise farm prices to a level which meets the farmer's cost of production and a reasonable return for taking risks. An increase in farm prices is particularly imperative in light of the fact that for every six or seven farms forced out of business one main-street business closes down.

The House of Representatives passed a measure December 8 which would provide some much needed relief for our Nation's farmers. It is my hope that the Senate, following my Senate colleagues, will approve this measure. At the conclusion of this session so that farmers will receive the help they so badly need this year. The measure will provide real relief for farmers instead of the token assistance announced by Secretary Butz last week. Corn prices may go up a bit, but the real beneficiaries will be the grain dealers who bought corn for $1 or 90 cents at harvest time.

The Department of Agriculture apparently is not concerned with the genuine needs of our Nation's farmers or of rural America. Researchers in the United States Department of Agriculture recently released a study showing the greater efficiency of a 5,000-acre corn farm over a corn operation of 500 acres or even 1,000 acres. The increased efficiency comes not from tilling a larger acreage, but through the discounts an operator of 5,000 acres can receive by bypassing merchants in his local community and buying directly from manufacturers or central warehouses. The study furnishes no clue about what should be done for the displaced farmers and bankrupt businessmen who will be the victims of the United States Department of Agriculture prices as "efficiency." The NFO County Progress Reporter of November 7, pointed out the fallacy of this so-called efficiency and what it portends for both the farmer and rural businessman. I commend the National Farmers Organization for its vigilance and ask unanimous consent that the article be inserted in the Record for the information of the Members.

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

USDA ECONOMISTS HELP UNDERMINE RETAIL SALES IN SMALL TOWNS

"Some small Iowa towns should simply be given a decent burial."

"That is what Prof. Scott Greer, a North-western University sociologist, told the Iowa Houlaug and Redevelopment Association recently in Davenport, Iowa."

He restricted his recommendations to Iowa only because that was the locale in which he was speaking. Some sociologists and farm economists are good at recommending a "decent burial" for small towns in rural America.

This is trying to bring it about, sometimes using public funds.

PROMOTES HUGE FARMS

The Department of Agriculture has just issued its second report trumpeting its documented discovery that 5,000-acre corn farms in Iowa are the most economical; much more so than the more corn farms, or even 1,000-acre corn farms.

Why? Because they are able to go around the small town merchants and distributors and fertilizer, chemicals, machinery, oil, gasoline, and other supplies direct from the manufacturers. This is a situation that they can buy at savings up to 20% over small farms with less volume.

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Pages and pages of tables, which are assembled by Ph.D. economists on the public payroll at a cost of thousands and thousands of dollars, come to the Senate in this form. Now more dollars of public money is being spent to distribute the “studies” and tell the world that small farms are less economic than the large multi-million dollar farms.

PEOPLE DON'T COUNT

People don’t count in this assessment of the costs of big operations. There are no statistics on how many small farm families will be displaced. Nor are there any statistics on how many small town businesses will be destroyed. A Senate subcommittee was told this month that an average of 2,000 farms a week are being lost due to the prices of feed grains, that leave a rural community, a recent study shows, a small town businessman has to call it quits. The push by USDA economists for more bigness and elimination of still more small farmers can only add to this tragic and senseless destruction of rural America.

HOUSE-PASSED STRATEGIC GRAIN RESERVE BILL, H.R. 1163

Mr. HUMPHREY, Mr. President, last Wednesday night the House passed H.R. 1163, the Strategic Storable Commodities Act of 1971. And that bill has now been referred to the Senate for action. The importance of the House’s action can best be appreciated in reviewing what has been happening to grain prices in principal markets like Chicago and Minneapolis. Prices for wheat and feed grains have jumped over 5 cents per bushel in these markets since passage of the House bill. It is obvious that grain buyers are seeking higher prices because of the “press release” issued by USDA saying they are planning to buy corn, and a piece of legislation that would require the Department to purchase 500 million bushels of corn immediately.

Yesterday, 15 Senators joined me in a letter to the distinguished chairman of the Senate Committee on Agriculture and Forestry requesting that he seek immediate committee acceptance of the House-passed bill so that prices and income for our Nation’s food and feed grain producers could be increased immediately.

In addition to creating reserve inventories of strategic grains, H.R. 1163 also directs a mandatory 25-per cent increase in the loan values for wheat and feed grains for both the 1971 and 1972 crops. However, this bill is so weak that in the Senate Joint Resolution 172, which I and other Senators introduced in early November also called for such an increase in loan values for these crops.

In addition, that resolution calls for certain adjustments to be made in the 1972 wheat and feed grain programs already announced by the Department of Agriculture. It would require that we return to a base acreage payment program for feed grains and initiation of an additional acreage diversion payment program for wheat. To accomplish both the strategic storable commodities reserve bill and these provisions of Senate Joint Resolution 172 would result in an additional cost to the Government and increase the value of the 1971 and 1972 bill by $3 billion totally.

Mr. President, given the shortness of time, I recognize the difficulty that the distinguished Senator from Georgia faces in trying to get committee action of H.R. 1163 before Senate adjournment. Mr. President, in the event that it is not possible for the Committee on Agriculture and Forestry to act on these measures before adjournment, I believe we can be assured that the committee will consider this legislation shortly following the return of Congress in January. In fact, Mr. Chairman, I can tell you that Senator Talmadge has given me such an assurance. We are extremely fortunate to have the very able and dedicated gentleman from Georgia, Senator Talmadge, for a Secretary of Agriculture. He has provided true leadership for the committee this year and he has let no matter within the committee’s jurisdiction go unattended.

Many of us had hoped that time would permit us to act on this important grain reserve bill before adjournment. That does not now appear possible, as unfortunate as that development is. We, of course, welcome enactment of this or similar legislation at the first possible opportunity. Mr. President, several Members have similar bills pending before the Senate Committee on Agriculture and Forestry.

THE NEED FOR A TREATY WITH PORTUGAL ON U.S. BASES IN THE AZORES

Mr. CASE, Mr. President, yesterday the New York Times, in an article by Ted Sculic, reported that the United States and Portugal had negotiated a new agreement which allows the American use of military bases in the Azores, and that the United States would furnish Portugal with unspecified amounts of economic aid in return for the use of these bases.

The Executive unquestionably has the right to negotiate agreements of this sort. My special concern, however, is that the full constitutional questions that seek to follow. I therefore wrote a letter yesterday afternoon to the Secretary of State asking for his assurances that any new agreement with Portugal would be submitted as a treaty for the Senate’s advice and consent, and that no new economic aid program would be undertaken without affirmative action by both Houses of Congress.

I pointed out to Secretary Rogers that the agreement with Portugal was complicated by the fact that Portugal is currently involved in colonial wars in Africa, and that this further complication provides added reason, if any, were needed, for the submission of the matter to the Senate.

Mr. President, I ask unanimous consent that my letter to the Secretary of State and Mr. Sculic's New York Times article of December 9, 1971, be included in the Record.

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

DECEMBER 9, 1971

HON. WILLIAM P. ROGERS, Secretary of State, Department of State, Washington, D.C.

DEAR Mr. SECRETARY: In this morning's New York Times, it was reported that the United States and Portugal had negotiated an agreement for the future use by the United States of air and naval bases in the Portuguese Azores. It was further reported that the funds to institute such a program, with economic aid in return for the use of the bases.

While questioning the right of the Executive to negotiate agreements of this sort, I would like to receive your assurances that any final agreement will be submitted as a treaty for the Senate’s advice and consent, and that no economic assistance will be furnished to Portugal without affirmative action by both Houses of Congress.

There is no question in my mind that in and of itself, the stationing of American troops overseas is an issue of sufficient importance to necessitate a separate process. It is unfortunate that American forces have been in the Azores since World War II, without any War Powers Act agreements, but this past oversight In no way justifies the enactment of a new agreement without full wherefore our Constitutional processes.

Similarly, the Executive has the right to discuss with any foreign government the furnishing of economic aid to Portugal. But our Constitution clearly establishes that the Congress must act (and hence authorize the funds necessary to make it possible. Congress has provided the President with certain discretionary authority to make charges in the event of foreign aid funds, but the clear intent of Congress has been for this discretionary authority to be used in emergency situations. The new agreement with Portugal is one in which the Executive must act immediately and thus would not have time to come to Congress for authorization.

Finally, I would point out that the furnishing of economic aid to Portugal is complicated by the fact that Portugal is involved in colonial wars in Africa. You stated in New York Times on March 26, 1970: "As for the Portuguese territories, we shall continue to believe that their peoples have the right of self-determination. . . . Believing that resort to violence is in no one’s interest, we imposed an embargo in 1951 against the shipment of arms for use in the Portuguese territories." Yet there would seem to be a clear tie between the furnishing of economic aid to Portugal and the welfare of its colonies. The New York Times said this morning: "The loans could reduce pressure on Portugal’s foreign reserves, which are under considerable strain because of the need to import foodstuffs in part because of the war in Angola, Mozambique and Portuguese Guinea."

This additional complication is an added reason that the Executive should seek the advice and consent of the Senate before final action is taken on the report on agreement with Portugal. I am convinced that you will agree and I await your affirmative response.

Sincerely, CLIFFORD P. CASE, U.S. Senator.
Congressional Record — Senate

December 10, 1971

United States and Portugal to Sign Azores Pact

(By Ted Stoel)

WASHINGTON, December 8—Senior Administration officials disclosed today that the United States and Portugal had negotiated a five-year extension of the wartime agreement granting the United States the use of air and naval bases on a strategic island in the Azores.

The pact is to be signed this week, before President Nixon flies to the islands late this month. Portugal is a member of the military alliances in the Atlantic on Sunday to meet President Pompidou of France and Portugal's Premier Mario Soares.

The pact extends the facilities agreement for economic aid to the Portuguese for the first time in this quarter-century-old relationship with the United States.

The pact replaces one that lapsed nine years ago and could not be formally renegotiated until now because of profound differences between the two countries, especially over African politics.

PACT EXPIRED IN 1962

Although the last in a series of Azores agreements expired in December, 1962, the United States was permitted to continue using the facilities on Terceira Island under what has been described as the "good offices of the Portuguese Government."

Officials said that the present plans were for Secretary of State William P. Rogers and Portuguese Foreign Minister, Rut Patricio, to sign the new defense agreement in Brussels tomorrow.

Both are attending this week's ministerial session of the North Atlantic Treaty Organization Council and, according to informants here, are said to find the agreement workable.

The European sessions of the North Atlantic Treaty Organization Council and, according to informants here, are said to find the agreement workable.

The headquarters of Derrint, the Western Command of NATO, have been in Lisbon since 1966.

The original Azores agreement, signed in February, 1946, provides that "there shall not be due for the utilization of the aerodrome and of the various installations the payment of any tax or rental."

State Department historians said records showed Portugal as the only country receiving no economic aid from the United States in connection with a military-bases agreement.

However, Portugal has received military aid, although by agreement American military personnel are not to be used. Portugal has the映 to guard against guerrilla rebels in African territories.

This year, officials said, Portugal indicated it wanted a formal agreement on the Azores arrangements which dated back to transit rights for United States aircraft during World War II.

But this time, they said, Portugal requested economic assistance and the United States agreed to supply it in the form of long-term loans for farm commodities and financial grants for educational projects.

In addition, according to officials, Portugal will receive a trawling vessel for fisheries research.

UNEMPLOYMENT AND HUNGER IN SEATTLE

Mr. McGovern. Mr. President, recently the Select Committee on Nutrition and Human Needs, of which I have the privilege to be chairman, issued a report on unemployment and hunger.

The report detailed the severe economic conditions affecting the Seattle area and the attempts by local people on a volunteer basis to meet their hunger needs. The report also detailed efforts by local officials to get approval for emergency food aid from the Department of Agriculture and the Department's refusal to grant that emergency aid.

In The Seattle Times' Wall Street Journal, there appeared a story with the headline, "Japanese Foreign Aid Sent to 'Hurt Hungry'—In Troubled Seattle." This story describes the generous gift of Seattle's Japanese sister city, Kobe, in shipping a thousand pounds of food and rice needles to the poor in Seattle. I applaud this act of humanitarianism by the citizens of Kobe and can only wonder why our own Government cannot provide assistance to our own people.

This week, a Federal court judge in Seattle found that the Secretary of Agriculture in violation of the 1971 Food Stamp Act in refusing to grant the emergency assistance sought by Seattle. On Tuesday, I wrote the new Secretary of Agriculture, Dr. Butz, asking that he act promptly with the court ruling. I fervently hope that Dr. Butz will see fit to do so. I would like to submit for the record the news article from the Wall Street Journal of today and the press release issued Tuesday on my letter to Dr. Butz.

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

McGovern Urges Buts Demonstrate Hunger Commitment by Complying With Federal Court Order on Emergency Food Aid; for Senator George McGovern (D-SD), chairman of the Senate Select Committee on Nutrition and Human Needs, the report on unemployment and hunger is at the same time a reminder that the Senate is moving to provide emergency food assistance to Seattle, Washington, as ordered by a federal court decision yesterday.

McGovern said that during his recent fight to achieve Senate confirmation, Secretary Butz affirmed his commitment to provide emergency food assistance to Seattle, Washington, as ordered by a federal court decision yesterday.

McGovern wrote McGovern that:

"I know of the efforts that this Administration and the Senate Select Committee on Nutrition and Human Needs have made in combating hunger and malnutrition and I fully support President's anti-poverty efforts to eliminate poverty related hunger and malnutrition in this Nation."

"Since the President's historic 'Hunger Management' May 6, 1969, the accomplishments comprise the largest and most successful nutritional undertaking in all history."

"I will give high priority, as Secretary of Agriculture, to continued USDA efforts to reach the President's anti-poverty goals and to move toward improvements in the programs to feed needy families and to improve the nutritional health of this Nation's children."

McGovern, in a letter sent to Butz today, said: "There could be no finer way of demonstrating your commitment to ending hunger in America than by reversing the Department's previous position denying emergency food assistance."

McGovern cited a recent staff report by the Select Committee, "Seattle: Unemployment, the New Poor and Hunger," which supported Washington State's request for the emergency assistance.

"There is clearly a demonstrated need for further food assistance in the Seattle area. The Food Banks indicate the usefulness and feasibility of a Direct Food Distribution Program. The Federal Government's Direct Food Distribution Program could be of vital assistance in alleviating the area's nutritional needs. The Agriculture Department has available funds available for its initiative authority to approve the State of Washington application to operate a Direct Distribution Program under the Food Stamp Program in the Seattle area. The Agriculture Department has taken the position that it does not have jurisdiction over the Seattle— or any other—jurisdiction. This position is clearly contrary to the intent of Congress, as expressed in the Food Stamp Amendments of 1970. The U.S. Department of Agriculture should approve the application of Washington State for concurrent programs forthwith."

The new Food Stamp Act passed during last Congress specifically authorized the concurrent operation in one area of the food stamp and surplus food programs, providing families did not participate in both programs simultaneously and the state or county was not administering the surplus food programs. Earlier this year, Washington State officially applied to the Agriculture Department for a surplus foods program for the state and the federal government has authorized the department to have food stamp programs. The state cited the severely depressed economic conditions as necessary to obtain the additional emergency food aid.

The Agriculture Department took the position that it was not required to implement the provisions of the new Food Stamp Act, permitting the operation of both programs, and furthermore, that Seattle didn't qualify anyway."
JAPANESE SEND FOOD TO JOBLESS IN SEATTLE  
(By Nick Kotsa)

Unemployed residents of Seattle, Wash., began receiving a shipment of fish from Kobe this week. At the same time, a federal judge ruled that the U.S. Agriculture Department had illegally withheld food aid from the city.

The foreign aid is coming from Seattle's sister city of Kobe, which shipped 1,000 pounds of canned food and rice noodles to the jobless poor.

Kobe decided to send the food to Seattle as a gesture of friendship after learning of the city's massive unemployment problem and of the unwritten rules of the U.S. government to distribute surplus food to under the commodity distribution program. The Japanese food is being distributed by Neighborhoods in Need, a church-sponsored privately operated food bank program.

On Tuesday, U.S. District Judge William Becks of Seattle, in a sharply worded ruling, declared that former Agriculture Secretary Clifford Hardin had unlawfully denied the city a food commodity program and thereby had "abused his discretion and acted in an arbitrary and capricious manner."

Sen. George McCOVGR (D-CA.), chairman of the Senate Special Committee on Aging, yesterday asked the new Agriculture Secretary, Earl Butz, to heed the court order. He reminded Butz that he had pledged support of food aid during the Senate fight over his confirmation. Earlier, Butz had been sharply criticized by the committee.

An Agriculture Department spokesman said yesterday, however, that the department has not yet decided whether it will accept the court ruling or to implement a commodity program or whether it will appeal the decision to the Ninth Circuit Court of Appeals.

The legal dispute concerns the unwillingness of USDA to utilize a provision of the 1971 Food Stamp Act, which permits a county, in emergency situations, to operate both the food stamp program and the commodity distribution program.

USDA has contended that both programs were not needed in Seattle, and said it would not permit any county to have both food programs.

The Nixon administration therefore turned down a bipartisan request that came from the city, county officials and the city's congressional delegation. The officials also unsuccessfully presented their case to former Seattle attorney and now the President's assistant for domestic affairs.

They pointed out that 160,000 persons are now unemployed in Seattle, which has been hard hit by cutbacks in the aerospace industry, and that many unemployed cannot qualify for food stamps or afford them. The city's unemployment rate, well over 15 per cent, is the nation's highest.

The Senate Select Committee on Nutrition, in a report entitled "U.S. Unemployment, the New Poor, and Hunger," said that thousands of engineers, technicians and other workers who had too much in assets to qualify for food stamps. Others couldn't afford to pay for stamps and could not make donations to their homes, autos and insurance policies.

The lawsuit in behalf of Seattle's "new poor" was filed against USDA by Ronald Pollack, an attorney for the Center on Social Welfare Policy and Law, which is based in New York City.

Judge Becks ruled that the Agriculture Secretary had acted unlawfully by establishing national policy against permitting any commodity programs. In the Seattle case, the judge said the Secretary's action was "arbitrary and capricious and an abuse of discretion."

ADDRESS OF SENATOR FRANK CHURCH, BEFORE THE WHITE HOUSE CONFERENCE ON AGING

Mr. WILLIAMS, Mr. President, one of the most well-received speeches at the White House Conference on Aging last week was delivered by Senator Frank Church, chairman of the Senate Special Committee on Aging.

As immediate past chairman of that committee, I took special interest in the address and in the facts and challenges presented by Senator Church to many of the 3,400 delegates gathered for that Conference.

The senior Senator from Idaho asked bluntly whether the Nation is advancing or falling behind in the effort to assure genuine security and fulfillment in retirement.

Reluctantly, he had to conclude that needs are multiplying while response falls short of very pressing demands. He gave evidence: an increase in the number of elderly living in poverty during the last 2 years; committee findings that at least 6 million older Americans live in unsatisfactory quarters; widespread unemployment of older workers; and much more.

But the Senator did more than comment on present inadequacies. He called upon Republicans and Democrats alike to use the momentum of an election year to make certain that conference recommendations are implemented in the early part of the '70's.

Mr. President, Senator Church's address should be shared by those who could not hear him from directly. I ask unanimous consent to have the prepared text reprinted in the Congressional Record.

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

ADDRESS OF SENATOR FRANK CHURCH, BEFORE THE WHITE HOUSE CONFERENCE ON AGING

"Congress clearly intended that in areas experiencing severe economic hardship, dual operation (of food programs) should be permitted," Judge Becks said. "Large numbers of the poor are finding it impossible to obtain adequate nutrition with the food stamp program because their net incomes are too low to afford food stamps. . . . If dual operation cannot gain approval here with the unemployment program, then the act has been rendered null.

Judge Becks ordered Agriculture Department action with the following statement: Where, as here, the facts clearly indicate that the request concerns an area that qualifies for dual operation by virtue of its severely depressed economy, the Secretary has the duty to approve that request.

If, after such a request has been approved, the state presented a plan for distribution of commodities which otherwise satisfy our guidelines established by the regulations, the Secretary would have no choice but to approve the plan.

The courts may enjoin federal administrative action or inaction when it is violative of legislative enactment.

ABSENCE OF HOMOGENEITY is evident in the exceptional circumstances in this case. Finally, McCOVGR, in his letter to Butz, said that he believed this decision represented an historic breakthrough in the fight to end hunger and malnutrition.

This decision means that the Federal Government must not turn a blind eye in its arsenal to eliminate hunger in the country," McCOVGR said. "In recent years, the problems of hunger and unemployment associated with the job poor, has begun to hit the millions of newly unemployed working people."

"Working people are people who aren't just holding their hands out, but who do need an extra helping hand. The Agriculture Department should now move swiftly to extend that helping hand."

[From the Wall Street Journal, Dec. 13, 1971]
problems as varied as long-term care, the elderly blind, minority group needs, and consumer interests.
I believe in words for you, but only 15 minutes worth. The planners of this particular part of the Conference must have sensed this would be a good time for a short talk.
And this is good because it encourages me to lead you through, this time, those chosen few key facts that may fit in here just before you write your recommendations.
What, then, is my major message today? I believe that the budget is up very importantly.
To put it bluntly, I think we are falling behind—not advancing at all—in our national concern for adequate income security and fulfillment in retirement.
That may be a shocking statement, but it is certainly true. It is important to today and foreseeable facts of the future.
My first hard fact is the Congress has had to fight all year to prevent a retreat in key areas related to aging. When the Administration submitted its budget request for the Older Americans Act that was actually lower than the modest amendments to the Older Americans Act—Republicans and Democrats alike—took up the fight, restored the previously increased funding for the Older Americans Act.
And as the President signed the appropriation to almost $45 million.
That sum is less than half as much as we contributed to the Greek Army. It is a great deal less than just the flight deck of that billion dollar aircraft carrier the Pentagon is talking about.
Once the budget for the AOA had been settled, my Committee and Tom Eagleton's Subcommittee on Aging conducted hearings on the conduct of this White House Conference. I'm happy to report that hearings do have an effect: just a few days before the final markup was to begin, the full-time chairman of the House of Representatives, late Senator Richardson reversed his policy on abandonment of more than 20 nutrition programs. But the biggest dividend of those hearings was good, honest analysis of the impossible position of the AOA as it now stands. I appointed an Advisory Council to make proposals for improving the AOA or replacing it, when the present law expires.
Congress and the Administration have had other disagreements on aging in the last year or so.
On Capitol Hill, for example, many of us agreed on the need for a cost-of-living adjustment mechanism for Social Security, but we can't see why the Administration has been willing to settle for a low base on which to build the escalator.
My own personal goal is to end poverty among older Americans. And I have sponsored a proposal calling for the use of the Social Security system as the elevator for lifting nearly 8 million elderly persons out of poverty. No old-age retirement system is worthy of the name, which leaves fully a fourth of the elderly on incomes below the government's own poverty level.
I've described just a few conflicts between Congress and the Executive Branch—not in the national interest. And I have spelled out why I think our present national effort is lagging. I believe that the recent Democratic Ad Hoc Committee report and the Older Americans Act—failed to go far enough and must share their part of the responsibility for this. Age is now in crisis and the time is ripe for coalition action by members of both parties during the 70's. On that point, I might refer you to the minority views of the House Conference report and in our most recent annual report. On all key points, as Senator Fong may tell you later, there is fundamental agreement on goals. When it comes to the details of program, there is room for a "game plan" based upon shorter-term political tactics seeking narrow partisan advantage.
It's already much too late to play games or to stall or to explain why this or that hasn't been done—or can't be done—for older Americans today and tomorrow.
I mentioned hard facts before. Let me give you more now.
Our nation and the Older Americans Act of 1965, said that one of its goals was an adequate Income for the elderly. And yet in 1970, for the first time since the program started, 10 more elderly persons throughout the land slipped below the poverty level. One out of four persons past age 65 is poor.
Our nation, in the Housing Act of 1968 made proud statements about good shelter for all Americans within a very few years. And yet, as far as the elderly are concerned, there is ample reason to fear that we are falling behind. The Committee estimates that states that receive the $350,000 Federally-supported units have been built in the last 10 years. How do we catch up? And what do we do with the property tax that are driving many elderly homeowners to despair?
Our nation, in the Employment Act of 1946, declared that it would no longer tolerate widespread joblessness. And yet today, at this very moment, among the millions of Americans now without work are 1 million persons past age 45; the so-called "older workers." Employment will be far longer than for younger workers. Their pension benefits and Social Security of the future will be far less than might have been.
The Committee estimates that the generation of elderly poor may be in the making. What do we do about them?
Our nation, in passing Medicare, pledged itself to adequate medical treatment for the elderly. And yet, within the past two years, Medicare is costing more and providing less. Cost control is one thing, but widespread abandonment of responsibility is another.
Here again, we are losing ground.
As for transportation: Our urban and rural America alike, it is becoming harder, instead of easier, to get from one place to another.
Consider the trend. It is backward, not forward. And if our overall national effort is being renewed, we must consider what is in store for us in the years ahead.
Between now and the turn of the century—just 29 years away—between 45 and 50 million of today's middle-aged persons will enter the 65 years-and-up age bracket. Ten times the last two million persons entering a retirement way of life which is already strained for most and bitter for many.
Will today's failures be deepened, or will the pressures of sheer numbers and sheer need finally force the government to act? I think you know my answer to that question. Despair never solved anything. Game plans are only part of the action, add only deception to despair. But when it comes to aging, I think we have passed beyond either deception or despair.
I mentioned before that I believe that coalitions for action are essential during the 70's.
I mentioned before that I believe that coalitions for action are essential during the 70's.
What I mean is that Republicans and Democrats alike should use the momentum of an election year to make certain that the recommendations of the conference are implemented in the early part of the 1970's.
What I mean, too, is that we should be moving forward to some self-satisfied assumptions, running far beyond the field of the aging, far beyond even such questions as new directions for Social Security, new ways of providing and paying for health care, and other such vital policy matters.
What I mean, fundamentally, is that this nation needs to question and challenge our national and in other ways in the years ahead and we have gone back to the drawing board in search of needed changes.
We are questioning the injustices toward racial minorities and we are finding much to question in our use of our land, our water, and the plants and animals we use.
Now we must ask questions about the very health of our nation and the well-being of each and every one of us in our land.
Our treatment of the elderly certainly tells us whether we are sound or sick as a nation. If we are indifferent toward the last years of life, we diminish the dreams of all our people.
Let us respond to the dynamism of this Conference. What the needs are and what demands of those who built this country, her senior citizens.

THE SITUATION IN INDIA AND PAKISTAN

Mr. MCGOVERN. Mr. President, I have been watching the situation developing in East Pakistan since the end of March of this year when I first discussed the matter in the Senate. Virtually all of the developments on the Asian subcontinent have that time have deepened my concern about the chances for peace and stability in the area.
The reaction we have seen in the past few days to the invasion of East Pakistan by Indian forces and to the invasion of India by the forces of West Pakistan loses sight of the broader development of events in those areas.
In elections held in Pakistan, the Awami League swept the vote in East Pakistan and thus obtained a majority in the Pakistani Parliament. The government in West Pakistan was not willing to accept this result, even though it was the democratic expression of the Pakistani people. On March 25, the Pakistani Government moved to suppress opposition to the status quo and to nullify the electoral victory of the Awami League.
The initial reports we received from East Pakistan indicated that the United States had placed itself in the position of providing military support to the West Pakistan Government, which inevitably helped that government in its policy of suppression in the East. As early as April, it was clear that we should not provide any military assistance to Pakistan. Furthermore, we should, at that time, have informed the Pakistani Government that all military aid would be cut off unless we could be relatively sure that such assistance was entering both parts of the country.
Mr. President, I urged such a policy on our Administration. The Administration was not only a continuation of one-sided economic assistance but the resumption of arms deliveries to the Government of East Pakistan.
The logical inference, which I brought to the attention of the Secretary of State,
was that in return for the assistance provided by the Pakistani Government to Mr. Kissinger in establishing contact with Peking, the United States had agreed to a large increase in the Paki-
sitan policy in East Bengal. This, of course, the State Department denied.

So, one of the great unexplained gaps in our policy is why the United States refused to give any legitimate moder-
ing influence on the Government of Pakistan. No amount of explanation after the fact by the administra-
tion seems able to answer that question. No official statements issued now can explain the administration’s silence while the people of East Bengal were slaughtered, or terrorized.

From the moment that the refugee re-
guees began to stream into India, the Pak-
sitans situation became an international
situation. At that time, the matter should
have been brought before the United Nations, and the diplomatic effort should
have been made by the United States to take this step or any other action to cool off
the situation, we saw another inexcusable march toward war.

In many respects the war now taking place between India and Pakistan is
merely the extension of the conflict which gave rise to the creation of a Hindu state and a Moslem state on the
Asian subcontinent in 1947. Because we
should have known that the potential for
renewed war between India and Pakistan
was so great, we should have been imper-
tially to even greater efforts to divert
the course of events. It is a strangely good moment for man-
kind when the forces of one nation in-
vased another. Yet this has happened
now with both India and Pakistan con-
strained to fight a war on two fronts.
The brutal wounds in Kashmir have been
brutally torn open.

We can regret the Indian invasion. But
simply to regard the invasion as an iso-
lated event is right. Yet there is a
further responsibility made ready to take
immediate action against India despite the fact that it
allowed, even encouraged, Pakistan to escalate the situation to the point of war.

Now we are called upon to play an ac-
tive role for peace. Instead we see an ad-
ministration which prefers to sit on the
sidelines, apparently because it recogn-
izes that direct American military inter-
vention is impossible.

We should, both unilaterally and
through the United Nations, seek an im-
mediate cessation of hostilities. Let those in this country who wish to resume the responsibility for opposing such action be clearly identified. We should not throw up our hands because we know in advance that there may be a veto among the big five nations. After
that, we should adopt a constructive proposal. And in
stead of a policy of petulance and par-
tiality, we should use our considerable in-
fluence to bring all parties to a cease
fire and then to the negotiating table. That
means the Indians and the Pakistanis, the
Pakistan Government and the Awami League.

And we must recognize that the out-
come of these talks will allow for the
recognition of either the autonomy or
the independence of Bangla Desh. There
is no turning back the clock to elections
which would have allowed for democracy
in Pakistan. We cannot reasonably ex-
pect the United States to encourage the
people of East Bengal to place
their trust in the government in West
Pakistan.

Finally, we should take urgent action,
direct if necessary, to insure that the
flow of refugees continues through to
those in greatest need—refugees and
victims of the cyclone. And we need to
push for the immediate release of foreign
nations who are now trapped in the
war zone. The United States can do more
on these matters than sit back and wring
its hands.

Most importantly, we should seek to
understand the fullness in our own pol-
icy which have helped bring about the
present war. I hope we have learned the
lesson of Vietnam. But, even if we have,
that is not enough. We have still to learn
how to use our strength and influence to
promote peace. The senseless and
wasteful killing now going on in the
Asian subcontinent shows that the time
for wisdom instead of grandstanding is
long overdue.

DRUG ABUSE LEGISLATION

Mr. TUNNEY. Mr. President, on No-
ember 29, 1970, I introduced a bill, S. 2909, the Drug Abuse Research and Educa-
tion Act of 1971. That bill was the product of ex-
tensive research and consultation with
drug abuse experts throughout the coun-
try.

Two weeks ago I reintroduced that
legislation as a floor amendment to S.
2997, the comprehensive drug bill which
was being voted on by the Senate. Dur-
ing those days a large number of ac-
demic and professional persons working
in the field of drug abuse wrote to me
expressing their strong support for S. 2997 and offering many helpful com-
ments. I have attempted to incorporate
as much as possible of their recommenda-
tions in the floor amendment.

During the debate upon my amend-
ment on the floor, a number of my col-
leagues urged that I refrain from bring-
ing it up this year because of the many
difficulties they had encoun-
tered in arriving at a bipartisan com-
promise on S. 2997. The Senator from
Iowa (Mr. Hughes), chairman of the
Alcoholism and Narcotics Subcommittee,
was particularly gracious and helpful in
offering to move forward with early hear-
ings on S. 2909 in the coming year.

In view of that offer, and in or-
der to allow a prompt vote on S.
2997, I agreed to withdraw the amend-
ment and to work with Senator Hughes
to develop productive hearings on S. 2999
early in the next Congress.

Mr. President, since that time a large
number of drug abuse experts have con-
tinued to communicate their very strong
support for my bill and I feel that the
commits will be most useful in analyz-
ing the merits of this legislation. I there-
fore ask unaminous consent that the text
of some of their letters be printed in the
Record.

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

WASHINGTON UNIVERSITY
SCHOOL OF PROFESSIONAL MAGAZINE
December 3, 1971.

SENATOR JOHN TUNNEY,
U.S. Senate, Washington, D.C.

SIR: I would like to let you know that I
vigorously support your bill S. 2999. The
need for research funds, for the multidiscip-

nary character and for extended support
of investigators in the drug abuse field is
much needed.

Sincerely,
ERNEST OCHS, M.D.,
Professor of Head of the Department.

UNIVERSITY OF CALIFORNIA,

HON. JOHN TUNNEY,
Senator from California,
U.S. Senate, Building,
Washington, D.C.

DEAR SENATOR TUNNEY: I was delighted
to receive your letter of December 6th and
wanted to express my great interest the
speech which you gave on
November 3, 1971 recommending the Drug Abuse
Research and Education Act.

I am fundamentally in agreement with
the points made in your speech, and especially
agree with the importance of developing long-
term programs for research, training, and
training in psychopharmacology. Your
suggestions that there be regional centers
strike me as very good, and I have no ob-
jection to their being organized under the
auspices of the National Institutes of Mental
Health.

What concerns me, of course, and I'm sure
do you too, is that there might be in
any new effort, whether crisis oriented or
long term, a danger of further diluting the
medical influence in terms of coping with
drug problems. That problems of drug addic-
tion especially have become so deeply en-
tangled in legal issues and law enforce-
ment is most regrettable, and it seems to me
very essential that continuing efforts be made to
understand the psychiatric and socio-cultur-
als aspects of drug taking and to get away
from the punitive approach. On the other
hand, I am not at all opposed to control and
control and regulate the use of drugs, and
particularly the mind-affecting drugs, since
these drugs can get away from control
other than specifically therapeutic purposes
could have most serious consequences.

In short, I congratulate you on your
courageous efforts and will do whatever I can to lend support to your proposals.

Sincerely yours,
PETER F. OCHS, M.D.,
Professor of Psychiatry.

UNIVERSITY OF CALIFORNIA,

Senator JOHN TUNNEY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TUNNEY: This is in reply to
your letter of November 19, 1971. I am sorry
I have not been able to respond to this
message to my being away from my office.

It may be too late to comment on your pro-
posal, but, nevertheless, my comments are as
follows:

Needless to say, the problem of drug abuse is certainly a current and popular one and af-
ficts a great number of people, especially in
our urban centers. The reports from large
numbers of individuals with severe drug prob-
problems who are addicted to narcotics are frightening. Therefore, your efforts in this area are timely and long
overdue. Your humanitarian concern in these
and associated problems has been known and
respected.

I have studied your proposal S 2999 and have
discussed it with colleagues at the In-
stitute. We all agree that funds to support
personnel will stimulate scientists in this
area. It will also stimulate the development of a new understanding of the need to make certain that people are more interested in this area. It will provide good research as expected from good people that may offer increased knowledge of the disease itself. The mechanism will also provide clinicians to develop services for people suffering from this affliction. This program would secure whole hearted support.

There is some question I would like to pose for your consideration concerning the development of drug treatment centers, particularly to drug problems. I have serious questions about providing centers for categories of patients. For example, children are poorly served in this country, and yet we have comprehensive mental health centers, mental retardation centers, and old age homes. The children's funds, etc., each providing a service for a particular disorder or disease confronting the child and his family. We do not treat the child, but someone who may or may not be eligible because he has or does not have a particular disease entity. To secure services for a mentally retarded, he needs to have an I.Q. below a certain figure and if he unfortunately falls above it he is not eligible. To categorize and separate services on the basis of addiction or abuse of drugs, I think, falls into the same category of fragmentation in training, seminars, and publications.

There are a number of centers throughout the country who have secured research funds or have utilized their own budgets to develop these services. In this state our Langley Porter Institute is a group actively engaged in this area. I know that this is true of many other centers throughout the country. It would seem to me to be more efficacious to develop, through financial support, centers already established and work already in progress. In this way we would reduce some of the difficulties posed by the development of fragmented services and resources; at the same time further enhance what is already in progress.

I hope this information may be useful to you. If I can be of any further service, please let me know. It was very good to meet with you last May to discuss mental health training programs. You certainly were very helpful to me.

Sincerely yours,

Irving Philips, M.D.,
Clinical Professor of Psychiatry
University of California

John V. Tunney
U.S. Senator
Washington, D.C.

Dear Senator Tunney: We were delighted to review your bill S. 2809 authorizing the establishment of regional centers of excellence in drug abuse research and education.

Not only do we agree that earlier, cost-effective, crisis-oriented drug abuse education and prevention efforts must be superseded by more comprehensive and drug-disrupting efforts, but you will perhaps be pleased to hear that independently, we have developed a collaborative effort on the basis of the efforts described in our grant proposal a "multi-disciplinary program in drug abuse and drug dependence." Including research, education of drug abuse personnel at all levels, model treatment projects, experimental therapeutics, training for professionals in the health sciences, and public education. This center in drug abuse is being established to utilize the unusual collection of resource persons present on the San Francisco and San Diego campuses of the University of California. Multi-disciplinary efforts will be well embedded within a matrix of model, ongoing drug abuse treatment programs. The clinical settings to be used for the training are the Health Care Services Treatment Program at UCSD, a multimodality program with over 400 patients in treatment at any given time, the new 550 acre Deer Park Residential Treatment Center, the Haight-Ashbury Clinic, the original free clinic developed for assisting abusers of both hard and "soft" drugs which, through the NIMH support, has developed a variety of medical and psychiatric services.

The idea for a Community Drug Abuse Service was first proposed at a series of meetings which were held in 1971 involving the leaders of the City of California. At that time, the University leaders agreed that San Francisco was the ideal location for a center which would attempt to combat the growing drug abuse problem in California and the United States by developing comprehensive, multidisciplinary services to the community. National experts are available as consultants on our campus. Directors: Bascom and clinical pharmacology; toxicology; neuropsychology; immunology and molecular biology; neurochemistry, cultural anthropology, sociology, community organization and health delivery systems, epidemiology, clinical program development and evaluation; clinical neuropsychology; psychiatry: research on drugs and drug abuse treatment modalities, paraprofessional training and other academic specializations. To date the University has developed a variety of research and education programs in drug abuse through its School of Dentistry, Medicine, Nursing and Pharmacy. It has advanced student-initiated community education projects, participated in the National Training Center in teacher drug abuse education, provided treatment through its Langley Porter Neuropsychiatric Institute, maintained legislative liaison through its Drug Abuse Information Project, and offered community and professional education through its Department of Continuing Education in Health Sciences.

Thus the University has made a decisive, long-term, long-range commitment to correct drug abuse problems which should enableness by increasing federal and state support.

Therefore, we not only support your bill but would like to discuss our joint efforts in more detail. Drs. David Smith and David Bentel, Co-Directors of the University-Wide Drug Abuse Education, would like to meet with your or your staff in Washington or San Francisco. We are prepared to do further investigation in any way possible.

Sincerely,

R. M. Featherstone, Ph. D.,
Center for Advanced Study in the Behavioral Sciences, Menlo Park, Calif., December 1, 1971.

D. E. Smith, M.D.,
S. Bentel,
D. Crim.

Center for Advanced Study
IN THE BEHAVIORAL SCIENCES
IN THE BEHAVIORAL SCIENCES
Washington, D.C.

Dear Senator Tunney: Thank you very much for your letter of November 18th regarding S. 726. I received this mail the day before I was away from my desk for a number of days. I have read S. 2809 with much interest and I am impressed by its thrust and its aims. While I'm totally in agreement with what you are trying to accomplish by introducing this legislation, I'm not certain that I am in accord with all of its provisions.

First, however, let me point out what I am hopeful will be a second phase in the establishment of centers of research and training in the field of drug abuse which I have supported for many years. I am an old hand in the field and as a member of, and then chairman of, the Scientific Review Committee for Studies of NARCOTIC and Drug Abuse in NIMH. At one time, I along with several other interested scientists at Boston University, were negotiating with NIMH to establish an Institute of Studies of research centers at the Boston University School of Medicine—it fell through for a number of reasons having nothing to do with NIMH but I still think that it was a good idea. I am also pleased to note that the NIMH has made another drug program in the field of drugs with dependence liability— I think that this is a necessary and eminently reasonable step toward guaranteeing that a significant number of excellent people will devote a meaningful portion of their scientific career to the field of drug abuse.

There are, however, a number of features of S. 2809 to which I take some exception. I feel that by giving some attention to these a stronger bill will be produced, and the goals which you have outlined in your introductory statement will be achieved.

In the first place, I am opposed to the concept that the centers such as those outlined in your proposal should be considered on a fiscal year basis. There is no need in the existing centers of research in this field to contemplate further fractionation of talent and resources. It would seem much more parsimonious to beef up the existing places where interest in drug addiction research has been high, make them truly interdisciplinary and let them develop into much more effective centers of research and education. It would be fair to better have three or four centers which themselves could expand to establish community departments that are known to be good at the present time and that can be improved significantly. This way there would not be money to be robbed to pay Paul and our present meager resources of manpower and activity in drug abuse research would not be the wrong breaking point. Besides, I do not think that the funds that are contemplated in S. 2807 are sufficient to really establish a fund more than three or at most four centers. It would be a pity to dilute the funds in order to establish six centers simply to satisfy regional demands. I am certain that the nation and science would get much more out of expanding three or four existing facilities such as those at the University of Kentucky (and the ABC in Lexington), the University of Michigan, Stanford, U of San Francisco, Chicago, U of Washington, etc.

I hope that you give some attention to these suggestions and I will be more than pleased to meet with you or your staff to discuss this matter further. I look forward to meeting with you soon...
centers de novo and competing for knowl-
edgeable scientists, for trainees and for money.

In addition, although I am certainly in favor of the idea of supporting established and reputable institutions, I doubt whether there should be a mechanism for the training of post-doctoral fellows and of graduate stu-
dents. NIH has actually drastically
cut graduate and post-graduate train-
support, there are few sources for funds to carry out this function which is so essential to the continuing research and edu-
cation. I would suggest fewer career awards and much more money for training of young professionals who will be able to run their own centers, be eligible for the career awards. Without graduate and post-doctoral students there is no career award candidates worth considering.

Finally, I would like to urge very strongly that the idea of a separate institute dealing with drug abuse be approached with a great deal of caution. The fractionation of effort, the duplication of programs and the administra-
tive overlap can only hinder rather than help. I join with the entire scientific com-
munity in urging, as we did recently with reference to cancer research, that there be a splintering of NIH and NIMH be avoided and that NIMH be given the task of funding, directing, overseeing and evaluating the work in this field.

I hope that the above remarks will not be taken as an expression of opposition to S. 2699. On the contrary, I am in favor of the thinking that led to its drafting and of the idea that support for research in the fundamental mechanisms of action of de-
pendence-producing drugs must be forte-
coming on a permanent and meaningful basis because it is vital to the solution of the problems of drug abuse. I am also heartily in favor of a multidisciplinary and inter-
disciplinary approach and of support of cen-
ters for the exchange of ideas as well as the transmis-
sions of how, where and in what way this can be best done, can, I am sure, be worked out.

Sincerely yours,

JOSEPH COCHIN, M.D., Ph.D.,
Professor of Pharmacology
and Psychiatry.

HARVARD SCHOOL OF PUBLIC HEALTH,

HON. JOHN V. TUNNEY,
U.S. Senate,
Washington, D.C.

Dear Senator Tunney: I very much ap-
preciate your letter of November 18th re-
grading your plan to introduce a bill (S 2699) to authorize the establishment of a separate insti-
tution for research and education in drug abuse. This idea appeals to me very much, and I consider it a sound one, indeed one which must be implemented.

There is one complication to my expressing more than general approval, namely, that my work as Vice-Chairman of the National Com-
misssion on Marihuana and Drug Abuse makes it necessary that I not express myself too clearly about the bill that may good deal of study in balancing the various pressures from well-meaning but competing groups. Yet I feel that the Social Action White House group under Dr. Jerome Jaffe, the NIMH and other units in H.E. and W. the American Medical Association, the American Medical Societies (in which I also also active), and the forthcoming program being developed by a combination of private foundations there will be many good ideas and quite a few alternatives to be done. At the same time this process should not be so prolonged as to delay serious attention to the problems involved.

At this time, therefore, I will only express keen interest and general support for the concept of NIMH but will try to inform myself more adequately in the next three weeks.

My only present reservation concerns whether or not the size and scope of the pro-
gram you envisage is sufficient. But, there has to be a beginning somewhere.

With best wishes for the holiday season,

Sincerely yours,

DAVA L. PARNSWORTH, M.D.,
Consultant on Psychiatry.

NEW YORK MEDICAL COLLEGE,

HON. JOHN V. TUNNEY,
U.S. Senate, Washington, D.C.

DEAR SENSATOR TUNNEY: Thank you very much for your letter of November 18, 1971, and the attachment reprint from the Congressional Record, Vol. 117, November 3rd, which contains the text of S. 2699, and your remarks explaining its provisions.

Let me say that I am in whole-hearted agreement with the proposed bill and your proposal to establish a National Institute of Mental Health. I believe that your proposal represents an absolute minimum of what is needed if we are not to be sub-
merged in the tide of crime and the dis-
integration of our cities.

In thirty years of teaching and research as a full-time staff member of this medical school, and seventeen consecutive years as Chairman of the Research Committee of this Medical School, I have been a participant in the many debates on the problems of drug abuse. I am also heartily in favor of a multidisciplinary and inter-
disciplinary approach and of support of cen-
ters for the exchange of ideas as well as the transmis-
sions of how, where and in what way this can be best done, can, I am sure, be worked out.

Sincerely yours,

DAVID LEHR, M.D.

UNIVERSITY OF CALIFORNIA,

HON. JOHN V. TUNNEY,
U.S. Senate,
Washington, D.C.

DEAR SENSATOR TUNNEY: I have today sent the appended letters to Senators Hughes and Javits. I hope your bill enjoys the wide sup-
port it deserves.

With best wishes for the holiday season,

Sincerely,

JERE E. GOTAN

U.S. Senate, Office Building,

HON. HAROLD E. HUGHES,
U.S. Senate, Office Building,
Washington, D.C.

DEAR SENSATOR HUGHES: Senator Tunney forwarded to me a copy of the Congressional Record of November 3, 1971, describing Sen-
ate Bill 2699, The Drug Abuse Research and Edu-
cation Act. As chairman of the Alcoholism and Narcotics Subcommittee, I know you have a great interest in the problems which I have tried to inform myself more adequately in the next three weeks.

My only present reservation concerns whether or not the size and scope of the pro-
gram you envisage is sufficient. But, there has to be a beginning somewhere.

With best wishes for the holiday season,

Sincerely yours,

JERE E. GOTAN


HON. JACOB K. JAVITS,
U.S. Senate, Office Building,
Washington, D.C.

DEAR SENATOR JAVITS: Senator Tunney forwarded to me a copy of the Congressional Record of November 3, 1971, describing Sen-
ate Bill 2699, The Drug Abuse Research and Edu-
cation Act. As chairman of the Alcoholism and Narcotics Subcommittee, I know you have a great interest in the problems which I have tried to inform myself more adequately in the next three weeks.

My only present reservation concerns whether or not the size and scope of the pro-
gram you envisage is sufficient. But, there has to be a beginning somewhere.

With best wishes for the holiday season,

Sincerely yours,

JERE E. GOTAN

Center's young health professionals and para-professionals will have the opportunity to receive training. This will result in a much-needed increase in individuals committed to solving the many problems intertwined with drug abuse.

The strong positive statement concerning the establishment of centers of excellence in this community and throughout the country all point to the necessity and value of participation and commitment of individual physicians and other health professionals. At the present time, the University of California, San Francisco, School of Medicine, San Francisco Pharmacy and University of California, San Diego, Medical School on a grant proposal sent out by the Department of Health, Education and Welfare has been working with the University of California, San Francisco, School of Medicine. The Pharmacy has been involved in drug abuse research and education. The Rockefeller University, New York, December 6, 1971.

Hon. John V. Tunney, U.S. Senate, Washington, D.C.

Dear Senator Tunney: Thank you for letting me see the text of S. 2809 and your discussion of its provisions. I fully agree with the intent of the bill, which is to support vigorous research in the field of drug addiction.

However, I do have a reservation with respect to the concept of establishing regional centers for drug research. I may be wrong about this, but it seems to me that the emphasis on the locality of research is misplaced. It could lead to geographical rivalries and bargaining for these awards, rather than a direction of funds to institutions and centers that can use them most effectively for research. If we were discussing the administration of well-defined treatment programs, we would of course have to provide for centralized administration in order to avoid duplication and confusion. However, in the field of basic science the question is not where a discovery is made but who is capable of making it.

I am also concerned that the concept of research centers specializing in problems of drug dependence may tend to isolate research. A creative, meaningful effort is unlikely to follow if scientists are too much isolated from the general academic environment that is a necessary stimulus to their interactions. At this stage of the subject, I believe that drug addiction is best studied in diverse settings in university departments and that money would be best expended by making available generous, long-term grants to research universities by individuals of demonstrated ability, with research support for young investigators. I appreciate the effort that you are making to bring support to this urgently needed research.

Sincerely yours,

LEON R. DOLE, M.D.,
Professor and Senior Physician to the Hospital.

The University of Iowa, Iowa City, Iowa, December 2, 1971.

Hon. John V. Tunney, U.S. Senate, Washington, D.C.

Dear Senator Tunney: Your letter of November 28, 1971 addressed to Dr. Russell Noyes, Professor of Psychiatry, University of Iowa College of Medicine, has been forwarded to me for reply.

I have personally been involved in research, education and as well as treatment of individuals who are drug dependent and drug addicted, and have had the opportunity of my experience and interest. Dr. Noyes asked that I evaluate the Drug Abuse Research Education Act of 1971. I have read carefully the proposals and am in almost entire agreement with the proposal that you have made. I feel that it is imperative, as stated in your bill, that individuals who are talented and dedicated in this particular area receive adequate support of an ongoing nature. One of the problems of dealing with the drug abuse phenomenon has been the fragmentation of monetary support. Senator, countless agencies with the results that the bureaucracy is consuming a significant percentage of the money before it actually does anything.

I wish you success in your undertaking. If I can be of assistance at a later time, please do not hesitate to contact me.

Respectfully yours,

ROBERT M. BLITHE, M.D.,
Assistant Professor of Psychiatry.
CONGRESSIONAL RECORD — SENATE
December 10, 1971

press on with its long-range approach to the drug problem of this country and support it wholeheartedly.

Sincerely yours,
WALTER W. WINSLOW, M.D.,
Acting Chairman,
Department of Psychiatry.

VALLEY MEDICAL CENTER OF FRESNO,
Fresno, Calif., December 2, 1971.
Senator John V. Tunney,
U.S. Senate, Washington, D.C.
Re: S. 2809

DEAR Senator Tunney: Thank you for your letter and the copy of the Drug Abuse Research and Education Act Amendment. Permit me to express wholehearted support for such legislation as will promote the establishment and development of knowledge and ability to be directed toward managing this nation's tragic and massive problem of drug abuse and addiction. The provisions of your amendment certainly appear designed to promote the development of new sources to counteract this pressing problem. However, that needs further emphasis and development. Any resources and new knowledge acquired in the field of management of drug abuse will necessarily be limited unless they can be carried to the places where they are needed. As a practical matter, I would favor further legislative measures that would facilitate putting into actual practice the new concepts and new tools that are developed through the regional centers of excellence in Drug Abuse and Education.

Respectfully,
GLENN D. GARRETT, M.D.,
Assistant Chief of Medicine, Director Methodist Clinic.

UNIVERSITY OF MINNESOTA,
Department of Psychiatry,
Minneapolis, Minn., December 1, 1971.
Senator John V. Tunney,
U.S. Senate, Washington, D.C.
DEAR Senator Tunney: In response to your letter of December 18, regarding the submission of S. 2809 to S. 2807 in 1971, I am pleased to support efforts intended to facilitate the attack on drug abuse in this country.

Although I am fully in favor of the concept that you introduce in this amendment, I would like to see it used in a much more pointed fashion. For example, it appears to me that one of the major issues in dealing with drug abuse is the training of sophisticated workers in the areas of research, education, and treatment. Until such personnel are available in sufficient numbers I believe that the premature development of research and education centers could raise serious new issues. In planning the attack upon this important problem it should be recognized that the development of competence in this field requires time and great flexibility in the creation of new programs. It has been evident to me in the past that the funding of self-initiated programs without the prior development of sophisticated workers has served to impair rather than to enhance. Certainly the problems of drug abuse are so serious for a significant part of our population that they must be viewed as a matter of public policy and treated as a national challenge for many years in the future. As I read your bill I appear to recognize the need for flexibly and program stability over time, which I support.

I appreciate the opportunity to review this bill and to submit my views at this time.
Sincerely yours,
WILLIAM HAUPTMAN, M.D.,
Professor and Head.

MOUNT ZION HOSPITAL AND MEDICAL CENTER,
Senator John V. Tunney,
Washington, D.C.
DEAR Senator Tunney: I am happy to support your proposal (S. 2809) for the creation of research and education centers and for ongoing support to qualified scientists working in the field of drug abuse research. I am particularly pleased with the multidisciplinary emphasis of your proposal and with its concern for both basic research and community application.

The need for such a long-range plan is especially critical at this time as problems of drug abuse prove to be less of a passing fad and more likely to persist at all levels of our society. Much of the work done to combat drug abuse through education, treatment and law enforcement in the past few years has suffered from a lack of coordinated effort. In the haste to understand and deal with drug abuse as it has rapidly spread throughout the country, particularly to younger children and to many groups not previously prone to such problems, we have had to innovate many preventive and therapeutic strategies without the adequate research foundation. Your proposal for the encouragement of a long-range strategy for drug abuse research and development of educational and therapeutic programs should be enthusiastically supported by any serious workers in this field.

I am pleased to have repeated my support for this proposal and will be glad to provide you with any further comments or assistance you might desire.

T. SCHWARTZ, M.D.,
Chief, Division of Adult Psychiatry.

UNIVERSITY OF CALIFORNIA,
Senator John V. Tunney,
U.S. Senate, Washington, D.C.
DEAR Senator Tunney: I appreciate the opportunity to see the portion of the Congressional Record containing your remarks on regional centers for drug abuse research and education, and the text of S. 2809. I have just excerpted the views of Dr. James Teague of our faculty, who is more directly knowledgeable about such problems than I am.

We were most enthusiastic about your proposal for expanded and stable programs in support of further education and research in the field of drug abuse. Particularly, we were heartened by your emphasis on the need for ongoing support of such programs. That need for ongoing support is equally valid with respect to providing programs in the drug abuse field.

The only question we had about the bill as currently described was whether it would not be necessary to increase the amount of support after a while, since six million dollars a year for drug abuse research and education centers nationwide does not seem very great. At this point in time, that is no very great objection.

Thank you again for the opportunity to see this material. We would certainly endorse and support your proposals, and would want to express our appreciation for your interest in this very important area.

Sincerely yours,
DONALD F. KLEIN, M.D.,
Chief, Division of Adult Psychiatry.

DEAR Senator Tunney: I am happy to support your proposal (S. 2809) for the creation of research and education centers and for ongoing support to qualified scientists working in the field of drug abuse research. I am particularly pleased with the multidisciplinary emphasis of your proposal and with its concern for both basic research and community application.

The need for such a long-range plan is especially critical at this time as problems of drug abuse prove to be less of a passing fad and more likely to persist at all levels of our society. Much of the work done to combat drug abuse through education, treatment and law enforcement in the past few years has suffered from a lack of coordinated effort. In the haste to understand and deal with drug abuse as it has rapidly spread throughout the country, particularly to younger children and to many groups not previously prone to such problems, we have had to innovate many preventive and therapeutic strategies without the adequate research foundation. Your proposal for the encouragement of a long-range strategy for drug abuse research and development of educational and therapeutic programs should be enthusiastically supported by any serious workers in this field.

I am pleased to have repeated my support for this proposal and will be glad to provide you with any further comments or assistance you might desire.

T. SCHWARTZ, M.D.,
Chief, Division of Adult Psychiatry.

HILLSDALE HOSPITAL,
Senator John V. Tunney,
U.S. Senate, Washington, D.C.
DEAR Senator Tunney: Thank you for sending me the Congressional Record containing the material on S. 2809 "A bill to authorize the establishment of regional centers of excellence in drug abuse research and education, and for other purposes." Briefly, your plan to establish regional centers of excellence, and career awards in drug abuse research and education, makes eminent sense.

As a graduate of the Career Development Program of NIMH in Psychiatric Research, I can affirm that such programs are an extremely powerful resource for bringing young scientists into crucial areas. As you see it, the simple fact is that there are not enough well qualified teachers or researchers in the area of drug abuse research and education, and we have to grow our own and only such a career development program gives promise of accomplishing that.

Actually, I see the Career Development part of your bill as being almost primary to the regional center program. Sincerely yours,

ROBERT S. WALLERSTEIN, M.D.,
Chief, Department of Psychiatry.

THE UNIVERSITY OF TEXAS,
Senator John V. Tunney,
U.S. Senate, Washington, D.C.
DEAR Senator Tunney: Daniel Creson, M.D., has asked me to write a letter on behalf of the Interdisciplinary Community and Social Psychiatry here at the University of Texas Medical Branch in Galveston, regarding your proposed bill S. 2809. Our Division is relatively new, composed of a multiprofessional team, working in the area of developing both mental health programs and community services in Galveston County for diverse problems including alcoholism and drug abuse.

Frankly, bill S. 2809 is a refreshing proposal which openly acknowledges that sound research on a multidimensional problem such as drug abuse must be carried out within a year or a year-to-year basis. Furthermore, such large scale research would be a big step in providing the necessary information to help implement mental health prevention programs. Presently, most of the work in alcoholism and drug abuse research is greatly needed and programs which are unable to adequately explore underlying psychosocial factors. This bill, on its own efforts in alcoholism and drug abuse have been directed toward treatment and community education. From a preventive point of view, our need for updated research results and following education would be satisfied by regional workshops and the regional development of multiprofessional tools of evaluation.

However, it would make little sense for the purposes of the program to function independently of the National Institutes of Mental Health. Since bill S. 2809 is directed towards working within existing institutions of higher education, and also evidences a commitment to long-term research efforts in drug abuse, we can support and recommend S. 2809.

Sincerely yours,
DAVID A. LACERDA, Ph.D.,
Assistant Professor, Division of Community and Social Psychiatry.

HILLSDALE HOSPITAL,
Senator John V. Tunney,
U.S. Senate, Washington, D.C.
DEAR Senator Tunney: Thank you for sending me the Congressional Record containing the material on S. 2809 "A bill to authorize the establishment of regional centers of excellence in drug abuse research and education, and for other purposes." Briefly, your plan to establish regional centers of excellence, and career awards in drug abuse research and education, makes eminent sense.

As a graduate of the Career Development Program of NIMH in Psychiatric Research, I can affirm that such programs are an extremely powerful resource for bringing young scientists into crucial areas. As you see it, the simple fact is that there are not enough well qualified teachers or researchers in the area of drug abuse research and education, and we have to grow our own and only such a career development program gives promise of accomplishing that.

Actually, I see the Career Development part of your bill as being almost primary to the regional center program.
CONGRESSIONAL RECORD—SENATE

DECEMBER 10, 1971

ALBERT EINSTEIN COLLEGE OF MEDICINE OF Yeshiva University,Bronx, N.Y., NOVEMBER 27, 1971.

HON. JOHN V. TUNNEY,U.S. Senate,Washington, D.C.

DEAR SENATOR TUNNEY: Thank you for writing to me and asking for comments on your amendment to S. 2809, the Comprehensive Drug Bill (S. 2809). I have read it quite carefully and I support it most enthusiastically. Both for the support of scientists of high caliber to work on the problem of drug abuse I feel that in the long run, research and public health professionals who will be in charge of the implementation of the provisions of the drug bill which are aimed at dealing with the clinical and social aspects of the drug problem now facing us.

If the regional centers of excellence are properly set up they will attract first rate scientists and, if they have long-range funding, the chances of finding solutions to the vexing problems of drug abuse are greatly enhanced. It may be that the feedback from the regional and scientific recurrences of these organizations to our municipal, state, and legislative bodies may become so strong that a rational basis of legislation may emerge. For example, a greater consistency would be highly desirable in dealing with the dangers of alcohol, nicotine, barbiturates, marihuana, and opiates. Only through scientific research will we really learn how much harm these substances do to the body and society. It would also be important to determine what virtues these drugs might have in relieving pain, anxiety and depression, and that the functions listed under Sec. 203 address themselves to these questions.

I am pleased that in his Brave New World, he fantasized that the fictional drug soma could be used to produce pleasure at times when it might be badly needed. Man has always been and always will seek a chemical release from sorrow and pain. Through society may eliminate poverty as a source of pain, science is a long way to go in conquering the major disabling diseases, and the advent of death will always be with us. If people turn to drugs then must be a reason for it and it is up to scientists to find an alternative which is socially palatable. S. 2809 will help us find this alternative.

Sincerely yours,

MURRAY E. JARVIS, M.D.,
Professor of Psychiatry and Pharmacology.

MASSACHUSETTS GENERAL HOSPITAL,


HON. JOHN V. TUNNEY, U.S. Senate,Washington, D.C.

DEAR SENATOR TUNNEY: Thank you for your letter concerning S-2809. I am very enthusiastic about the idea of offering career research stipends to worthy workers in the field of drug abuse research. Such stipends are currently supported by a similar NIH Career Development Award, I could hardly think otherwise. The idea of using similar NIH structures to administer such a program seems particularly efficient and simple.

I am much less enthusiastic about the other portion of your proposal: to create six regional centers for research and treatment in drug abuse. Although the potential to be designed in a way to avoid many problems due to the waxing and waning of popular and political support for such regions, I feel that the hysteric reaction to the long-time problem of drug abuse is bound to fade in the future. Would it not be a more affordable amount of federal money to support en-
Congressional Record — Senate

December 10, 1971

Youthful activity in existing departments of pharmacology and medicine in existing medical centers? Another existing set of structures presently dealing with the drug problem are the community mental health centers, many of which are associated with large medical centers and medical schools.

In general I would most enthusiastically encourage programs designed to support talented individuals and improvements of the research and treatment resources rather than to create new administrative entities and new buildings. Admittedly, the existing research and treatment system is failing short of its potential in dealing with drug abuse problems. Support for expansion and development of currently existing potentialities would seem to be a comparatively efficient means of correcting these deficiencies. Furthermore, such support could greatly help to infuse new life into programs and research activities in medical centers which have fallen on hard financial times in recent years.

Thank you again for inviting my response to your proposals.

Very truly yours,
Ross J. Baldessarini, M.D.
Professor of Psychiatry
Chief, Neuropsychopharmacology Lab.

New York University Medical Center,
Hon, John V. Tunney,
U.S. Senator,
Senate Office Building,
Washington, D.C.


I am enclosing S. 2890. In my opinion, your proposal attempts to rectify a serious deficiency in our efforts to control and treat addiction. In the absence of new knowledge on the mechanisms of addiction, we will be obliged to continue to use the inadequate modes of treatment that are now available.

At the present time, there is a disproporation in the funds that have been allocated for research and training, considering the large amount of funding that will be made available for service programs. This disproporation is most obvious in the area of training. Those of us who have worked through the Federal Career Scientist Program appreciate the impetus that this kind of training program programs and the development of an area. A great part of the development of scientific research in Psychiatry can be traced to the Career Scientist Program of the National Institute of Mental Health. The Career Awards Program proposed in your amendment would be a step toward establishing a cadre of competent scientists working in the drug abuse field.

The development of the Regional Centers would serve many purposes. For one, there is presently a serious danger potential in the uncontrolled propagation of methadone maintenance treatment programs. While I feel that these programs are necessary in the present crisis, the distribution of methadone, which is currently carried by psychiatrists, should be under the control of well qualified physicians.

The Regional Centers that you propose could serve as a consultative nucleus for the various maintenance treatment programs in the region and perhaps serve to raise the standards of practice in the various drug treatment programs.

I am extremely interested in further findings into the possible mechanisms of craving, tolerance, and withdrawal and have been recently occupied with this question but that your proposal would expedite the more rapid development of these promising leads.

I am very happy to support your proposal in any way that I can. I have written to Senator Javits and Hughes expressing my support and I have asked my interested colleagues to do the same.

Sincerely,

Arnold J. Friedhoff, M.D.
Professor, Director
of Millhauser Laboratories.

University of California,
San Diego,
La Jolla, Calif., November 24, 1971.
Senator John V. Tunney,
U.S. Senate, Washington, D.C.

Dear Senator Tunney: This is in response to your letter of November 18, 1971, forward- ing to me a copy of your letter of November 3, 1971, Congressional Record containing a copy of, and discussing S. 2890, "The Drug Abuse Research and Education Act of 1971".

I strongly support the concept outlined in the bill. The proposed regional centers would respond to the need for preparing manpower to cope with drug abuse and to conduct and coordinate research in drug abuse and related areas.

Sincerely yours,

Clifford Grobstein,
Vice Chancellor for Health Sciences and Dean of the School of Medicine.

University of California,
San Diego,
La Jolla, Calif., November 24, 1971.
Hon. John V. Tunney,
U.S. Senator from California, U.S. Senate, Washington, D.C.

Dear Senator Tunney: This is in reply to comments on, and seeking support of S 2890, the "Drug Abuse Research and Education Act of 1971", which you recently introduced. I feel that your legislation was either too broad or too narrowly focused. I did not neglect to deal with my letter to the American Society for Pharmacology and Experimental Therapeutics. Your letter was referred to me as current president of that Society.

I am not qualified to evaluate critically the various provisions of the bill, since I am not an expert in the field of drug abuse, nor have I seen S. 2890, so which S. 2890 is offered as an amendment. In view of this, I am sending your letter and the excerpt from the Congressional Record containing your bill, to Harry A. Winston, M.D., head of the Society's Committee on the Non-medical Use of Drugs. I am asking Dr. Williams, who is Professor of Medicine at Emory University, Medical School, Atlanta, to seek your comments on S. 2890 in behalf of his committee.

I can state on behalf of my Society that we strongly feel that the federal government should encourage and support an expansion of research activities directed at solving this major national problem of drug abuse. Additional resources, manpower and effort are needed in the areas of education, research and treatment. We hope that legislation to meet these needs will soon be enacted. Although I am not prepared to comment on the many details of S. 2890, I certainly agree with its major objectives. I would also say that you that for a program of the type proposed, the National Institute of Mental Health would be the appropriate administering agency.

Sincerely yours,

Robert P. Furchott, Ph.D.
President.

Department of Mental Health,
Hon. John V. Tunney,
U.S. Senator,
Washington, D.C.

Dear Sir: Thank you very much for sending me the information concerning your bill S. 2890. Your plan for regional research and education centers, well funded on a continuing basis and for career awards to individuals in the field of drug abuse, fit very nicely into my own views as to what the best thing to do as this time in this important area should be.

I am happy to support your proposal. I only hope it can get funded and implemented rapidly.

Very sincerely yours,

Jonathan O. Cole, M.D.
Superintendent.

Johns Hopkins University,
School of Medicine,
Hon. John V. Tunney,
U.S. Senator,
Washington, D.C.

Dear Senator Tunney: I have read your proposed bill with considerable interest. I certainly feel that a concerted research effort should be made to deal with drug abuse and alcoholism. I favor the term of the drafting which leaves the question open as to whether "pure" or "applied" research be done: it is most expedient to allow all knowledge and information to reach the knowable scientists to decide how much should be expended. Although the public wants results, it is too long a time before we can accomplish much.

I feel, of basic research being favored over the exclusion of applied research. When fundamental discoveries produce practical implementations for a treatment, there is generally no need of extended research. (The greater risk, I feel, is in instituting treatment programs without a firm theoretical foundation). The harm is done in the methodology of what we do for evaluation research is particularly wise, since therapeutic enthusiasm frequently obscures limited understanding.

I have two suggestions. I am uncertain as to whether the funds would be applied to research into alcoholism as well as "drug abuse". Certain alcohol consumtion constitutes a social problem of tremendous magnitude (and one of which we are unaware only because our experience is too short). If I understand your bill correctly, it is intended to deal with alcohol as well as "drug abuse". The provision that research funds be allocated to alcoholism research would be a step toward stimulating research and understanding of that problem.

If you have not contacted Dr. Seymour S. Kety (Professor of Psychiatry, Harvard Medical School, Massachusetts General Hospital, Boston, Massachusetts), I would suggest you forward your bill to him for his study of the problem and the accomplishment of research. Dr. Kety has considerable interest in the problem of stimulating biomedical research without controlling it.

Thank you, I appreciate your solicitation of my comments,

Sincerely yours,

Paul H. Wender, M.D.
Assistant Professor of Psychiatry and Pediatrics.
I would appreciate remaining on your mailing list for all items involved with the mental health field. Thank you.

Sincerely,

ALAN J. ROSENTHAL, M.D., Assistant Professor of Psychiatry; Director, Child Psychiatry Clinic.


HON. JOHN V. TUNNEY, U.S. Senator, Washington, D.C.

DEAR SENATOR TUNNEY: Thank you for your letter of November 18, 1971. I have read with interest the Congressional Record, Vol. 117, No. 165, outlining the details of S. 3809, The Drug Abuse Research, and Education Act of 1971. I would like to congratulate you for drafting a superb piece of legislation which, if enacted, will provide a landmark in drug abuse research in education programs in the United States. I was very much impressed by your cogent arguments favoring enactment of this legislation and even more so by the scholarly quality of the act itself. In my opinion, you have demonstrated an astute and sophisticated awareness of the drug abuse education and research which currently exist in our nation.

The enactment of S. 3809 would provide a basic structure for providing a pool of talented manpower and enhanced fund of information which is necessary for the creation of programs for efficacious treatment and rehabilitation of individuals with drug abuse problems. In essence, you are proposing an enlightened approach toward research and education which will have very significant and positive effects for many years to come.

There are two issues in the act which may evoke some criticism which I would like to briefly comment upon. First, the act recommends establishment of six regional centers for drug abuse research and education. It might be argued that there are currently insufficient personnel with the expertise to initiate these programs in the United States and that three or four might be more appropriate. In my opinion, it will be feasible at this time to establish at least two centers of excellence at leading universities or biomedical institutions in designated geographical regions of the United States.

Secondly, the act calls for appropriation of funds for construction grants and some critics might argue that such an appropriation would in fact, exacerbate other provisions of the act. This argument, which has been advanced by some of my colleagues, is based upon difficulties which have been encountered in the Community Mental Health Centers Programs. The concern is that a center of excellence may be established which is detached from and uninvolved with the drug abuse education and research. I would submit that the act will not be successful in this regard.

I hope you and your colleagues in the Senate will give this possibility, for many of the good features of the act could be forfeited if this situation arose. Again, let me congratulate you for submitting an excellent piece of legislation. And I am sure that my colleagues can be of any assistance in providing further information or data in support of this act, please do not hesitate to contact me.

Sincerely yours,

JACK H. MENDELSON, M.D.


HON. JOHN V. TUNNEY, U.S. Senator, U.S. Senate, Washington, D.C.

DEAR SENATOR TUNNEY: Thank you very much for your letter of December 8, 1971, informing me of the copy of bill S. 3809 which you have introduced regarding the establishment of regional centers in drug abuse research and education.

I thoroughly endorse this pending legislation, fully support your bill as an amendment to S. 3807, and wish to take this opportunity to commend you for your very worthwhile efforts aimed at dealing effectively with the menacing problem of drug abuse in the United States.

Sincerely yours,

JOHN PAUL BRADY, M.D., Professor of Psychiatry.


HON. JOHN V. TUNNEY, U.S. Senator, Washington, D.C.

DEAR SENATOR TUNNEY: I was very interested in your recent letter and reading the text of your bill S. 3809. There is no question but that your bill would be a great step forward in searching for a rational and scientific approach to the drug abuse problem.

I especially want to congratulate you for the degree of sophistication in the tone of the bill which recognizes (all too rare today) the need for basic research in the field of drug abuse, not merely the rather subtle but very real problems in stable funding of research programs, and the desirability of preventing such problems as those which exist in the National Institute of Mental Health.

I can assure you of my support, for what it is worth, and I plan to alert some of my scientific colleagues to this forward-looking proposal.

Sincerely yours,

PARESH A. SHORE, Ph. D., Professor of Pharmacology.


HON. JOHN V. TUNNEY, U.S. Senator, Washington, D.C.

DEAR SENATOR TUNNEY: I appreciate receiving your request for my comments on S. 3809 and I am very pleased to submit this minority to review it. This appears to be an excellent bill, particularly in its recommendation for regional centers for drug abuse research and education. As you may know, this in many ways parallels a recent proposal submitted to the National Institute of Mental Health jointly by the San Francisco and San Diego campuses of the University of California. I think this is a much needed approach to the nation's drug abuse problem and I certainly hope you are successful in amending S. 3807 to incorporate these provisions.

Sincerely yours,

PHILIP R. LEE, M.D., Chancellor.


HON. JOHN V. TUNNEY, Senate Office Building, Washington, D.C.

DEAR SENATOR TUNNEY: I reply to your letter of November 18, 1971 to Supervisor Kenneth Hahn, the Board adopted the attached resolution supporting your drug abuse legislation, S.B. 3809, and urging certain legislators and committee members to do like-
I ask unanimous consent that the text of this package of information be printed in the Record.

There being no objection, the information was approved to be printed in the Record, as follows:

A GUIDE FOR MEMBERS OF CONGRESS IN ANSWERING QUESTIONS ABOUT THE POST-FREEZE PART OF THE ECONOMIC STABILIZATION PROGRAM

This brief guide has been prepared to assist you in answering questions for constituents and various representatives of the Program, particularly as it relates to the post-freeze phase. General policy for Phase II has been established, and it is hoped that these policies will be implemented to come within the purview of the Cost of Living Council, the Pay Board and the Price Commission. The primary agency for explaining and enforcing the regulations for Phase II as they affect the general public will be the Internal Revenue Service. The following is a brief summary of these organisations, and key telephone numbers for Members of Congress and their staffs to contact as needed for additional information:

INFORMATIONAL SERVICE

In addition to continuing the functions which have been performed during Phase I, the IRS during Phase II will take over all of the functions which had been performed by the Office of Emergency Preparedness (OEP). It will provide a mechanism to support the post-freeze program.

Local and regional IRS centers will provide answers to questions and complaints; conduct independent monitoring activities; review requests for exceptions; and respond to inquiries relating to the application of regulations issued by the Council, the Pay Board, and the Price Commission. In addition, administrative appeals procedures will be made available to handle citizen inquiries and to provide information.

Further information about the IRS role in Phase II will be found in Tab VII of the Guide Book.

Address of the IRS Office of Public Affairs is: 1111 Constitution Avenue, N.W., Washington, D.C.

Key telephone number of the IRS Office of Public Affairs is: 964-4001.

COST OF LIVING COUNCIL

The Council will continue to function during the post-freeze period, concentrating on the establishment of policies and goals. It will continue to develop anti-inflation goals, advise the President of the progress being made toward achievement of goals, make recommendations for any modifications necessary to increase the effectiveness of the Program, and publicize these.

Although the Council will review the standards promulgated by the Pay Board and the Price Commission, it will not hear appeals on specific cases.

The Council will continue to have a small professional staff, headed by Director Donald Bumsfield.

Address of the Council is: 17th and Pennsylvania N.W. (New Federal Office Building), Washington, D.C.

Key telephone numbers for Congressional Relations are: 254-3203, 3303.

PAY BOARD

The Pay Board will be concerned with all elements of compensation including wages, salaries, and fringe benefits. It will develop overall standards for wage and salary increases and selectively review major labor settlements which have a major impact on natural wage developments. A special body will be created in the Pay Board to handle the matter of executive compensation in a manner consistent with the treatment of other employees. The Pay Board will also establish the structure and procedures of the post-freeze program. The Construction Industry Stabilization Committee, established previously, will continue to operate under the standards of the Pay Board. The Pay Board will have staff to analyze information relative to decisions and to record and report on exceptions from the general wage guidelines.

Address of the Pay Board is: 2000 M Street, N.W., Washington, D.C. 20505.

Key telephone number for Congressional Relations is: 254-5500.

PRICE COMMISSION

The Commission will administer the price and rent aspects of the post-freeze program. In addition to issuing standards governing price and rent adjustments, the Price Commission will hear appeals and consider requests for exceptions. It will identify windfall profits and bring about price reductions where the operation of the post-freeze program results in such windfall profits. A Rent Board—which will be under the Price Commission—will regulate both landlords and tenants. The Commission will also issue revised standards and procedures for rents and will assist in mobilizing voluntary compliance with the standards.


Key telephone number for Congressional Relations: 254-8400.

THE WAGE-PRICE FREEZE—90 DAYS LATER

The new economic policy that this nation embarked upon at the beginning of January was designed for three major objectives. On the international side, the primary actions were the suspension of gold convertibility and the 10 percent surcharge on exports. On the domestic side, the employment picture, the key proposals were the reduction in personal income taxes and the additional $3 billion in tax cuts. In the inflation front, quick action was required to meet the continuing problem of spiraling costs and prices, and the President declared the 90-day freeze on wages, prices and rents, under the authority of the Economic Stabilization Act of 1971.

GOALS OF THE FREEZE

The wage-price freeze was designed to accomplish three major goals. The first is to stop the inflationary express train dead in its tracks by January 90 days after it was put in motion. The second is to provide an opportunity to think of both labor and business that rapid increases in prices and costs would be a permanent characteristic of the American economy. The third is to provide a mechanism to permit necessary price and cost adjustments while preventing a recrudescence of serious inflation.

The permanent goal is a durable prosperity without war and without inflation. In the long run, nothing is detrimental to prosperity than to put our economy into
a permanent strait jacket of government controls. Thus, this program of price and wage stabilization must only be a way station on the road to free markets and free collective bargaining.

ORGANIZATIONAL FRAMEWORK OF THE FREEZE

To develop the policies necessary to meet the goals of the freeze, the President created the Office of Emergency Preparedness under the Chairmanship of the Secretary of the Treasury, John B. Connally. Other members of the Council are the Chairman of the Council of Economic Advisers, the Director of the Office of Management and Budget, the Secretaries of Commerce, Labor, Agriculture, and Housing and Urban Development. Also attached to the President for Consumer Affairs, and the Director of the Office of Emergency Preparedness. This group met daily to review the policies and regulations of the freeze and to provide its general administration.

The Associate Director of the Office of Management and Budget, Arnold B. Weber was also appointed Director of the Office of Emergency Preparedness, and he assembled a staff of some 50 persons drawn from many different agencies of the Government. The staff was charged with the responsibility for researching the policy issues of the freeze, for providing the necessary information to the public on a timely basis, and with the formulation of price and enforcement procedures. In addition, a special task force, under the leadership of Herb Stein of the Council of Economic Advisers, was assigned to work with the Cost of Living Council staff in developing the plans for Phase II.

Primary operational responsibility for the wage price freeze was assigned to the Office of Emergency Preparedness. To carry out these responsibilities, General George A. Lincome was appointed Director of the Office of Emergency Preparedness, mobilized his permanent staff of some 300 employees, which he augmented with 600 or more men and women loaned from other agencies of the Federal Government. Primary responsibility for the field operations across the United States was borne by the 10 regional offices of the Office of Emergency Preparedness—which were expanded in size within three days, and where the regional offices of the Service received authority to audit the 360 regional and district offices throughout the country. In addition, the 2,500 offices of the United States Post Office and the Internal Revenue Service of the Department of Agriculture were utilized as information centers to provide complete coverage of rural America.

From the beginning, the American people gave their overwhelming endorsement to the President's new economic program. The program was bold, simple, and effective, as the public opinion polls clearly showed wholehearted backing for it. This support moreover, continued at a very high level throughout.

Business and financial leaders also gave their full cooperation to the program. Although the interest rates were set and included in the Economic Stabilization Act of 1970, the President called for restraint in both areas. Interest rates have declined on a broad front since the beginning of the freeze. Similarly, corporations have cooperated fully with the President's requests to hold the line on dividends. Secretary of Commerce Stans sent telegrams to 1,250 leading corporations in the country, and every one of them responded, pledging not to increase dividends during the freeze.

ADMINISTRATION OF THE FREEZE

Because the freeze applied to all but a few of the enormous number of economic transactions in the United States, every day, the administration of the freeze produced some impressive statistics. Since August 18, the Office of Emergency Preparedness and the Internal Revenue Service have answered close to a million inquiries. Most of these came from individuals, and they were asked about wages, rents, and prices. In addition, 60,000 letters were received and answered by the National and Regional offices of the Office of Emergency Preparedness.

Over 5,000 exemption requests have been received, analyzed and acted upon by the Office of Emergency Preparedness. During the freeze, only five exemption requests were granted: three thus involved employees whose insurance companies had lapsed and for whom their new benefits were not able to be got into effect, and two where an increase in the price for community water service was needed to prevent a violation of this new water system. In addition, a significant number of exemption requests involved situations that were resolved under existing rules of the freeze.

SUCCESS OF THE FREEZE

The success of the freeze can be measured in a variety of ways. One of the most significant tests is that the rate of increase in prices, which very clearly indicates the reduction in the inflationary expectations of both borrowers and lenders.

A measure of the widespread compliance with the rules and regulations of the freeze is seen in the statistics on complaints of alleged violations of the freeze. The complaints of alleged violations have been received over the past three months. Three-fourths of these related to prices, close to 20 percent to rents, and about 5 percent were on wages. More than four-fifths of these complaints have been resolved, with the majority proving to be situations where in fact no violation occurred. All but a handful of the remainder were resolved by immediate rollback of the price, rent or wage involved. Among the most dramatic of these rollbacks were the prices of automobiles, where, in the first few days of the freeze, announced increases for the 1972 models were reduced back to 1971 levels, and the rollback of prices was estimated to provide a saving to American consumers of over $100 million (on an annual basis).

The monitoring activities of the Internal Revenue Service also show overwhelming compliance with the freeze. More than 60,000 spot-checks were made, and the monitoring program got underway in September. Apparent violations were found in about 8 percent of these cases, but most of these were immediately rectified when the situation was brought to light. The Internal Revenue Service is continuing investigation of the others.

The most impressive evidence of the success and effectiveness of the wage-price freeze is the fact that the prices and wages that are collected as a part of the regular economic reporting system of the Federal Reserve Board show that the upward spiral of wages, prices and rents has been brought to a halt. The reports on employee earnings—after adjustment for normal seasonal fluctuations that reflect the usual increase in overtime pay—show that average hourly earnings remained stable in both September and October.

The Consumer Price Index for September showed an increase of only 0.2 percent—about one-third of the increase that has been taking place in recent months—and most of this rate is traceable to price changes that were lagged into the index, but not recorded in the Index until September, and in price increases that can be accounted for within the context of the freeze rules themselves.

It is clear that, had the freeze not been in effect, the Consumer Price Index would have advanced in September considerably more than it did. This was reported most dramatically by the special tabulation of nearly 4,000 individual prices for non-food consumer goods in 50 different cities, which showed an increase of only 0.1 percent either unchanged or down from August to September. Furthermore, a second special tabulation of nearly 4,000 rental housing units had increases in rent after the announcement of the freeze.

The most meaningful and reassuring indications of the effectiveness of the freeze come from the September and October figures on wholesale prices. Over the first 8 months of 1971, wholesale prices increased in the first half of the year at an average rate of 5 percent. In September and October, however, wholesale prices decreased in almost every market at the rate of a year before. Moreover, industrial prices after seasonal adjustment declined in both September and October—the first time in almost a decade that these prices were down in two consecutive months.

Thus, the wholesale price index—which is one of our best indicators of inflationary pressures, and is probably the most unambiguous measure that we have of the impact of the freeze—indicates that there is evidence of broad compliance with the freeze. It is reasonable to conclude that over all there were increases in the first two months, but the percentage of the economic transactions in this country were carried out within the guidelines. While there is still a long road to travel before putting the freeze on, the President's stabilization program has provided a very promising beginning.

The wage-price freeze, by itself, was not intended to be the complete solution to the problem of inflation. To end inflation does not mean that money wages remain frozen forever. It was on August 14, 1971. In our dynamic economy where people grow and take new jobs, where their tastes change, where new business processes and new products are developed, and where productivity advances—in such a world, prices must be free to adjust to new economic conditions and to ration the use of scarce resources. To freeze all prices and wages at a single rate not only would be unfair, but would also do serious damage to the American standard of living.

The freeze was intended to do certain things, and it has done them. It has shown the determination of the Federal Government to attack the inflation problem effectively. It has demonstrated the need for cooperation in radical measures to meet a grave national problem. It has given time to formulate a plan that will provide for necessary price and cost adjustments while preventing a resurgence of inflation. With these accomplishments in hand, the stage is set for Phase II.

EXEMPTION OF CERTAIN SECTORS OF THE ECONOMY FROM THE CONTROLS OF THE POST- FREEZE PROGRAM

The Cost of Living Council has determined that the economy can proceed to control during Phase II of the economic stabilization program, effective November 14. The immediate objective of the sectors is consistent with the President's objective of removing price and wage controls as quickly as conditions warrant. The sectors that have been so designated are as follows:

1. Certain economic sectors are characterized by the rapidity of inflation, the frequent price fluctuations with a minimum of inflationary pressure.
2. In certain other sectors there is no clear basis for establishing a fair and equitable ceiling price because of the nature of the product and the selling process.
Examples: handcraft objects, antiques, and art objects.
3. Certain transactions are not being controlled because they are not U.S. transactions.
Examples: exports, imports, and international shipping rates
4. The remaining are self-assessed or characterized by a strong element of mutuality. Examples: dues of non-profit organizations
The cost of living index cannot be used
5. To mean that economic transactions cannot be characterized as wages, salaries, prices or rents and are therefore not included in the proxies. Examples are: tips, workman's compensation, welfare payments, child support and alimony.

PRICE COVERAGE

The following were exempt from controls during the freeze and will continue to be exempt during the post-freeze period:
1. Raw unprocessed agricultural products.
2. Raw seafood (a more liberalized definition of "raw seafood" will be adopted during the post-freeze period which will permit shellfish, skunking, skinning, scaling, eviscerating, removing heads and icing).
3. Personal checks.
4. Exports and first import transaction.

The following were exempt during the freeze, but will be exempt during the post-freeze period:
1. All used products (includes all second hand goods that have provided some prior service to the previous owner).
2. Disposal Sales:
   a. Sales of abandoned or confiscated property by the U.S. Government or other government agencies pursuant to court decree.
   b. Sales of real and personal property by the U.S. Government.
   c. Sales and deliveries of damaged commodities by insurance companies, transportation companies, and agents of the U.S. Government.
   d. Custom services and products made to individual order as follows:
      i. Leather goods
      ii. Wigs and toupees
      iii. Clothing
      iv. Pur apparel
   e. Dressmaking service on material owned by individual customers.

PRICE AND PAY CLASSIFICATION

The Cost of Living Council has established a three level classification system for the application of prenotification, reporting and other procedures to be implemented by the Price Commission and Pay Board to monitor and restrict wage increases during the post-freeze stabilization period.

PRICE CLASSIFICATION

The general criteria for identifying economic units subject to regulatory procedures relative to price adjustments are based on the amount of a firm's sales in its most recent fiscal year.

Category 1
Firms with annual sales of $100 million or more must prenotify the Price Commission on proposed price adjustments and obtain approval from the Commission before such price adjustments become effective. They must also report quarterly to the Price Commission information concerning prices, costs and profits.

Category 2
Firms with annual sales of between $50 and $100 million must report quarterly to the Price Commission information concerning prices, costs and profits.

Category 3
All other firms are subject to the standards and criteria that the Price Commission may develop. However, these firms will not be required to prenotify or report at regular intervals to the Price Commission. Any price changes by these firms must be reported by general monitoring and spot checks. Most of these firms will be required to maintain adequate records of price, cost, and profit changes. This requirement for supporting records will be less stringent for small firms such as eating establishments and product sellers with gross sales of less than $100,000.

PAY CLASSIFICATION

The general criteria for identifying economic units subject to monitoring procedures relative to pay adjustments are based on the number of employees affected.

Category 1
Proposed pay adjustments affecting 5,000 or more employees will be reported to the Pay Board at the time the pay adjustment becomes effective with information concerning the amount of the new adjustment and the number of employees affected.

Category 2
Pay adjustments affecting between 1,000 and 5,000 employees will be reported to the Pay Board as soon after the pay adjustment becomes effective with information concerning the amount of the new adjustment and the number of employees affected.

Category 3
In general, pay adjustments affecting fewer than 1,000 employees will be subject to monitoring by the Pay Board. However, the granting of new pay adjustments by the Pay Board is at the discretion of the Pay Board.

RELATION BETWEEN PROCEDURES FOR PRICE AND PAY

To ensure balanced treatment of pay and prices, all pay adjustments are given to consistencies between prices as they apply to pay adjustments and to the pricing polities of the firms in which affected workers are employed. Pay adjustments in which pay adjustments might be subject to more rigorous procedures than price adjustments, the following guidelines will apply:

a. If prenotification of reporting is required for pay adjustments, the Director of the Price Commission or the Chair of the Pay Board (or their designees) has the authority to require a similar procedure for price adjustments for those firms covered by such pay adjustments. In addition, those firms would otherwise be subject to those procedures. This authority may only apply to particular segments of the firm's activities affected by the pay adjustment decision.

b. If a firm is required to prenotify or to report at regular intervals, the Director of the Price Commission (or their designee) has the authority to require procedures and instructions for pay adjustments. The same procedures for pay adjustments will not necessarily be required.

PROVISION FOR CHANGING CLASSIFICATIONS

The Cost of Living Council has granted the Director authority to increase the number of pay adjustments subject to prenotification and reporting procedures upon the advice and recommendation of the Pay Board. This authority will permit prompt response to changes in the economy. In addition, the recommendations of the Pay Board to consider pay adjustments of a size smaller than those specified in the general criteria. The Pay Board or may provide advice and certain pay adjustments to prenotification or reporting that would not otherwise be required by the standards established as critical in terms of its pattern-setting effects or its effects on relative pay relationships.

The Cost of Living Council has also granted the Director authority to increase the number of firms subject to prenotification and reporting procedures upon the advice and recommendation of the Price Commission.

RESPONSIBILITY FOR PRENOTIFICATION AND REPORTING PAY ADJUSTMENTS

The responsibility for prenotification and reporting of information concerning pay adjustments may be assigned by the Pay Board to the employer, the bargaining agent for the employer or group of employers represented, or to the bargaining agent for the employees, or to any or all of them. The Pay Board will develop the appropriate administrative procedures to assure that responsibility for prenotification or reporting is clearly assigned.

PAY BOARD, EXECUTIVE OFFICE OF THE PRESIDENT, WASHINGTON, D.C.

POLICIES GOVERNING PAY ADJUSTMENTS ADOPTED BY PAY BOARD

1. Millions of workers in the Nation are looking to the Pay Board for guidance with respect to permissible changes in wages, salaries, various benefits and all other forms of employee total compensation. It is imperative to have a simple standard with as broad a coverage as possible as early as possible. There is probably a need for exceptions and for individual consideration of special situations as soon as practical, and in accordance with the needs to which pay adjustments are relatively simple is an early essential.

2. This general pay standard is intended, in conjunction with other needed methods, to meet the objectives which led to the establishment of this Board.

The general pay standard should be applicable to:
(1) changes that need approval before becoming effective,
(2) those changes that must be reported when they become effective, and
(3) all other changes requiring compliance with requiring specific approval or reporting.

4. (a) Effective November 14, 1971, the general pay standard shall be applicable to new labor agreements and, where no labor agreement is in effect, to existing pay prac-
tices. The general pay standard would provide:

- On and after November 14, 1971, permissible annual aggregate increases would be those normally considered supportable by productive efficiencies of such industrial enterprises.

Initially, the general pay standard is established as 5.5%. The appropriateness of this figure will be reviewed periodically. I have taken into account such factors as the long-term productivity trend of 3%, cost of living trends, and the objective of recession control. In reviewing new contracts and pay practices, the Pay Board shall consider ongoing collective bargaining, pay practices, the equitable position of the employees involved, including the impact of recent changes in the cost of living upon the employees' compensation.

(b) Existing contracts and pay practices previously set forth will be allowed to operate according to their terms except that specific contracts or pay practices are subject to review when challenged by a party at interest or by five or more members of the Board, to determine whether any increase is unreasonably inconsistent with the criteria established by the Board.

In reviewing existing contracts and pay practices, the Pay Board shall consider ongoing collective bargaining and pay practices and the impact of the criteria of the Board on the employees involved, including the impact of recent changes in the cost of living upon the employees' compensation.

(c) Schedules increased in payment for services rendered during the "freeze" of August 16 through November 18, 1971, may be made only if approved by the Board in specific cases. The Board may approve such payments under such conditions as are shown to meet some of the following criteria:

(i) Prices were raised in anticipation of wage increases scheduled to occur during the freeze period.

(ii) A wage agreement made after August 18, 1971, succeeded an agreement that had expired prior to August 18, 1971, and retroactivity was an established practice or had been agreed to by the parties.

(iii) Such other criteria as the Board may hereafter establish to remedy severe inequities.

Pay Board approval of special procedures by the Pay Board with respect to hearing "prior approval" cases and other special situations, application may be made for an exception by a party at interest or a hearing on such matters as inequities and substandard conditions.

Pay Board approval of a downward adjustment of rates now being paid will be required by operation of the general pay standard unless the rates were raised in violation of the freeze or of the general pay standard.

7. Provisions may be considered for vacation plans, in-plant adjustments of wages and benefits, premium for length of service, increases, payments under compensation plans, transfers, and the like.

THE PAY BOARD, WASHINGTON, D.C.
(Remarks of Judge Boldt at Press Conference, November 8, 1971)

It is a pleasure to announce that the Pay Board has reached major policy decisions regarding the period of the Economic Stabilization Program.

It is fair to state that each and every member of the Board has worked long and hard over our problems with great dedication and diligence. For the past two weeks we have been working together every day to arrive at an agreement result as fair to all Americans, whatever their economic situation, as the complexities of the Pay Board's work will now become involved, which allow for wide ranges of judgment and opinion, and some of them sound strong feelings. I would be less than candid not to admit that viewpoints have been exchanged with considerable emphasis from time to time.

However, I am confident that every member of the Board has given full and utmost consideration to the initial issues resolved by the policies adopted tonight.

Briefly stated, the substance of the policies adopted are:

1. When these policies become effective, new pay decisions will be subject to a general standard authorizing up to 5.5% increase per year. This standard will be subject to periodic review.

2. Pay increases scheduled for some future time under a contract already in effect will be permitted, except those which are found to be unreasonably inconsistent with the Board's criteria.

3. Retroactive increases for pay raises deemed during the freeze only be approved in a limited number of carefully defined circumstances, reducing the rate summary of our policy decisions adopted today.

I believe these first policy decisions can and will provide the framework upon which will be achieved the ultimate goal of ending inflation.

With the understanding cooperation and support of the people of America, the program will succeed. On behalf of my colleagues and myself, we ask the American people to support the program.

We will now pass out a copy of the actual plan as adopted by the Board as well as a copy of the statement.

The public members of the Board are here with me and we will be able to take just a few of your questions.

STATEMENT BY THE PRICE COMMISSION

The policies of the Price Commission announced tonight will achieve a goal of holding average price increases across the economy to a rate of no more than 2 1/2% per year. This is in line with the President's goal of ending inflation.

These policies rely heavily on voluntary compliance. The commission recommends the supersession on those segments of the economy which substantially affect price levels. Specific regulations will be issued in the next few days.

Prices may not exceed their freeze period levels except as changed by published regulations or other agreements.

The basic policy is that price increases will not be allowed except those that are justified on the basis of cost increases and other factors. Price increases will not be granted to any individual or firm to provide retroactive relief for the impact of the August 16 to November 18, 1971, freeze.

Reporting procedures for price increases vary depending on the amount of annual sales of a firm or the firm's most recent fiscal year.

(a) Firms with sales of $100 million or more must notify the Price Commission of any price increases over the proposed price increases. Unless the Commission advises otherwise within 30 days after the notification is received, the notified price increases will be effective.

(b) Those firms with sales of between $50 million and $100 million must make quarterly reports on changes in prices, costs, and profits.

(c) Other all firms are not required to prenotify or report on a regular basis, but will be subject to the standards and criteria that the Price Commission will establish. Different economic sectors will be subject to different rules and regulations. These sectors include:

(a) Manufacturers;

(b) Wholesalers, retailers, and similar commercial enterprises;

(c) Service Industries and the professions;

(d) Others.

MERCHANTING INDUSTRIES

Prices charged by manufacturing companies may not be increased over freeze period levels, except as the following provisions may apply:

1. Allowable cost increases in effect on or after November 14, 1971, to reflect productivity gains will serve as a basis for price adjustments:

2. Price adjustments shall not result in an increase in a firm's pretax profit margin (as a percentage of sales) as established during its base period.

RETAILERS/WHOLESALE

Retail and wholesale prices are to be controlled on the basis of customary margins representing a markup of costs. These customary initial percentage markups cannot be enhanced over the freeze period.

Moreover, a firm may not increase its prices beyond that amount which would bring its overall pretax profit margin (as a percentage of sales) to a level greater than that in the base period.

Retailers are to post prominently their freeze period prices for all covered food items and for many selected items other than food as will be specified in the regulations.

Until all such selected prices are posted, retailers are not permitted to increase any prices. In any event, such freeze prices must be maintained at least as long as the freeze period.

SERVICE INDUSTRIES AND THE PROFESSIONS

Prices charged for services may not be increased over freeze period levels except:

1. As a result of allowable cost increases in effect on or after November 14, 1971, reduced to reflect productivity gains,

2. In any event, price increases shall not result in any increase in a firm's pretax profit margin (as a percentage of sales) as established during its base period.

The Commission recognizes that there is a multitude of different service industries, characterized by widely varying types of costs and market conditions, possibly warranting more specific regulation. The Commission is considering more specific regulations.

Until the Commission publishes specific regulations for noncovered organizations or units, the prices of services supplied by such organizations may be adjusted for allowable cost increases in effect on or after November 14, 1971.

BASE PERIOD

For purposes of these regulations, base period shall mean the average of any two of the past three fiscal years of the firm ending prior to August 15, 1971.

RENTS

Guidelines for rents will be developed after consultations with the Rent Board. In the meantime the freeze remains in effect with some change in rent increases, and new requests for base increase rates to the Price Commission.
Commission. These regulatory bodies will also notify the Price Commission upon appro-

priation of rates. Subcommissions will be reviewed by the Price Commission. For reporting

firms, the regulatory bodies will report appropriate psychological for review by the

Price Commission. The Price Commission will retain the right to implement more stringent

standards.

Some regulated firms proposed rate in-
creases have been approved by regulatory au-

thorities, but were not allowed to become

effective until the freeze. Such increases may go into effect; however, the appropriate regula-

tory authority shall review such increases

in light of the goals of the Economic Stabilization Program.

CORRECTION OF INEQUITIES

Inequities arising as a result of certain defi-
nitions and rules promulgated under the
freeze or for other exceptional reasons will
be handled as follows:

(1) Changes will be made to amend cer-
tain definitions and to correct inequities
created by the operation of rules promul-
gated under the freeze, but none of these
changes shall affect rates or commitments
previously in effect.

On or after November 14, freeze-
period prices may be adjusted pursuant to
such changes. Specific price adjustments are
subject to review and approval of the
Price Commission. In such cases, the Commis-
sion will determine whether the increase is significantly in-

consistent with the goal of reducing the rate of inflation.

(2) Prenotification firms must file with the

Commission any adjustments in rates
based on the modification of freeze-period
rules.

Firms which can demonstrate a con-
tinuing gross inequity not ameliorated by the
rules of the Price Commission may request an
exception through local IRS Offices.

(3) Firm price records supporting price increases that are made pursuant to the
modified rules, and reporting firms must
file reports of these changes with the Com-
mission.

WINDFALL PROFITS

Windfall profits refer to those profits which
would not have existed except for inequities
created by the operation of the Economic Stabilization Program. The Price
Commission is determined to take such measures deemed necessary to achieve the goal of
reducing the rate of Inflation to 2-3% by the end of 1972. Therefore, in the admin-
istration of the program, the Price Commission will at certain times issue such
rules as necessary to cause windfall profits to be charged against price reductions.

OTHER CONSIDERATIONS

Notwithstanding the foregoing, in mak-
ing determinations based on the standards
set forth in this statement, the Price
Commission will take into account whatever
factors it considers relevant to an equitable
resolution of that case and considers neces-
sary to achieve the overall goal of holding
average price increases across the economy to
a rate of no more than 2 1/2% per year.

OFFICES PROVIDING ECONOMIC STABILIZATION

INFORMATION

ALABAMA

Birmingham IRS District Office, P.O. Box
2541, Birmingham, Ala. 35203, Ph.: (205) 325-3451.

Suboffices within district

Dothan, 2061/2 S. Oates Street, Dothan,
Ala. 36301, Ph.: (205) 792-2129.

Florence, P.O. Box 934, Florence, Ala.
35630, Ph.: (205) 335-3520.

Huntsville, P.O. Box 208, 2109 W. Clinton
Avenue, Huntsville, Ala. 35804, Ph.: (205) 356-1000.

Mobile, P.O. Drawer “G”, Mobile, Ala.
36601, Ph.: (205) 433-3851.
District office and suboffices within district
Dallas IRS District Office, 1100 Commerce Street, Tenth Floor, Dallas, Texas 75202, Ph: (214) 743-3611.

Montgomery Post Office Building 2nd Floor, 3rd & Pine Streets, Abilene, Texas 79601, Ph: (915) 677-9146.

Austin, 117 E. Third Street, 15th Floor Herring Plaza, Amarillo, Texas 79101, Ph: (806) 376-2111.

Fort Worth Federal Building, Room 11401, 819 Taylor Street, Fort Worth, Texas 76102, Ph: (817) 334-3721.

Lubbock, Federal Office Building, Room 315, 1200E 12th Street, Lubbock, Texas 79401, Ph: (806) 747-3111, Ext. 456.

Odessa, 1st National Bank Building, Room 610, 700 N. Grant Street, Odessa, Texas 79760, Ph: (915) 392-9481.

Tyler, 110 E. Houston Street, Tyler, Texas 75701, Ph: (214) 527-6827.

Wichita Falls, 500 1st National Building, 5th & Indiana Streets, Wichita Falls, Texas 76301, Ph: (817) 723-0741.

UTAH
Salt Lake City IRS District Office, U.S. P.O. and Courthouse, 350 South Main St., Salt Lake City, Utah 84110, Ph: (801) 524-4060.

Suboffices within district
Ogden, Federal Building, Room 1301, 324 25th St., Ogden, Utah 84401, Ph: (610) 396-6551.

VERMONT
Burlington IRS District Office, 11 Elmwood Avenue, Burlington, Vermont 05401, Ph: (802) 862-6501 Ext. 9221.

Suboffices within district
Montpelier, 87 State Street, Montpelier, Vermont 05602, Ph: (802) 229-6948.

Rutland, Post Office & Ct, Ho. Bldg., 151 West Street, Rutland, Vermont 05702, Ph: (802) 773-9560.

VIRGINIA
Richmond IRS District Office, 400 North Ninth Street, Richmond, Virginia 23219, Ph: (703) 782-8041.

Suboffices within district
Baileys Crossroads, 5701 Seminary Road, Baileys Crossroads Branch, Falls Church, Va. 22041, Ph: (703) 567-0800.


Norfolk, Virginia National Bank Building, 1 Commercial Place, Norfolk, Virginia 23510, Ph: (757) 441-6654.

Roanoke, First Federal Building, No. 36 West Church Avenue, Roanoke, Virginia 24013, Ph: (703) 345-7387.

WASHINGTON
Seattle, IRS District Office, 2038 6th Avenue, Seattle, Washington 98121, Ph: (206) 442-7500.

Suboffices within district
Aberdeen, 421 W. State St. Aberdeen, Washington 98520, Ph: (360) 528-1760.

Bellingham, Federal Building, Magnolia & Cornwall Sts, Bellingham, Washington 98225, Ph: (206) 733-9111.

Everett, 2780 Hoyt Ave., Everett, Washington 98203, Ph: (206) 269-0861.


Spokane, 220 W. Riverside Avenue, Spokane, Washington 99201, Ph: (509) 456-2120.

Tacoma, 4200 East 22nd Avenue, Tacoma, Washington 98402, Ph: (206) 388-2021.

Vancouver, 500 W. 12th St., Vancouver, Washington 98665, Ph: (206) 655-6292.

Wenatchee, Exchange Building, 6 First Street, Wenatchee, Washington 98801, Ph: (662) 568-4471.

Yakima, 6 South 2nd Street, Yakima, Washington 98901, Ph: (509) 248-6891.

WEST VIRGINIA
Parkersburg IRS District Office, Federal Office Building, Juliana & 5th Streets, Parkersburg, W. Virginia 26101, Ph: (304) 422-8651.

Suboffices within district
Charleston, Federal Office Building & Ct. Ho., 500 Queen Street, Charleston, W. Virginia 25301, Ph: (304) 343-6181.

Huntington, P.O. and Ct. Ho, Ninth St. & Fifth Ave., Huntington, W. Virginia 25701, Ph: (304) 329-3211.

Wheeling, Hawley Bldg., 1025 Main St., Wheeling, W. Virginia 26003, Ph: (304) 323-0151.

WISCONSIN
Milwaukee IRS District Office, Federal Building, 515 S. Barstow Street, Eau Claire, Wisconsin 54701, Ph: (608) 453-0100.

Green Bay, Federal Building, 525 East Walnut Street, Green Bay, Wisconsin 54301, Ph: (602) 453-9100.

Madison, Commerce Building, 3536 University Avenue, Madison, Wisconsin 53701, Ph: (602) 453-9100.

Racine, Commercial Square Building, 524 Main Street, Racine, Wisconsin 53405, Ph: (602) 453-9100.

WYOMING
Cheyenne IRS District Office, Federal Office Building, 21st and Carey Ave., Cheyenne, Wyoming 82001, Ph: (307) 778-2363.

The Internal Revenue Service (IRS) is the revenue-producing agency of the United States federal government and is under the administrative direction of the Secretary of the Treasury. The IRS is responsible for enforcing the federal income tax laws and collecting the taxes owed by taxpayers. It is also responsible for providing taxpayers with service and ensuring compliance with the tax laws.
A. These forms are available at the local offices of the Internal Revenue Service.

B. Substantive rules apply to price adjustments or pay adjustments depending upon what price category or pay category applies.

C. The same substantive rules apply to price adjustments and pay adjustments regardless of what procedural category governs a price adjustment or pay adjustment.

Q. What is an exception?
A. A tenant is a natural or legal waiver of the controls for certain classes of properties, services, or economic transactions.

Q. What is an exception to a natural waiver in a particular case of the application of the requirements of any order or regulations issued by the Council, Pay Board or Price Commission?

Q. Who may grant exceptions to regulations concerning the stabilization program?
A. The individual or firm which is governed by the regulations of the Price Commission will determine its needs for an exception. They may be increased to reflect the first six months of fiscal year 1971, at cost increase incurred after November 14, 1971. However, the increase may not raise the person's profit margin as a percentage of sales before taxes above the profit margin which prevailed in the base period.

Q. How can a tenant determine what a landlord may charge?
A. A landlord must keep records and make them available to any prospective tenant, prospective landlord, or representative of the Internal Revenue Service.

B. These records must reflect:
1. The base price for the unit on January 1, 1972, and the rental charged for at least 10% of the units.
2. The maximum price charged for at least 10% of the units as of January 1, 1972.

Q. Are professional fees subject to post freezes stabilization program controls?
A. Yes, fees which are govern by the regulations of the Price Commission dealing with services. They may be increased to reflect the first six months of fiscal year 1971, at cost increase incurred after November 14, 1971. However, the increase may not raise the person's profit margin as a percentage of sales before taxes above the profit margin which prevailed in the base period.

Q. What is the base period for profit margin determination?
A. Yes. The 5.5% general wage and salary standard applies to labor agreements entered into after August 15, 1971. It also applies to other pay adjustment decisions made after that date whether or not reflected in labor agreements.

II. What about wage increases under existing contracts and pay practices?
A. If a tenant makes an adjustment in existing contracts and pay practices existing prior to November 14, 1971 are allowed to go into effect. If they affect more than 1,000 employees, they must be presented to the Price Commission for approval and consistent with regulations issued by the Pay Board. However, they are subject to review by the Pay Board, if challenged, to determine whether any increase is unreasonable inconsistent with criteria established by the Pay Board.

Q. Can retroactive wage increases be paid?
A. A Pay Board approval is required for any wage or salary increases paid during the freeze period. This approval is not automatic.

IV. What is the definition of wages and salaries?
A. Wages and salaries are broadly defined to include cash payments, fringe benefits and all forms of direct and indirect remuneration. The definition does not include items which are not reasonably subject to valuation nor payments made under public plans such as Social Security.

V. Are any employees excluded?
A. Federal employees whose pay is governed by federal law and employees paid at a fixed rate, currently $1.69 per hour, are included from the application of the wage and salary standards.

VI. Does the 5.5% standard apply to each individual?
A. No. It will apply to the average increase granted in an appropriate employee unit.

VII. What is meant by appropriate employee unit?
A. Appropriate employee unit for the measurement of changes in wage and salary levels in a group composed of employees in the same or similar occupations in an industry, or in a region of an industry, as best adapted to preserve contractual or historical relationships.
VIII.—Q. Are longevity increases counted as part of the 5.6% standard?
A. Longevity increases and automatic progression within a rate area are allowed, but not beyond January 15, 1971, according to the terms of plans, agreements, or established practices in existence prior to November 14, 1971, regardless of regard to the 5.6% general wage standard.

IX.—Q. Are smaller employers required to get Pay Board approval before putting wage and salary increases into effect?
A. Pay adjustments involving less than 1,000 employees do not require approval of the Pay Board, but adjustments in excess of 1,000 employees must be approved. In either case, the employer must adhere to the 5.6% general wage and salary standard in granting increases.

Pay adjustments in the building and construction trades, regardless of the number of employees affected, must be approved by the Construction Industry Stabilization Committee.

ECONOMIC STABILIZATION—QUESTIONS AND ANSWERS

No. 2
The attached questions and answers are issued by the Economic Stabilization Program of the Internal Revenue Service and are based on regulations issued by the Cost of Living Council and the Price Commission.

QUESTIONS AND ANSWERS

Q. May a firm with a loss in its base period raise its prices to create a projected profit?
A. The general rules of the Price Commission make no provision for a firm in a loss position during its base period, but the Price Commission will consider any such situation and determine whether it justifies special treatment. In addition, more specific guidelines will soon be issued.

Q. Do the economic controls apply to college tuition charges and private schools?
A. Yes. The regulations apply to all institutions of higher education, including private schools.

Q. Must a company which is a prenotifying firm also submit quarterly reports to the Price Commission?
A. Yes.

Q. May individual health insurance premiums be raised if based on a formula in a contract in effect prior to the imposition of economic controls?
A. The formula must reflect only the conditions of risk (e.g., number of claims).

Q. Are premium increases based on a formula or a percentage contract which reflects only changing conditions of risk to be approved normally, or may the contract be adjusted?
A. A contract may be adjusted, provided the parent and its subsidiaries are located in different IRS districts, where such requests for rulings or information be filed.

Q. All inquiries, ruling requests, etc., should go to the IRS District Director in the IRS district where the parent corporation is located.

Q. Service charges such as utility, parking meter and bridge tolls were subject to this I in a contract which has been renewed, such as vehicle licenses and parking tickets were exempt. Does the same situation apply to Phase II?
A. Yes. Unless specifically altered by regulation or published rulings, policy rulings issued by the Cost of Living Council and interpretations issued by the Office of Economic Preparedness continue to be applicable after November 13, 1971.

ALCOHOLISM—TO HEAL AND NOT TO PUNISH

Mr. JAVITS, Mr. President, I want to express by amendment of the Attorney General of the United States his outstanding leadership respecting the problem of alcoholism. It is a subject that has concerned me since I introduced, with Senator Moss of Utah, more than 10 years ago the first "Alcoholism Care and Control Act."

Last night at a testimonial dinner honoring Mr. R. Brinkley Smitheries for his outstanding leadership and dedication to the conquest of alcoholism and his significant contributions to the development of the Comprehensive Alcoholism Control, Education and Prevention and Rehabilitation Act of 1970, Public Law 91–616, which the Senator from Iowa (Mr. Hovannes) and I introduced with the support of the late Attorney General of the Senate, the distinguished Attorney General of the United States was the guest speaker. Attorney General Mitchell’s views on alcoholism, as America’s chief law-enforcement officer, is a pioneer in our Nation’s efforts to combat alcoholism. I ask unanimous consent that the complete text of an address by John N. Mitchell, Attorney General of the United States, "To Heal and Not To Punish" at a testimonial dinner honoring R. Brinkley Smitheries, be inserted in the Record at the conclusion of my remarks.

The Attorney General said about the problem—which has aroused all this justified concern, for the dimensions of alcoholism are enormous—in New York alone there are an estimated 800,000 alcoholics—that alcoholism as such is not a legal problem—it is a health problem.

The Attorney General described his concern in this system of handling alcoholism as "a revolving door" and that the system is, and I quote, "absolutely ineffective as a lesson or a deterrent." I commend the remarks of the Attorney General John N. Mitchell to the Senate and ask unanimous consent that it be printed in the Record.

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

TO HEAL AND NOT TO PUNISH

It is a privilege to be asked to participate in this banquet honoring Brinkley Smitheries. I have known him for over 10 years, and I am delighted to be able to say so to this audience tonight. I am also pleased to bring him the good wishes of the President of the United States, who is thoroughly aware and appreciative of his leadership in the movement to control alcoholism.

I believe it is fair to say that no person in the history of this movement has approached Brinkley Smitheries in the generosity of his support. Through the Christopher D. Smitheries Foundation, which he founded in honor of his father in 1962, he has made repeated gifts to this cause over the past two decades.

Last July he made a personal grant of $10,000,000 to Roosevelt Hospital in New York City for the rehabilitation of alcoholics. This is the largest single gift ever made in this field, and I do not except even the previous grants in the Christensen years extended by the Federal Government. I must confess that when I first read about this magnificent grant in the papers, I thought they had inadvertently added a cipher or two. It is a most extraordinary example of dedication to a cause, even by the generous standards of Brinkley Smitheries.

Nor have the contributions of our honored guest been confined to financial values. He has given his time and energies. If you read a list of the

national and New York organizations to combat alcoholism, you will almost be reading a list of the organizations that he has founded or supported. There are no others like him.

So I must say tonight, without fear of contradiction in this assembly of experts on alcoholism, that among the many world leaders in the crusade against alcoholism, no one costs a longer shadow than Brinkley Smitheries.

And a further reason I am happy to be here is that it gives me the chance to talk about an aspect of alcoholism that I feel needs to be expressed by a friend and an admirer and, if I may say so, a little bit of a co-conspirator.

I refer to the fact, acknowledged now by all professionals in the field, that alcoholism as a disease, as a medical problem, is not being treated as a disease. More specifically, simple drunkenness per se should not be handled as an offense subject to the processes of justice. It should be handled as an illness, subject to medical treatment.

Now, this may seem fairly obvious to most of you here in this room, who are thoroughly informed on this subject. But it is not generally recognized throughout the country. A few years ago, public drunkenness was an offense punishable by a fine or jail sentence or both.

In other words, our knowledge in the field fails us; the passage of our laws reflects that in most of the cases which come to public attention, a major disease is not being treated medically, therapeutically.

The disease is being treated by policemen, judges, and jailers.

This is no longer the case. The character of the offenses, the character of the sentences, that constitute the problem are changing. At least one-third of all arrests in the United States are for public drunkenness. In some cities the proportion runs as high as three-fourths. The commitment of police on the street and for processing at the station and the commitment of parole and facilities, the commitment of time by judges, court administrators and courtrooms—all these activities constitute a justice system that is already overtaxed by felony cases. This misuse of tax-supported personnel constitutes a problem crying out for solution.

But still more important is the fact that this system is absolutely ineffective as a lesson or deterrent. Those who have witnessed the arraignment of drunk arrests in the lower courts of any large city can testify that it is, indeed, a revolving door. A study in Los Angeles showed that in a given year about one-fifth of the people arrested for public drunkenness accounted for two-thirds of the total drunk arrests. In one typical case in another city, a homeless alcoholic was arrested every other day that he appeared on the street over the period studied.

The so-called "dry-out" accomplished during such night jail terms has not, indeed, been performed on an alcoholic. It has often, however, contributed further to any health infirmity he might have suffered, accompanied for two-thirds of the total drunk arrests. In one typical case in another city, a homeless alcoholic was arrested every other day that he appeared on the street over the period studied.

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It is not surprising that many if not most of the cases involved know full well that this system is a distortion of legal processes. But in most localities they also know quite well how it is dealt with public alcoholism. They therefore tend to develop a benevolent paternalism toward their charges—taking care of them the best they can. They were not a threat to their authority and resources. It would be the same if the police and the judges were forced by law to take their cases seriously: if the criminal human beings they would do their best, but they could not help knowing that "he is just a drunk.

So we cannot blame the police or the courts for the system, and in many cases we must commend them for making the best of a bad situation. The blame must be faced by the public at large, which after all is the master of its own government. And if the public is unwilling to face up to the problem, then it is the public that needs to be educated.

Fortunately, as many of you know, progress has been made in recent years. In 1966 the District of Columbia Circuit of the United States Court of Appeals ruled in the case of "Hartfield v. United States" that inhaling of a homeless alcoholic was involuntary. Therefore, he could not be held accountable before the court. About the same time another District Court made a somewhat similar ruling in the Driver case.

Later, the United States Supreme Court heard a similar case—"Povell v. Texas." While it ruled that the defendant was accountable for being drunk in public because he did have a home to go to, a majority of the Justices also expressed an opinion that coincided with that of the appellate decisions that public alcoholism is not accountable for his act.

The important point is that the courts have taken the legal position that alcoholism, as such, is a disease and not a crime. The police have been saying for years—that alcoholism in itself is involuntary and therefore is not a legal offense in the ordinary sense.

Unfortunately, these cases have not been heeded as they should be, and the constitutionality of the related laws in most states has not been challenged.

However, the court rulings were taken into account by two commissions investigating the criminal and justice system—the District of Columbia Crime Commission and the United States Crime Commission. They both reported in 1967 that public intoxication should be handled more as a public health service rather than as a criminal offense.

In turn, these recommendations influenced Congress, and new laws are forthcoming to establish this change of policy in the District of Columbia and encourage it in the states. Thoroughly associated with much of this legislation is the name of Senator Harold E. Hughes of Iowa, who, of course is with us tonight. Among other things, the latest Federal legislation established an Institute on Alcohol Abuse and Alcolholism, within the Department of Health, Education, and Welfare. President Nixon has shown his deep interest in this organization by asking for and receiving from Congress an additional seven million dollars of health insurance funds for his work.

At the same time, the court cases and the Crime Commission recommendations have been building up a body of law to legalise a number of states. They have changed their laws to provide for health treatment of one kind or another, and in some have adopted the legal sanctions against alcoholism. But the rest of the states and most of the localities have not yet responded, although the potential legislatures are considering the matter.

Throughout most of the country the situation remains as archaic. It is almost as if in some states where the approach has been changed, new questions have arisen.

What is the role of a policeman? If he can no longer make a drunk arrest, can he forcibly remove a subject to a health care center? If the subject cannot be incarcerated, can he be committed to any kind of treatment against his will?

Fortunately, in answer to some of these questions have been recently offered by several commissions that have carefully drawn up proposed model state laws on the subject. The most recent is the work of the National Conference of Commissioners on Uniform State Laws, which adopted Uniform Alcoholism and Intoxication and Treatment Act last August.

Among many other provisions are the following:

First, a person appearing to be incapacitated by alcohol must be taken into protective custody—not an arrest—but the act is to be taken to a public health facility for emergency treatment.

Second, the subject has inflicted physical harm on another or may do so, he may be committed for emergency treatment for up to five days on the certificate of an attending physician.

Third, for a longer period up to 30 days and with extensions for a maximum of seven months, his commitment must be made by a court.

So as a result of developments in the past five years we have made several important strides.

We have won an opinion from the courts that alcoholism in itself is involuntary, and should not be subject to legal action.

We have secured legislation by Congress and by a few states supporting this principle and establishing civil medical treatment as an alternative.

We have a carefully drawn uniform law on public intoxication subject to voluntary or involuntary treatment.

And I would note the fact that the Commission drawing up this Act is composed of a representative from each state, and he is obligated to see that the act is introduced in his legislature.

Finally, we have gained enough experience with the concept of forward-looking laws in the District of Columbia and some of the states to uncover some sound operating principles.

For instance, we know that it does little good to remove alcoholism from the purview of the law if you do not substitute a full-service public health service for the detraction process, but a thoroughgoing program aimed at recovery from the illness of alcoholism.

Again, the program must include the closest cooperation and communication starting at the top level between the public health officials and law enforcement officials.

The police must have an understanding that their role continues not in an arresting capacity, but in one of helping subjects to the designated health center, voluntarily if possible, involuntarily if necessary.

Finally, the program must have a strong appeal to voluntary enrollment. We know that the street alcoholic who in the past has been the victim of arrest has at least 80 percent of case arrests. That actually represents only from 3 to 5 percent of the alcoholics in this country—what we might call the tip of the iceberg. We know that an alcoholic who is still living in a home environment does account for many of the arrests—perhaps one-third, as the research of the National Alcoholism Center indicates. It is not only to these, but to the many more who are not arrested, that the civil treatment program must appeal if we are to reach the rest of the iceberg.

With these kinds of guidelines, and with the cooperation of the police, we can perhaps venture some real hope in a field that for too long has been marked by frustration. Through the processes now at work, the public itself may come to realise that our task is not to punish, but to heal. And in such a climate of belief, the work of people like Brinkley Smithers will be assisted, not by a relative few, but by all.

THE ENVIRONMENTAL CRISIS

Mr. HATFIELD. Mr. President, as legislators, we have had to look at many different problems in the last few years. One of these is the environmental crisis, and we have heard many theories which attempt to explain the cause of this crisis.

At a recent hearing on ocean dumping of the Senate Commerce Committee of which I am a member, Dr. Barry Commoner, director of the Center for the Biology of Natural Systems at Washington University, gave one of the most impressive analyses of the environmental crisis that I have heard.

Dr. Commoner states that, since World War II, our growth pattern has become "counter ecological." This does not mean that our growth has become biologically destructive. Rather, it means that the environmental impacts which have occurred in the United States since 1946 result from the introduction of new products of technology, which generate more severe environmental impacts than the technologies which they replace. In other words, we have made poor choices, and these choices are made because of the higher profits available from the new crisis, and we have heard many theories which attempt to explain the cause of this crisis.

Besides writing "The Closing Circle," which was recently published, Dr. Commoner gave the keynote address before the Council of Europe's Second Symposium of Members of Parliament Specialists in Public Health. Dr. Commoner enumerated some of the basic premises underlying his views of the origins of the environmental crisis in his speech, and I ask unanimous consent that it be printed in the Record. This is extremely interesting reading, and I urge members to send it to the attention of the Senate.

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

THE ORIGINS OF THE ENVIRONMENTAL CRISIS

(By Barry Commoner)

It is now widely appreciated that the world is face to face with an environmental crisis. We now know that environmental pollution is not only an affront to the senses and a threat to human health. More seriously, environmental degradation is a sign that the global ecosystem—which supports all life and all human activities—is under stress which, if not relieved, will eventually result in a profound and irreversible truth: what is at risk in the environmental crisis is human survival.

Clearly every inhabitant of the earth ought to be equally concerned with the integrity of the environment. However, in reality there are sharp differences in national attitudes toward the environment. This is evident from the forthcoming 1972 United Nations Conference on the Human Environment, a striking contrast between the attitudes of industrialized and developing nations toward the environmental crisis that has developed. This divergence is understandable. Three main
factors are involved in environmental pollution: growth of population; increased affluence, or production per capita, the environment, and technology. This conflict has arisen because each of these factors has a sharply different import for industrialized and underdeveloped nations.

A commonly voiced—and, as I shall try to show, largely erroneous—idea is that environmental pollution is due to the pressure of growing population and affluence on the limited resources available from the ecosystem. Such ideas reflect the assumption that control of population growth and reduction in per capita consumption are essential if environmental collapse is to be avoided. I think they are misleading especially for developing nations, which are striving to sustain rapidly rising populations, and to increase the exceedingly low levels of consumption of their peoples.

At the same time, it is pointed out that environmental deterioration is also the consequence of modern production technologies, which, as presently designed, release massive amounts of pollutants into the environment. Of course, pollution from developing nations is sometimes advised to be wary of modern industrialization. This advice conflicts with the needs of developing countries to acquire the material advantages which have already accrued to industrialized nations from technologies.

Given such a view of the origins of the environmental crisis, the interests of industrialized and underdeveloped nations in environmental problems do appear to be in sharp conflict. If unresolved, this conflict may have tragic effects on the world. Unresolved, this conflict may have tragic effects on the world. Unresolved, this conflict may have tragic effects on the world. However, I believe that this conflict reflects the separate origins of the environmental crisis. In the analysis which follows I shall try to show why the effects of population growth and increased affluence on environmental deterioration have been seriously misconstrued and that these factors need not hinder the legitimate desire of developing countries to improve the lot of their people. Moreover, I shall argue that a fundamental solution of the environmental problem will require new technological advances in the industrialized nations to improve their environmental situation.

In order to analyze the origins of environmental problems, it is essential to begin with an understanding of the properties of the environment. These may be summarized as follows:

THE ECOSPHERE

(1) The environment is defined as a system comprising the earth’s living things and the thin global skin of air, water and soil which is their habitat.

(2) In nature, this system, the ecosphere, is a whole. It is not a series of isolated, evolving living things and of the physical and chemical constituents of the earth’s surface. The system is the fabric of life. The history of life and the evolutionary development of the ecosphere has been very slow and irreversible. Hence, the ecosphere is irrepleasable, if it should be destroyed it cannot be improved or replaced by either natural processes or by human manipulation.

(3) The basic functional element of the ecosphere is the ecological cycle, in which each separate element influences the behavior of the whole cycle, and is itself influenced by it. For example, in surface waters fish excrete organic waste, which is then decomposed by bacteria; in turn, the latter are nutrients for algal growth; the algae are eaten by the fish, and the cycle is complete. Such a cyclical process accomplishes the self-purification of the ecosystem, in that wastes produced in one cycle become the nutrients of the next. If sufficiently stressed by an external agency, the ecosystem becomes non-adaptive and eventually collapses. Thus, if the aquatic cycle is overloaded with organic animal waste, the microbial decomposition of the waste by the bacteria may be greater than the oxygen available in the water. The oxygen level is then reduced, the bacteria die, and this phase of the cycle stops, halting the cycle as a whole.

(4) Human beings are dependent on the ecosystem not only for their biological requirements (oxygen, water, food) but also for resources which are essential to all productive activities. These resources, together with underground minerals, are the irreplaceable and essential foundation of all human activity.

(5) If we regard economic processes as the means which govern the disposition and use of natural resources, there is abundant evidence which indicates the continuing depletion of the natural resources of the ecosystem, and therefore the stability of the ecosystem, is an essential prerequisite for the success of any economic system. More bluntly, any economic system which depletes the irreplaceable and essential foundation must be compatible with the continued operation of the ecosystem.

(6) Because the rate of an ecosystem is inherently limited, there is a corresponding limit to the rate of production of any economic system. The populations of the global ecosystem (e.g., soil, fresh water, marine ecosystems) operate at different intrinsic limits and these limits must also reflect the limits of productivity. On purely theoretical grounds it is self-evident that any economic system which is impelled to grow by constantly increasing the rate at which it extracts wealth from the ecosystem must eventually drive the ecosystem to a state of collapse. Computation of the rate limits of the global ecosystem or of any major part of it are, as yet, in a rather primitive state.

Apparent and actual economic growth at an unspecified limit of economic growth, such limits may arise much more rapidly if the growth in the output of goods by the economies which are not technologically advanced, which are essentially destructive of the stability of the ecosystem. As will be shown, this is the case in a modern industrialized country such as the United States.

(7) Unlike all other forms of life, human beings are capable of exerting environmental effects which extend, both quantitatively and qualitatively, far beyond their influence as biological organisms. Human activities have also introduced into the environment not only soil stresses due to natural agents (e.g., floods, storms, droughts), but also wholly new substances not encountered in natural environmental processes: artificial radioisotopes, detergents, pesticides, plastics, a variety of toxic metals and gases, and a host of man-made, synthetic substances. These human intrusions on the natural environment alter the steady state condition of the segments of the ecosystem out of balance.

(8) In the absence of the ecosphere, the ecological cycle degrades into the resultant breakdown of the environmental cycles. The fouling of surface waters is largely the result of overloading the nutrient cycle, and the soil and its own capacity to the point at which the natural cycle runs dry, and snow and rain waters are lost to the air. The deterioration of the soil shows that the soil system is being overdrained, that organic matter in the form of food is being extracted from the air and soil. Inorganic fertilizer is capable of restoring crops, but at the expense of increased pollution.

Pollution by man-made synthetics, such as pesticides, detergents and plastics, and by the dissipation of materials not naturally part of the environment, such as lead and mercury, is a sign that these materials cannot be accommodated by the self-repairing capabilities of the natural system. As a result they accumulate in places harmful to the ecosystem and to man.

THE POLLUTION PROBLEM

The environmental crisis tells us that there is something seriously wrong in the relationships in which human beings have occupied their habitat, the earth. It confronts us with the need to specify what is wrong and why. Clearly, the fault must be due to human activities: the growth of population and the exploitation of nature to improve the means of producing, accumulating, distributing and using the wealth extracted from the earth’s surface. It is not the fault of the wishful thinking of the earth’s population. It is not the fault of the environmental situation.

One explanation that is sometimes advanced is that man is a “dirty” animal—that unlike other animals man is likely to “foul his own nest.” Somehow, according to this view, man lacks other animals’ tidy nature, so it is not surprising that man should live in harmony with the growth of the human population.

This explanation is basically faulty, for the “‘dirtyness’” of man is not the result of the nature of sanitary activities. On the contrary, no animal, or any other living thing, for that matter, acts on its own without some degree of interference from the activity of other living things, which use them as nutrients. The reason why wastes do not accumulate in a natural non-human situation is that there are no “wastes” in the sense that everything produced by one type of animal, plant or micro-organism is used by some other living thing. As long as these occupational relations remain unbroken, no pollution results, no wastes are produced. When human beings pollute the environment only because their activities have broken out of the closed, cyclical network in which all other living things live.

Indeed, at least on the relatively short time-scale that is involved in our present policy problems, unless the ecosphere is protected, itself a system, which in itself is protected from this, is protected from pollution, it may possibly degrade it for the system’s circulation enables it to clean its own waste. It may arise from within, it is stressed, or polluted, usually by an outside agency.

Thus, so long as human beings hold their place in the terrestrial ecosystem—converting food produced by the soil, oxygen released by plants, returning organic wastes to the soil and capturing solar energy, they could do relatively little ecological harm. However, once removed from this
cycle, for example to a city, so that bodily wastes are not returned to the soil but to surface water, the population is separated from the habitat in which it evolved. Thus the permanent use of a single habitat is a part. Now the wastes become an external stress on the aquatic system into which they have been added and which has two ways to respond: self-adjustment, and pollute it. Environmental pollution is therefore generated not so much by human biological activities, as by man-made social activities: agriculture, industry, transportation and urbanisation— which greatly distort the impact of man’s biological activities. We refer to these factors, and introduce, as well, a number of unnatural factors.

Certain human activities, for example, agriculture, forestry and fishing, represent direct exploitation of the productivity of a particular ecosystem, which is one of the causes, a constituent of the ecosystem which has economic value—for example, an agricultural crop, timber or fish—is withdrawn from the ecosystem. This represents an external drain on the system which must be carefully adjusted to natural and man-made inputs to the system in order to maintain the system. Examples include the destructive erosion of agricultural or forest lands following over- intensive exploitation, the inappropriate introduction of the whaling industry due to the extinction of whales.

Economic distress may also arise if the amount of a particular ecosystem component is deliberately augmented from with, either to dispose of human waste or increase the mineral rate of turnover and thereby increase the yield of an extractable good. An example of the first is the dumping of sewage into surface waters. An example of the second is the use of fertilizer nitrogen in agriculture. The economic productivity decrease due to the intrusion into an ecosystem of a substance wholly foreign to it. Perhaps the simplest example is the nitrogen cycle; unlike natural polymers is incapable of being degraded by decay micro-organisms, and therefore persists as rubbish or is burned, in both cases causing pollution. In the same way, a toxic substance such as mercury or lead, which plays no role in the chemistry of life and interferes with the actions of substances which do, intrudes at a sufficient concentration on an ecosystem it is bound to cause ecological harm. The productivity which introduces substances that are foreign to the natural environment runs a signalling risk to the environment.

The Origins of Environmental Impacts

Our task, then, is to discover what activities of human society generate environmental impacts—that is, pollutants foreign to the ecosytem which tend to degrade its capacity for self-adjustment.

In what follows, I wish to report the results of an initial effort in this direction, which is based on an analysis of the environmental situation in one of the most intensely polluted regions of the globe—the United States. In the United States most of the environmental problems are of relatively recent origin. The post-war period, 1945–46, is a convenient benchmark for the period of post-war rapid industrial growth and technological displacement of an older process by a newer one, with the sum of goods and services produced per capita, or increasing somewhat. These displacement processes include the following: (a) natural fibers (cotton and wool) by synthetic fibers; (b) lumber by plastics; (c) soap by detergents; (d) steel by aluminum and cement; (e) railroad freight by truck; (f) harvested acreage by fertilizer; (g) returnable by non-returnable bottles.

(ii) Certain of the rapidly growing productive activities are substitutes for activities that have declined in rate, relative to the United States. This is the technological displacement of an older process by a newer one, with the sum of goods and services produced per capita, or increasing somewhat. These displacement processes include the following: (a) natural fibers (cotton and wool) by synthetic fibers; (b) lumber by plastics; (c) soap by detergents; (d) steel by aluminum and cement; (e) railroad freight by truck; (f) harvested acreage by fertilizer; (g) returnable by non-returnable bottles.

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productive activities evident in Fig. 3 are some which represent neither displacements of older technologies, nor sequence to such displacements, but true increments in per capita consumption. An example is the emergence of consumer electronics (radios, television sets, sound equipment, etc.). Such items appear to include a substantial portion of the added to support plant growth, for humus is not only a nutrient store. Due to its polymeric structure humus is also responsible for the porosity of the soil to air. And air is essential to the cycle of nitrogen for fixation, but also because its oxygen is essential to the root's metabolic activity, which is responsible for the absorption of nutrients by the roots. In the United States, for example in Corn Belt soils, about 13% of the nitrogen used in crop production has been lost since 1800. Naturally, other things being equal, such soil is relatively infertile and produces relatively poor crop yields.

However, beginning after World War II a technological solution was intensively developed by industry, implying that amounts of inorganic nitrogen were applied to the soil in the form of fertilizer. Annual nitrogen fertilizer consumption increased about 14-fold between 1946 and 1988.

In effect, then, nitrogen fertilizer can be regarded as a substitute for land. With the intensive use of fertilizer it becomes possible to accelerate the turnover rate of the soil nutrients, and it annually produces more food than before. The economic benefits of this new agricultural technology are appreciable. However, the main advantage may be counterbalanced by the increased impact on the environment. This arises because, given the reduced fertility of the soil, the plant's roots do not sufficiently absorb the added fertilizer. As a result an appreciable part leaves the soil nitrate and enters surface waters where it becomes a serious pollutant. Nitrate may encourage algological overgrowth in water bodies and death. In the United States Public Health Service has established 10 ppm of nitrogen as the acceptable limit of nitrate in drinking water. However, on the grounds of nitrogen levels in drinking water supplies from water treatment plants have increased this limit. Our own studies in the area of Decatur, Illinois show quite directly that in the spring of 1970 when the city's water supply, which is derived from an impoundment of the Sangamon River, recorded 9 ppm of nitrate nitrogen, a minimum of 60% of the nitrate was derived from inorganic fertilizer applied to the surrounding farm land.

The data on change in agricultural technology is evident from Table II, which compares the influence of the several relevant factors in the environmental impact due to fertilizer nitrogen in 1949 and 1988. During that period the total annual use of fertilizer nitrogen, i.e. the total environmental impact, increased by 485%. The influence of population size increased by 34%; the influence of crop production increased by 118%. Clearly the last factor dominates the large increase in the total environmental impact of fertilizer nitrogen. Specifically, it should be noted that in 1949 about 11,000 tons of fertilizer nitrogen were used in agriculture. By 1988 about 97,000 tons of nitrogen were employed for the same crop yield. This means that the efficiency with which fertilizer nitrogen contributes to crop yield has declined 5-fold. Obviously an appreciable portion of the added nitrogen does not enter the plant and must appear elsewhere in the ecosystem.

The biological basis for this effect is shown in Figure 4, which compares the corn yield of 1949 and 1988. It can be seen that there was a 45% increase in the number of fertilizer units added to the soil, i.e. that there was a 2.5-fold increase in the amount of fertilizer unit added to the soil. This shows that as fertilizer levels increased, the amount of nitrogen actually absorbed by the roots leveled off due to the natural levels of plant growth. Thus, between 1962 and 1988, fertilizer as a percentage of the crop yield only increased by about 10-15%. Clearly at the higher levels of fertilizer usage an increasingly small proportion of the fertilizer contributes to the crop yield. As indicated, the remainder leaches into surface waters where it causes serious pollution problems. Thus, this innovation in agriculture technological sharply increases the environmental stress due to fertilizer production.

A similar situation exists in the case of pesticides. This is shown by the changes in the environmental impact index of pesticides in Table II. As is shown there, the levels of pesticide use per capita in 1949 and 1988 was 1.165. In 1988 there was a 165% increase in the amount of pesticides used per unit crop production, as a national average. By killing off natural predators of pest species, pesticides are a serious pest pest. While the latter often becomes resistant to etcides, the use of modern synthetic materials to combat these pest problems that they were designed to control. As a result increasing amounts of insecticides are used to combat pest levels. Therefore, the use of pesticides has increased. For example, in Arizona, insecticide use on cotton tripled between 1965 and 1988. This increase in insecticide use is also due to the use of reflective and hermetic netting. Insecticidal resistance is also a serious problem. Insecticidal resistance is also the use of pesticides on cotton and other crops.

Another technological displacement in agriculture is the increased use of feedlot facilities that allow farmers to range feeding. Range-fed cattle are integrated into the soil ecosystem; they graze the soil's grass crop and restore nitrogen to the soil as manure. When the cattle are maintained instead in huge pens, where they are fed on corn and deposit their wastes in animal feedlot itself, the wastes do not return to the soil.

Instead the waste drains into surface waters, where it is then treated, due to fertilizer nitrogen and detergent phosphate. The magnitude of the effect is considerable. The potential crop pollutants produced in feedlots is more than the organic waste produced by all the cities of the United States. Again, the newer technology has a serious environmental impact, and in this case has displaced a technology with an essentially zero environmental impact.

(3) Textile: Figure 6 describes changes in textile production since 1946. While total fiber production per capita has remained relatively constant, natural fibers (cotton and wool) have been significantly displaced by synthetic ones. This technological change considerably increases the environmental impact due to fiber production, as will be shown.

One reason is that the energy required for the synthesis of the final product, a linear polymer (cellulose, cotton, keratin in the case of wool, and polysides in the case of nylon) is greater for the synthetic material. Although quantitative data are not available, a rough comparison of two productive processes provides the following picture. The process requires as many as 10 steps of chemical synthesis, each requiring considerable energy in the form of heat and electric power to overcome the entropy associated with mixing solutions and to operate the reaction apparatus.

In contrast, energy required for the synthesis of cotton is less. Furthermore, sunlight— and is transferred without combustion and resultant air pollution. Moreover, the
raw material for cellulose synthesis is carbon dioxide and water, both freely available renewable resources, while the raw material for nylon—the hydrocarbon—non-renewable resources. As a result it would appear that the environmental stress due to the production of synthetic fibers—whether they are cellulosic or not—is relatively small compared to that due to the production of an equal weight of cotton. This is only an approximation, for we must also include estimates of the environmental impact indices, in the form of the appropriate environmental impact indices, that would also take into account the use of the raw materials used in the production of cotton.

Because a synthetic fiber such as nylon is unnaturally produced in an unnatural environment as a waste material, than do cotton or wool. The natural polymers in cotton and wool, cellulose and keratin, are important constituents of the soil ecosystem. Through the action of molds and decay bacteria they contribute to the formation of humus—a substance to which our plants and soil are not and which, in contrast, the new deterrents which are regarded as degradable because the paraffin is not a resident of phenol which can be incorporated into the aquatic and marine ecosystems. Unlike soap, detergents are compounded with considerable amounts of hydrocarbons and other organic materials such as water softener. Phosphate may readily induce water pollution by stimulating heavy growths of algae, which on dying release oxygen to the water. Phosphorus is thus an overburden to the aquatic ecosystem. The Figure 8 shows that nearly all of the increase in sewage water discharged into the phosphorus content of the water. Since soap, which has been displaced by phosphate, is phosphate-free soap by de- tilters containing an amount of about 4% is accounted for by the phosphorus content of the water. Since soap, which has been displaced by phosphate, is phosphate-free soap. Phosphate is consequently a consequence of the technological change that has occurred.

The change in the environmental impact index of phosphate in cleaners between 1946 and 1968 is shown in Table V. In this period the overall environmental impact index increased by 1945%. The increase in the effect of pollution on the earth is not only destroyed by burning but also pollutes the air. This is the case because the use of the synthetic fiber or polymer that has been produced on the earth is not only destroyed by burning but also pollutes the air. This is the case because natural fibers such as hemp and jute have been nearly totally replaced by synthetic fibers in clothing operations. A different use for the natural fibers is that they resist degradation by molds, which, as already indicated readily attack cellulosic net materials such as hemp or jute. Thus, the property which enhances the economic value of the synthetic fiber over the natural one—its resistance to biological degradation—is precisely the property which increases the environmental impact of the synthetic material.

(2) DETERGENTS

Increased production of synthetic organic chemicals leads to intensified environmental impacts in several different ways. This segment of industry has heavy power requirements; in contributing to increased power production the industry adds as well to the rising levels of air pollutants that are emitted by power plants. In addition organic compounds released in vast amounts into the water and air. Although the amount of primary pollutants is small, the degree of toxicity, often poorly understood, environmental impacts. A common example are massive fish kills and plant damage caused by the use of organic wastes, insecticides and herbicides to surface waters or the air.

Perhaps the most serious environmental impact of phosphate in cleaners is the production of synthetic organic chemicals is due to the intrusion of mercury into surface waters. Mercury has been used as an electrode in the production of synthetic organic chemicals. This substance is a vital reagent in many organic synthesis; about 80% of present use is in the synthetic organic chemical industry. Moreover, a considerable proportion of the mercury is used in electrolytic mercury cells; until recent control measures were imposed on the industry, about 2.5 lbs. of mercury were released to the environment per ton of chlorine manufactured in mercury electrolytic cells. This result has been achieved by a change in the production of chlorine. The use of chlorine for the production of sodium hypochlorite—used for water purification—has caused a 40% decrease in the amount of mercury used in the production of chlorine. The amount of mercury used in the production of chlorine has decreased from about 100 to 240. Another important technological change was in average compression ratio, which increased from about 5.9 to 9.8 in 1946-58. This engineering change has had two important effects on the environmental impact of the gasoline engine. First increasing the amount of tetraethyl lead is used in gasoline additive in order to suppress the engine knock that occurs at high compression rations. As shown in Fig. 12, animal use of the catalyst lead has increased significantly in 1946-58. Essentially all of this lead is emitted from the engine exhaust and is disseminated into the environment. Since lead is not a functional element in any biological organism, and in fact toxic, it represents an external intrusion on the ecosystem and generates an appreciable environmental effect. A second consequence of the increase in engine efficiency has been the reduction in the concentration of nitrogen oxides emitted in engine exhaust. This has occurred because the amount of exhaust is reduced with a reduction in the compression ratio. The combination of nitrogen and oxygen present in the air taken into the
engine cylinder, to form nitrogen oxides is enhanced at elevated temperatures. Nitrogen oxide is the key ingredient in the formation of photochemical smog. Photochemical smog is a light-activated reaction, involving waste fuel, nitrogen oxides induce the formation of peroxynitric nitrate, that emits an acrid-smelling, yellowish, and toxic pollutant, known as NO. No wonder this type was first detected in Los Angeles in 1948.

Since then it has increased, nationally, by probably an order of magnitude, appearing in nearly every major city and even in smaller ones in the last 5 years. However, in the period 1946-66 the overall use of automobiles, as measured by gasoline consumption, increased by only about 200%—an increase that occurred in absolute terms. But the current rise in the incidence of photochemical smog is significant, then, that this increase in the use of vehicles, due to the increase in the anthropogenic NOx levels and the increased vehicle use is accounted for by the environmental impact index computed for nitrogen oxides, the agent which initiates the smog reaction, for that index increased by 530% in 1946-67. These agreements with actual field data support the hypothesis that the contributions represented by the environmental impact index provide a useful approximation for the actual pollution problems that are associated with the features of the growth of the United States economy since 1946. In particular, we can therefore place the effect of the increase of the total environmental impact index into the several factors: population size, per capita production or consumption and the technology of production and use. It is of interest to make a direct comparison of the changes that occurred in population size and in “affluence,” and of changes in the technology of production, to the increases in total environmental impact, which have occurred in 1946-66. The ratio of the most recent total index value to the value of the 1946 index (or to the value for the earliest time periods for which data are available) is indicative of the change in the total impact over this period of time. The relative importance of different factors to these changes is then given by the ratios of their respective partial indices. Figure 13 reports such comparisons for the 6 production-impact factors. The population factor contributes only between 12 and 20% of the total changes in impact in 1946-66. The number of pollutants that are “affluence” makes a rather small contribution—no more than 8%—to the increases. The rise in nitrogen oxides and tetraethyl lead (from automotive sources), this factor accounts for about 40% of the total effects. The remainder of the increase is contributed by a number of vehicles-mile travelled per capita since 1946. The technological changes in the processes which generate the various economic goods, contribute from 40-60% of the total increases in impact.

In evaluating these results it should be noted that automotive travel is itself strongly affected by a kind of technological transformation: the increased usage of suburbs in the United States and the consequent failure to provide adequate rail- and road-based public transportation to suburban areas. It became evident that the overall increase in vehicle-miles travelled per capita since 1946 (about 100%) is related to increased travel-work travel for pickup at this juncture is suggested by the results of a 1963 study. It was found that 90% of all automobile miles travelled in 1965, 30% of total mileage travelled, are 10 miles or less in length. The mean residence-work travel distance was about 5.5 miles. Thus, it is evident that the total mileage increased per capita vehicle-miles travelled by automobile as not totally attributable to increased “affluence,” but rather as a response to new demographic and technological trends which are costly in transportation.

During the period from 1946 to the present, pollution levels in the United States have increased sharply—generally by an order of magnitude or so. It seems evident from the data presented above that most of this increase represents a technological trend which has been and will continue to influence environmental impact—the technology of production—and that both pollution levels and their contribution to ecological damage exert a much smaller influence. Thus the chief reason for the sharp increase in environmental stress in the United States is the increased growth of technological production. The growth pattern has been counter-ecological.

This situation is easily misconstrued to mean that technology is therefore, per se, ecologically harmful. That this assumption is unwarrented can be seen from the following examples.

Consider the following simple transformation of the present, ecologically-fragile, relationship among soil, agricultural crops, the human population and sewage. Suppose that the sewage, instead of being introduced into the soil as a consequence of any new agricultural technology or following treatment, is instead transported from urban collection systems by pipeline to remote areas for incineration. In addition, substitute sterilization procedures—It is incorporated into the soil. Such a pipeline would literally reincorporate the urban population into the annual cycle of the plant growth and death cycle and, incidentally removing the need for inorganic nitrogen fertilizer—which is also transformed into the soil. So the urban population is then no longer external to the soil cycle and is therefore incapable of either generating a negative biological stress upon it or of exerting a positive ecological stress on the aquatic ecosystem. But note that this total environmental impact has been achieved by returning to “primitive” conditions, but by an actual technological advance, the construction of a sewage pipeline.

Or consider the example provided by the technological treatment of gold and other precious metals. Gold is, after all, subject to numerous technological manipulations, which generate a series of considerable economic values. Yet we manage to accomplish all of this without intruding on the same amount of gold, which is lost to the environment. In contrast, most of the mercury which has been disseminated into the environment has been disseminated into the environment, with very unfortunate effects on the environment. Clearly, ground water contamination, and motivation—we could be as thirsty in our handling of mercury as we are of gold, thereby preventing the entry of this toxic material into the environment. Again what is required is not necessarily the abandonment of mercury-based technology, but rather the introduction of technological solutions to the point of satisfactory compatibility with the ecosystem.

Exemplary spending then, it would appear possible to reduce the environmental impact of human activities by developing alternative systems. While all such systems can be accomplished, not by abandoning technology and the economic goods which it can yield, but by developing new uses with which people have the knowledge of the physical sciences (as must do moderately well; the new machines do, after all, usually require considerable refined goods), but ecological wisdom as well.

The foregoing considerations show that the environmental impact of development, whatever its cost in money, social distress and personal suffering, is chiefly the result of the application of technology to the environment. This technology has been accomplished to remake productive enterprises. The resulting environmental impact stresses the basic ecosystems which
support the life of human beings, destroy the "biological capital" which is essential to the operation of industry and agriculture, and may, if unchecked, lead to the catastrophic collapse of these systems. The environmental impacts already generated are sufficient to threaten the continued development of the economic system—witness the current difficulties in the United States in siting new power plants at a time of severe power shortage, the recent curtailment of industrial innovation in the fields of detergents, chemicals, manufacturing, pesticides, herbicides, chlorine production, oil drilling, oil transport, supersonic aviation, nuclear power generation, and industrial uses of nuclear explosives, all resulting from public rejection of the concomitant environmental deterioration.

It seems probable, if we are to survive economically as well as biologically, that much of the technological transformation of the industrialized economy since 1946 will need to be, so to speak, redone in order to bring productive technology much more closely into harmony with the inescapable demands of the ecosystem. This will require the development of massive new technologies including: systems to return sewage and garbage directly to the soil; the replacement of synthetic materials by natural ones; the renewal of the present trend to retire soil from agriculture and to elevate the yield per acre; the development of land transport that operates with maximal fuel efficiency at low combustion temperatures and with minimal land-use; the sharp curtailment of the use of biologically active synthetic organic agents. In effect, what is required is a new period of technological transformation of the economy, which reverses the counter-ecological trend that has existed since 1946. We might estimate the cost of this new transformation, from the cost of the former one, which in the United States must represent a capital investment in the range of hundreds of billions of dollars. To this must be added, of course, the cost of repairing the ecological damage which has already been incurred, such as the eutrophication of Lake Erie, again a cost to be reckoned in the hundreds of billions of dollars.

What might all this cost? Some very rough but useful approximations can be made. For example, it is generally reckoned that the total, static capital equipment in the United States is about three times the annual GNP, or about two thousand four hundred billion dollars at the present time. (This and all following numbers are expressed as 1958 dollars to compensate for inflation.) A very rough estimate of the existing capital equipment that would need to be replaced in order to remedy major ecological faults might be about one-fourth, or about six hundred billion dollars worth. In comparison, the expenditures for structures and producers' durable equipment by private investors during the period 1946 to 1958 when, as we have seen, most of the ecologically faulty enterprises were built, amounted to roughly one thousand billion dollars. Accordingly, on the basis of the first estimates, something like one half of the postwar productive enterprises would need to be replaced by ecologically sounder ones.

Rough as they are, these figures give us some sense of the magnitude of the task of ecological reconstruction of the national productive system. To this estimate must be added the costs of efforts to restore damaged sectors of the ecosystem, which would range in the area of hundreds of billion dollars. This cost need not, and of course cannot, be met at once. If we accept as a goal the grace—the time available before serious large-scale ecological catastrophes overtake us—let us say twenty-five years, then the costs of survival becomes about forty billion dollars annually over that period of time (again in 1958 dollars). Perhaps the simplest way to summarize all this is that most of the nation's resources for capital investment would need to be engaged in the task of ecological reconstruction for at least a generation. This means that new investments in agricultural and industrial production and in transportation would need to be governed chiefly by ecological considerations, so that the over-all pattern of investment would have to come under the guidance of the ecological rather than conventional economic imperatives.

FOOTNOTES
7 Patterson, C. C., Environment 10, p. 72 (1967).
### TABLE V.—Detergent Phosphorus (Environmental Impact Index)

| (a) Population | (b) Phosphorus, cleaners (lb./1000 population) | (c) Detergents (lb./1000 population) | Total Impact (a, b, c) | Percent Increase 1946-66
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1946</td>
<td>140,686</td>
<td>27.66</td>
<td>6.90</td>
<td>11</td>
</tr>
<tr>
<td>1966</td>
<td>194,845</td>
<td>15.99</td>
<td>137.34</td>
<td>214</td>
</tr>
<tr>
<td>1968-1966</td>
<td>54.19</td>
<td>18.45</td>
<td>137.34</td>
<td></td>
</tr>
<tr>
<td>c) Increase 1946-66...</td>
<td>42</td>
<td>(1.00)</td>
<td>(1.270)</td>
<td>1,845</td>
</tr>
</tbody>
</table>

1. Assuming that 35 percent of detergent weight is active agent.
2. Assuming average phosphorus content of detergents equals 4 percent.
3. Based on population and detergent sales. Figure 1 shows that detergents, especially soon after their introduction, appeared to be consumed in per capita use is not considered significant; the numbers contained in parentheses are based on the assumption that this value does not change significantly.

### TABLE VI.—Beer Bottles (Environmental Impact Index)

<table>
<thead>
<tr>
<th>(a) Population</th>
<th>(b) Beer Beaters, beer consumption (gallons/bottle)</th>
<th>(c) Total Index (b, x, y, z)</th>
<th>Percent Increase 1946-66</th>
</tr>
</thead>
<tbody>
<tr>
<td>1946</td>
<td>151,865</td>
<td>24.99</td>
<td>0.25</td>
</tr>
<tr>
<td>1966</td>
<td>197,859</td>
<td>26.27</td>
<td>0.26</td>
</tr>
<tr>
<td>1968-1966</td>
<td>45,994</td>
<td>1.07</td>
<td>1,484.872</td>
</tr>
<tr>
<td>Percent Increase 1946-66</td>
<td>32.52</td>
<td>506</td>
<td>892</td>
</tr>
</tbody>
</table>

1. Beer consists of beer bottles and other containers. Figures 1 and 2 show that beer consumption per capita has increased since 1946 and that the average number of bottles per beer consumed has decreased. The average number of bottles consumed per beer is based on the assumption that the average bottle size per person remained constant.

### TABLE VII.—Nitrogen Oxides (Passenger Vehicles) (Environmental Impact Index)

<table>
<thead>
<tr>
<th>(a) Population</th>
<th>(b) Vehicles, nitrogen oxides, per population</th>
<th>(c) Total Index (b, x, y, z)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1946</td>
<td>140,686</td>
<td>1,982</td>
</tr>
<tr>
<td>1966</td>
<td>157,809</td>
<td>2,588</td>
</tr>
<tr>
<td>1968-1966</td>
<td>606</td>
<td>7.3</td>
</tr>
</tbody>
</table>

1. Dimensional units NOX (p.p.m.) times nitrogen consumption (gals. X 10^-6). Estimated from product of passenger vehicle nitrogen consumption and p.p.m. of NOX emitted by engines of average and annual wobble, at 15-mi. average speed.

### TABLE VIII.—Tetraethyl Lead (Environmental Impact Index)

<table>
<thead>
<tr>
<th>(a) Population</th>
<th>(b) Vehicles, tetraethyl lead, per population</th>
<th>(c) Total Index (b, x, y, z)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1946</td>
<td>140,686</td>
<td>4,184</td>
</tr>
<tr>
<td>1966</td>
<td>157,809</td>
<td>5,390</td>
</tr>
<tr>
<td>1968-1966</td>
<td>2,206</td>
<td>427</td>
</tr>
</tbody>
</table>

1. Vehicles only. Weight refers to lead content. See note for table IX.


### FIGURE 3 (not printed in Recod). Annual growth rates of production (or consumption) in the United States. Annual data are from Statistical Abstract of the United States, op. cit., 1946-1970; see text for method of computation.

### FIGURE 4 (not printed in Recod). Changes in total crop output (as determined by U.S.D.A. Crop Index), in crop output per capita, in harvested acreage and in annual use of inorganic nitrogen fertilizer in the United States since 1946. Data are from Agricultural Statistics, U.S. Government Printing Office, Washington, D.C., 1970, p. 140. Detergent data represent net amount of surface-active agent, which is estimated as about 37.5% of the total weight of the marketed detergent.


### FIGURE 6 (not printed in Recod). Nitrogen and synthetic fiber production in the United States since 1946. Data are from Agricultural Statistics, U.S. Government Printing Office, Washington, D.C., 1970, p. 140. Detergent data represent net amount of surface-active agent, which is estimated as about 37.5% of the total weight of the marketed detergent.

### FIGURE 7 (not printed in Recod). Total soybean meal consumed, in percent of total consumption of total cleaners (soap plus detergent) in the United States since 1946. Data are from Agricultural Statistics, U.S. Government Printing Office, Washington, D.C., 1970, p. 140. Detergent data represent net amount of surface-active agent, which is estimated as about 37.5% of the total weight of the marketed detergent.

### FIGURE 8 (not printed in Recod). Average characteristics of passenger car engines produced in the United States since 1946. Brake horsepower and compression ratio data are from the 1951 and 1970 volumes of "Brief Passenger Car Data," Ethyl Corporation.


### FIGURE 10 (not printed in Recod). Lead emissions, from tetraethyl lead in gasoline, in the United States since 1946. Data are from Minerals Yearbook 1947-1968 and Statistical Abstract of the United States, op. cit. (see Legend, Figure 10).

### FIGURE 11 (not printed in Recod). Relative contributions of several factors to changes in environmental impact indices. The contributions of population size, "affluence" (production per capita), and technological characteristics (consumption of pollutants released per unit production) to the total environmental impact indices were computed as shown in the text. Each bar is subdivided to show the relative contributions, on a scale of 1.0, of the several factors to the ratio of the total impact index value for the later year to the value for the earlier year.

### MAKING OIL AND GAS, PART 1

Mr. GRAVEY. Mr. President, there are many reasons why it is impossible to take our so-called "energy crisis" seriously. Unparalleled sunshine, windpower, seathermal power, and geothermal power are very big reasons.

Another big one is our proven capability to make clean oil and gas from organic matter, including animal waste and urban refuse.

Every year, the domestic animals in this country produce enough waste to make about 2 billion barrels of oil, or nearly 40 percent of our present oil consumption, which is over 5 billion barrels. In addition, our cities generate 400 million tons of presently troublesome or garish waste per year. That amount of garbage could be converted into about 400 million barrels of oil. This source alone could provide nearly 8 percent reduction in the amount of oil we would otherwise drain out of the earth for domestic consumption.

### FERTILIZER VERSUS OIL

Organic waste should be returned to the land to replenish the soil from which it all originated. I was pleased to see in the December 6 issue of Time magazine that a plant in Brooklyn is producing and selling fertilizer made out of 150 tons of New York garbage per day. Undoubtedly, that is the kind of thing we need to do on a grand scale, if we want healthy soil and food.

Instead, we are spending billions to incinerate and dump our urban waste, and our food waste on feedlots is regarded as "a pollution problem."
Meanwhile, the Bureau of Mines in the Department of the Interior has already completed a major study on converting low-sulfur oil out of both urban wastes and animal wastes.

One of the ecological advantages of using manmade oil is that it does not add to the existing carbon dioxide buildup in the planet’s atmosphere. Burning manmade oil, in contrast to fossil fuel, only recirculates carbon dioxide which is already in the atmosphere.

HIGH BUSINESS INTEREST

The ecological and international implications of clean, manmade oil are enormous. At a later date, I expect to return to this subject.

What are we spending on this extremely promising energy technology? Which industries have expressed support?

In response to my questions, Elburn F. Osborn, Director of the Bureau of Mines, replied as follows:

We are spending $255,000 this fiscal year on an accelerated program of bench-scale research on converting organic solid wastes that give us enough information to make a preliminary engineering design and cost estimate of the process. If this work shows that the process will work, we will request funds for a Development Plan that would take several years and cost $12 million.

Substantial interest in our proposed process has been expressed by oil companies, the chemical industry, cattle feedlot operators, and public officials. Prompt construction of a full-scale plant has even been suggested. We believe, however, that the high costs at commercial scale would be premature until the steps optimal to the process have been determined and definitive cost estimates have been prepared.

LOW-SULFUR OIL

A report entitled “Conversion of Urban Refuse to Oil,” by Drs. Herbert R. Appell, Irving Wender, and Ronald D. Miller, was issued in May 1970, by the Bureau of Mines. The summary states four points as follows:

1. Cellulosic wastes, including materials such as urban refuse, wood industry wastes, and sewage sludge, have been converted to an oil under the presence of carbon monoxide and steam under pressure.
2. A high-temperature version, conducted at 300° C., and a temperature version, conducted at 250° C., have been developed on a laboratory scale.
3. The oil from cellulosic wastes, exclusive of sewage sludge, is characterized by a high oxygen content and a low sulfur content.
4. Additional studies in the laboratory are underway for cost estimates and a thorough evaluation of the process.

MATERIAL INTO THE RECORD

This summer, a brief story entitled “Process Converts Animal Wastes to Oil” appeared in the August 16, 1971, issue of Chemical and Engineering News.

Mr. President, I ask unanimous consent that a reproduction of that article printed as Exhibit 1 at the end of my remarks today.

In addition, I ask unanimous consent to have the 1971 report entitled “Converting Organic Wastes to Oil. A Report on the Energy Source,” by Drs. Appell, Pu, Friedman, Yavorsky, and Wender, printed as Exhibit 2 at the end of my remarks.

SIGNIFICANT POTENTIAL

The conclusion of that report is as follows:

A significant part of the energy demand of the Nation can be obtained from the use of almost every kind of organic solid waste to a low-sulfur oil by treatment under pressure with carbon monoxide and steam.

Methods for lowering carbon monoxide consumption and for operating at lower pressures have been found; these offer the potential of low processing-costs for converting cellulosic wastes to oil.

While the effects of temperature, pressure, and time on the process have been explored, more work is required to find optimum conditions for the conversion.

A commercial plant has operated successfully and, preliminarily, results have been obtained on the conversion of sucrose to oil.

The work of this research team is being performed in Pennsylvania at the Pittsburgh Energy Research Center, U.S. Bureau of Mines.

HIGH-SULFUR GAS

At the University of Wyoming College of Engineering in Laramie, Prof. Ed J. Hoffman and his research team have been pursuing similar feats by making high-B.t.u. gas out of waste paper, polyethylene plastic bottles, shredded tire rubber, manure, and sewer sludge.

Their success, however, is the production of coal in cooperation with the Office of Coal Research; the conversion of organic waste to gas was performed more for the sake of knowledge. Referring to organic waste, Professor Hoffman says:

Whenever feasible, organic wastes are best returned to the soil. In instances, however, in which this may ... of a desirable product would be a reasonable alternative.

LOOKING TO THE SUN

Pointing out that organic materials are just as promising, Professor Hoffman concludes that solar energy is the ultimate source of future fuel:

All other energy sources can be exhausted, being exhausted. That leaves only solar energy as the ultimate source of all our carbonaceous materials.

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

EXHIBIT 1

[From Chemical and Engineering News, Aug. 16, 1971]

PROCESS CONVERTS ANIMAL WASTES TO OIL

[Conversion of all domestic animal waste to oil would provide equivalent of half of U.S. oil supply.]

When one observer, admiring the efficiency of turn-of-the-century meat packers, wrote that they use everything from the pig “but the squeal,” he overlooked one important by-product—manure. Today, it is nearly impossible to overlook animal wastes, for they total nearly 2 million tons annually, dwarfing the 250 million tons of household, commercial, and industrial solid wastes generated nearly and creating a disposal problem of great magnitude.

Now, scientists at the U.S. Bureau of Mines’ Pittsburgh Energy Research Center have developed a scheme that not only would dispose of these wastes, but also provide an important new source of energy and contribute to the abatement of air pollution. Their scheme: Convert the wastes to oil.

The center began its work in an attempt to convert coal into oil. Dr. G. Alex Mills, chief of BuMines’ division of coal, explains. Although in one way, Dr. Mills and Dr. Irving Wender discovered that one of the processes they were investigating could be converted to making low-sulfur oil by converting it to oil (C&EN, Nov. 17, 1969, page 49).

DURABLE

After the center publicized its findings, Dr. Mills tells C&EN, it was deluged with a variety of other materials for testing. But, “we really haven’t found yet” the so-called agricultural waste was about 10 times larger than [urban] waste, and this brings a new dimension to the challenge of finding an unwanted thing as the possibility of providing a fuel oil in significant dimensions."

The process is simple. Manure (or any cellulosic waste) is placed in a reaction vessel with carbon monoxide at an initial pressure of about 20,000 a.i. and heated at 300° C. for 20 minutes. Based on dry manure, the yield of oil is 47% (3 barrels per ton). But, Dr. Mills notes, if you consider sugar or cellulose and calculate how it should break down, you get a 50% yield of water and a 50% yield of hydrogen... This is 95% in these terms represents may be a 95% theoretical yield. "This was the highest yield from any of the materials, and therefore we felt it worth while to study the mechanism of the reaction and current thinking is that the reaction proceeds... In our ‘formaldehyde’ we just don’t know yet," says the division of coal’s staff research coordinator, Dr. John S. Tosh. They have, however, discovered that the yield of carbon monoxide and steam is far more effective in the processing than is direct hydrogenation.

CONSTANT

Whatever the mechanism, the reaction produces a remarkably constant product from a wide variety of cellulotic materials. That product is a heavy oil with an energy content of 14,000 to 16,000 B.t.u. per pound. For comparison, natural oil has a B.t.u. value of about 20,000 a.i., and coal’s is between 7,000 and 13,000, depending on the type; the energy content of manure ranges from 5,000 to 7,000 B.t.u. per pound.

The oil is largely paraffinic, with virtually no aromatics present. It has a nitrogen content of about 3%, which makes it difficult to refine the material into gasoline, Dr. Tosh says. But it is also much less expensive. It is also less than 0.35%. And that, Dr. Mills contends, is one of its most important properties in light of the growing need for low-sulfur oils to put into urban air pollution programs.

Dr. Mills is very enthusiastic about the future of the process. The BuMines process is, in effect, a way to harness the sun’s energy, he says, and to do so in a manner that is economically viable. The cost of disposing of the urban and agricultural wastes, he adds, provides a strong economic driving force. And the low temperature required in the process means that only a small amount of energy is necessary to convert the energy that can be provided by burning either manure or a small amount of the feedstock. He also notes that converting to heat is impractical and expensive, Dr. Mills notes, because of its low energy content and the problems of handling it, and then there is the large supply of raw material: "It’s been pointed out," Dr. Mills notes, for example, "that there are enough acres in the U.S. that there are people in the world." If all of the so-called agricultural wastes were collected and converted, its energy content and the energy content of the feedstock—in other words, about 2.45 billion barrels of oil per year. You’re not going to produce it all," he adds. "But at least shows this is of a significant dimension."
CONGRESSIONAL RECORD — S E N A T E  
December 10, 1971

EXHIBIT 2
[ Bureau of Mines Report of Investigations,]

CONVERTING ORGANIC WASTES TO OIL—A REPLENISHABLE ENERGY SOURCE

(By H. R. Appell, Y. C. Fu, Sam Friedman,* P. M. Vayovsky,* and Irving Wender*)

Pittsburgh Energy Research Center, Pittsburgh, Pa.

(NOTE—Figures referred to are not printed in the record.)

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1. Effect of temperature on cellulose conversion.
2. Analysis of cellulose and products.
3. Effect of CO pressure on cellulose conversion.
4. Effect of water to cellulose ratio on cellulose conversion.
5. Effect of solvent on operating pressure and cellulose conversions.
6. Effect of various catalysts on cellulose conversion.
7. Effect of recycle catalyst solution on cellulose conversion.
8. Efficiency of hydrogen utilization.
9. Composition of byproducts and products.
10. Continuous unit operating conditions.

ABSTRACT

The Bureau of Mines is experimentally converting cellulose, the chief constituent of organic solid waste, to a low-sulfur oil. All types of cellulose wastes, including urban refuse, agricultural wastes, sewage sludge, wood, lignin, and bovine manure have been converted to oil by reaction with carbon monoxide and water at temperatures of 350° to 400° C and pressures near 4,600 psig, and in the presence of various catalysts and solvents. Cellulose conversions of 90 percent and corresponding to oil yields of 40 to 50 percent have been obtained.

A continuous reactor for use at maximum conditions up to 600° C and 5,000 psig has been operated successfully. Using sucrose as a feedstock, operation in this system has permitted a simplified and preliminary chemical study of the conversion process. Oil yields of over 60 percent have been obtained with this unit.

INTRODUCTION

There are essentially two kinds of solid wastes—inorganic and organic. The inorganic components include glass containers, tin and aluminum cans, junk automobiles, slags and wastes from mine ores, etc. Most footnotes at end of article.

people regard organic wastes (chiefly compounds of carbon, hydrogen, and oxygen) as simply 'garbage' and believe they must be removed from urban wastes. Although such urban wastes are indeed a huge source of organic material, other replenishable and continually growing organic waste materials, such as agricultural wastes are now adding each year to the glut spreading over our land. Not only can we not burn these materials, but they can furnish much of our energy in the form of low-sulfur liquid fuels.

The total weight of various sewage organic wastes generated yearly in the United States is about 3.2 billion tons. Agricultural wastes generated total 2.5 billion tons, of which about 75 to 80 percent is currently agri-cultural wastes, generated, including domestic, municipal, industrial, and commercial, is 400 million tons. This total is probably still growing, and so is the amount of solid wastes rejected per person. Discards collected by private and public agencies have almost tripled in the last 40 years, from .22 pounds to 6.96 pounds per day per person. Predictions call for doubling even this latter rate long before the end of the twentieth century.

The Bureau of Mines has developed a process for converting organic wastes to liquid or low-sulfur oil potentially suitable for use by powerplants or for conversion to gasoline and diesel fuels. The total urban waste material per person, containing about 80 percent organic material, could yield some 2 billion barrels of oil annually. This is about 50 percent of the 1970 U.S. demand for oil. In a fundamental sense, this process is a means of utilizing solar energy which, of course, the basis of cellulose processes.

An earlier report described a method of converting organic urban refuse, waste paper, and sewage to water and carbon monoxide and water. A heavy oil was obtained when this reaction was carried out at high temperatures and very low pressures; at low temperature and moderate pressures, the product was a soft, bitumenlike solid.

This process was successful in converting sucrose, a typical carbohydrate, to oil.

BACKGROUND

The work on the conversion of solid wastes to oil is an outgrowth of the Bureau's efforts to help solve the problem of energy shortage in the United States in keeping with the demands of good environment. Almost all previous work on conversion of coal to low-sulfur liquid fuels involved use of hydrogen at high pressures and temperatures in the presence of a catalyst. In searching for a new, lower pressure technique, the Bureau discovered that treating low-rank coals with carbon monoxide and water converted them into a gas, called furfural, benzene-soluble oil in good yields. Indeed, at 350° to 400° C the reaction of coal with carbon monoxide and water is more rapid than the conversion of coal with hydrogen.

In an effort to understand why the reaction of coal with carbon monoxide and water went so well, we became aware of the reactions of several model compounds with hydrogen and with carbon monoxide plus water. Obviously, when added more hydrogen in the presence of hydrogen gas, but for two model substances tested (cellulose and lignin, constituents of growing plants), the reactions of carbon monoxide and water was more rapid and complete. Urban refuse, waste paper, and even sewage sludge were converted to oil in this way.

CARBON MONOXIDE

Carbon monoxide and water react to form hydrogen and carbon dioxide in the following water-gas shift reaction:

\[ H_2O + CO \rightarrow H_2 + CO_2 \]

Because some hydrogen add to cellulose during its conversion to oil, it seemed at first reasonable to suppose that the hydrogen gas formed in the water-gas shift was responsible for converting cellulose. But when hydrogen was added to the reactor, it had little effect; an equivalent molar amount of carbon monoxide was much more effective.

Since the water-gas shift reaction cannot be entirely avoided, it must be minimized. Carbon monoxide concentration at lower than 0.5 at.

D (D is the total pressure) was low; this finding offered a promising lead to less carbon monoxide use. Since both carbon monoxide and hydrogen are usually made from synthesis gas (mixture of CO and H2), it would be best to use the cheaper synthesis gas directly. This is entirely possible, although it might take a long time. Since the total pressure somewhat, synthesis gas may ultimately be the gas used.

When cellulose is heated to 250° to 400° C, it eliminates water, some carbon dioxide, and carbon monoxide, and then forms a solid black material, called char, or C. Often, as many people have termed "artificial coal." It does resemble coal in many ways. A similar char forms when cellulose is heated to the same temperature, but with the addition of water along with hydrogen has little effect. But heating cellulose with carbon monoxide and hydrogen in the presence of a catalyst gives an oil. This oil yield increases if a catalyst such as sodium carbonate is present.

The exact function of the carbon monoxide is not yet known. It may be that it is needed in the water-gas shift reaction. It could react with water and alkaline salts to form some intermediate compound, possibly an alkali formate, which transfers hydrogen, probably as hydride ion, to the substrate, thus leading to oil formation. Or it could function to remove oxygen from cellulose by formation of carbon dioxide. It probably has other additive roles. Despite its complex nature, it leads to unsaturated substances that polymerize easily to char. It is known that carbon monoxide often inhibits or prevents such polymerizations. In the presence of carbon monoxide, the extent of deoxyribonucleic acid (DNA) is greater and dehydration is prevented. It is frequently used with reaction in the presence of hydrogen.

WATER

The original experiments with carbon monoxide and water were successful without added water, because this coal has a large amount of moisture. However, addition of water was beneficial. It serves as the source of hydrogen which is added to the substrate and as the vehicle (solvent) for the fuel. When this water is heated, and adding water plus carbon monoxide improves the oil yield.
However, during the water-also shifts the water-gas reaction in the direction more of carbon dioxide and hydrogen (more carbon monoxide is consumed); this side reaction may also occur.

The critical temperature of water is 375°C; above this temperature all the water is in the gaseous state. There are indications that the presence of liquid water is desirable;1 this may be accomplished by adding enough water so that some liquid is always present. If this is done in small quantities, the water will be below 375°C. If insufficient water is added, all of it will be in the gas phase, even below 375°C.

In summary, water is the source of hydrogen added to the substrate and serves as a vehicle (solvent) for the reaction.

Catalyst

No catalyst was added in the initial experiments with cellulose, in which ordinary tan paper towels were used; nor was catalyst added in converting low-rank coals to oil with carbon monoxide and water. But it was soon found that both the coal and the paper towels contained alkali salts which functioned as catalysts. The catalytic activity of sodium carbonate and water is poor (a conversion rate of 33 percent and an oil yield of 15 percent). The conversion rate dropped to 4 percent when sodium carbonate was added (conversion rate and oil yield of 90 percent and 40 to 43 percent, respectively).

Vehicle-solvent

A liquid phase is helpful as a vehicle for feeding substrates and for keeping reaction intermediates apart so that they do not condense to a char. Water may be the best vehicle, since it dissolves the first and some organic intermediates; it is the least expensive; and in any case, it must be present to some extent. Urban refuses alone, sludge, and other substrates may contain sufficient water so that no more need be added. However, as detailed later, the use of anthracene oil and other high-boiling hydrocarbons with solvents permits operation at lower pressures.

Nature of Conversion Reactions

Cellulose (C₆H₁₀O₅)ₙ is found in the cell walls of plants and trees. It consists of long chains of glucose units. In importance is starch, a widely distributed polysaccharide that is stored in the seeds, roots, and tubers of plants. It too consists of glucose units, but these are linked differently than in cellulose.

Cellulose, starch, and other carbohydrates can undergo a large number of reactions on treatment at elevated temperatures and pressures with carbon monoxide, water, and sodium carbonate or other alkaline salts. Since almost every carbon atom in a carbohydrate is bonded to an oxyhydro group (-OH), some dehydration will take place. Hydrolysis of the polysaccharides to glucose will also occur; glucose and the smaller units formed from it are soluble in water. Hydrolysis of the fats in the refuse to long-chain palmitic and stearic acids will also occur.

Probably the most important overall reaction in converting cellulose to oil is the splitting out of oxygen to form molecules with high hydrogen-to-carbon ratios. Cellulose and other substrate lose water and carbon dioxide just on being heated. Oxygen can also be lost by reaction with the added carbon monoxide or with the water by hydrolysis, by various disproportionation reactions, and by combinations of these reactions. The various reactions that take place result in an oil made up a complex mixture of different molecules. This is what has been found.

Footnotes at end of article.

ExPERIMENTAL PROCEDURES

Batch studies were conducted in 0.5-liter and 1-liter stainless steel autoclaves at temperatures of 250°C to 400°C.2 White pine wood was used as a source of crude cellulose. Dextrose, filter paper, and cellulose were used as a source of pure polycarbons. Carbon monoxide was obtained from a local dairy barn.

The feedstock, water, and catalyst were charged to the cold autoclave; carbon monoxide was added to give the desired pressure; and the autoclave was then heated to the desired temperature. The reaction time reported includes the heating and cooling periods, only the time at reaction temperature. The heating and cooling periods for the autoclave runs, where significant amounts of reaction may have occurred, are about 1 hour for runs at 250°C, and about 2 hours for runs at 300°C and above.

The reaction product was flushed from the autoclave with solvent, and the oil was essentially extracted in a Soxhlet. Benzene was used to extract the product, except for runs made at 250°C, where acetone was used. The oil was filtered with a sintered glass funnel, and the solvent was then stripped off the solvent and then drying at room temperature. In some runs (tables 1 and 4), the oil was then distilled in a 100°C oven, even at 100°C. This treatment resulted in the loss of some volatile product, and the oil yields in these cases are low. The percent conversion is determined on the weight of insoluble residue remaining after solvent extraction from 100. All calculations are on a moisture- and ash-free basis. The gaseous products were analyzed by mass spectrometry.

Complete conversion of all the carbon in cellulose to oil yields about 87 percent if the average carbon content of the oil is assumed to be 78 percent. Since some carbon would be contained in the residual products, modestly increased carbon dioxide, the actual oil yield would be smaller. A conversion of 100 percent means that about half the cellulose is converted to oil; the remaining liquid product is mostly water.

A continuous bench-scale unit for converting waste to oil by carbon monoxide-water treatment has been constructed and recently placed in operation. Figure 1 presents a simplified schematic of the unit, and Figure 2 shows the control section on the protective baffle encasing the unit. The system was designed to operate at maximum pressures of 500 psi and 400°C, with feed rates of 100 to 500 g/hr of waste slurry and 10 standard cubic ft per hr (scfh) of carbon monoxide. Depending on the amount of carbon monoxide and liquid feed was preheated under pressure and injected into the bottom of the heated reactor. The liquid and gas exited from the top of the reactor and separated in the high-pressure recovery system. The liquid collected was intermittently discharged into secondary receivers at atmospheric pressure, while gas was continuously released through a back-pressure regulator.

Results and Discussion

Effect of Temperature

The conversion of carbohydrates to oil has been investigated over the range 250°C to 400°C. At 350°C to 400°C, cellulose wastes are readily converted to oil by combined action of carbon monoxide, water, and catalyst. Within this range, temperature has little effect on conversion and yield; oil yield, probably because the reaction to carbonization at higher temperatures balances out the small amount of additional conversion of gas phase hydrocarbons. Gas phase hydrocarbon C5 may be preferred if synthetic polymers, such as polyethylene and polyethylene, are also present at a high rate of production. However, above 400°C, the reaction temperature does have a significant influence on the viscosity and oxygen content of the product. The product oil obtained at 250°C is a soft, bitumenlike solid at room temperature, but becomes readily pourable as its temperature is raised to near 100°C. On the other hand, the product obtained at 350°C is a free-flowing liquid with a viscosity of 650 cs (centistokes) at 50°C and 102 cs at 85°C.

The conversion of the physical state of water at its critical temperature (375°C) may complicate interpretation of results in work in the 250°C to 400°C range. A moderate decrease in temperature may sometimes result in more of the reaction mixture existing as a liquid product, and thus improve product quality. But when much of the reactants are already in the liquid phase, a decrease in temperature can be expected to result in a product of higher viscosity and oxygen content.

A major advantage of low temperature (250°C) batch tests is that the pressure developed by the steam and gases is usually about 1,600 psig compared with almost 5,000 psig at 400°C. Another is that very little carbon monoxide is consumed by the water-gas shift reaction at 250°C. As the temperature is raised, the liquefaction of the process products begins to consume carbon monoxide, and a major advantage of low-temperature operation is lost.

Table 1 shows some data on the effect of reaction temperature on cellulose conversion. The water-to-cellulose ratio is high, causing water to be present in both liquid and vapor states. The observed pressure varies with temperature, increasing with progress of the reactions.

The analysis of cellulose and its products in table 2 reveals that treatment of cellulose with carbon monoxide in water produces monomers, short-chain ethers, and acetaldehyde. The oxygen content of the oil products and the residues are lower at higher temperatures, indicating that oxygen removal is more effective at higher temperatures. The hydrogenation effect will not be apparent from the analysis, because the starting cellulose contains many hydroxyl groups which contribute to the hydrogen content.

Table 3 shows the effect of the water-gas shift reaction at 250°C was reduced to less than 10 percent, and most of the accompanying hydrogen was quantitatively taken up by the cellulose conversion processes.

**Table 1.** EFFECT OF TEMPERATURE ON CELLULOSE CONVERSION

<table>
<thead>
<tr>
<th>Temperature, °C</th>
<th>Oil yield</th>
<th>Gas yield</th>
<th>Viscosity</th>
</tr>
</thead>
<tbody>
<tr>
<td>250</td>
<td>420</td>
<td>250</td>
<td>650</td>
</tr>
<tr>
<td>300</td>
<td>420</td>
<td>250</td>
<td>650</td>
</tr>
<tr>
<td>350</td>
<td>420</td>
<td>250</td>
<td>650</td>
</tr>
<tr>
<td>400</td>
<td>420</td>
<td>250</td>
<td>650</td>
</tr>
</tbody>
</table>

1. Values are corrected to 25° C. Data are not at 1 atm but at 2 atm.

2. The water contained some oxygenated organic materials derived from the cellulose.

---

*December 10, 1971*
The table below shows the conversion of cellulose to water-gas shift reaction at 250°C. The water-gas shift reaction is about 19 percent, when it is assumed to be equivalent to carbon monoxide consumption.

<table>
<thead>
<tr>
<th>Element</th>
<th>Unreacted cellulose</th>
<th>250°C Oil</th>
<th>Residue</th>
<th>300°C Oil</th>
<th>Residue</th>
<th>500°C Oil</th>
<th>Residue</th>
</tr>
</thead>
<tbody>
<tr>
<td>Carbon</td>
<td>15.6</td>
<td>85.8</td>
<td>73.9</td>
<td>78.5</td>
<td>76.6</td>
<td>81.2</td>
<td>83.1</td>
</tr>
<tr>
<td>Hydrogen</td>
<td>6.9</td>
<td>4.0</td>
<td>5.5</td>
<td>6.5</td>
<td>4.8</td>
<td>8.3</td>
<td>6.7</td>
</tr>
<tr>
<td>Nitrogen</td>
<td>0.9</td>
<td>0.4</td>
<td>0.4</td>
<td>0.3</td>
<td>0.3</td>
<td>0.3</td>
<td>0.3</td>
</tr>
<tr>
<td>Sulfur</td>
<td>0.1</td>
<td>0.06</td>
<td>0.07</td>
<td>0.04</td>
<td>0.04</td>
<td>0.04</td>
<td>0.04</td>
</tr>
<tr>
<td>Oxygen (by difference)</td>
<td>17.0</td>
<td>29.3</td>
<td>20.3</td>
<td>13.4</td>
<td>17.3</td>
<td>10.3</td>
<td>11.3</td>
</tr>
<tr>
<td>N/C atomic ratio</td>
<td>1.60</td>
<td>1.0</td>
<td>1.0</td>
<td>1.0</td>
<td>1.0</td>
<td>1.0</td>
<td>1.0</td>
</tr>
</tbody>
</table>

1 See Table 1 for operating conditions.

**Effect of pressure**

Batch experiments on converting organic solid wastes to oil usually consist of placing the waste material in an autoclave, adding water and catalyst (if not already present in the waste material), and then adding carbon monoxide to the desired pressure. The initial monoxide pressure on cellulose conversion is in addition to the normal pressure increase of carbon monoxide upon heating. Contributions are also made by water vapor and the evolved carbon dioxide and hydrogen. Carbon dioxide forms in two ways: by the water-gas shift reaction and by decomposition of cellulose or other waste material. Most of the hydrogen forms via the water-gas shift reaction.

The effect of pressure is above 375°C, as the water is in the vapor phase, and the pressure becomes as high as dictated by the quantity of water put into the autoclave. Below 375°C, if liquid water is present at reaction temperatures, the vapor pressure of water is regulated by the solution concentration, thus making this pressure somewhat less than the known steam pressure of pure water. If a relatively small amount of water is added initially to the 250°C reaction, carbon monoxide will be in the vapor phase, and the steam pressure at a given temperature will depend on the volume of the autoclave.

The effect of carbon monoxide pressure and steam pressure were delineated by several experiments. The effect of very low carbon monoxide pressure on cellulose conversion was observed visually as well as by determining oil yield. Insufficient carbon monoxide is present, some oil is made, but much of the cellulose char is retained and the shape and volume of the original material. If adequate carbon monoxide is present, as well as water and catalyst, the cellulose structure collapses and yields more oil. The data in Table 3 were obtained with high concentrations of water at 250°C. Under these conditions, liquid water is always present, but very little water-gas shift occurs because of the low temperature. Here the difference in operating pressure at temperatures is almost entirely due to carbon monoxide, because the steam pressure is constant. Note in Table 3 that oil yield is strongly influenced by the applied carbon monoxide pressure.

**Effect of water**

Some information on the effect of water and resultant steam pressure on cellulose conversion is given in Table 4. Here the reaction was run at 350°C, A temperature at which the water-gas shift can be very large (Table 1).

<table>
<thead>
<tr>
<th>Experiment</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Initial pressure of CO (kPa)</td>
<td>585</td>
<td>600</td>
<td>600</td>
<td>585</td>
</tr>
<tr>
<td>Operating pressure (kPa)</td>
<td>2,340</td>
<td>2,140</td>
<td>3,360</td>
<td>3,560</td>
</tr>
<tr>
<td>Temperature (°C)</td>
<td>120</td>
<td>120</td>
<td>120</td>
<td>120</td>
</tr>
<tr>
<td>Time at temperature</td>
<td>20</td>
<td>20</td>
<td>20</td>
<td>20</td>
</tr>
<tr>
<td>Water</td>
<td>20</td>
<td>20</td>
<td>20</td>
<td>20</td>
</tr>
<tr>
<td>Sodium carbonate</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Output, %</td>
<td>40.6</td>
<td>40.6</td>
<td>35.8</td>
<td>38.0</td>
</tr>
<tr>
<td>Water-extracts</td>
<td>20</td>
<td>20</td>
<td>20</td>
<td>20</td>
</tr>
<tr>
<td>Oil</td>
<td>20</td>
<td>20</td>
<td>20</td>
<td>20</td>
</tr>
<tr>
<td>Recovery</td>
<td>85.0</td>
<td>85.0</td>
<td>86.0</td>
<td>86.0</td>
</tr>
<tr>
<td>Cellulose conversion</td>
<td>18.6</td>
<td>18.6</td>
<td>18.6</td>
<td>18.6</td>
</tr>
<tr>
<td>Shift reaction</td>
<td>14.5</td>
<td>14.5</td>
<td>14.5</td>
<td>14.5</td>
</tr>
</tbody>
</table>

1 Values are corrected to 25°C.

The water-to-cellulose ratio was varied from 20:20 to 80:20. The amount of water collected was usually more than 90 percent of the water added. It should be noticed that only in experiment 4 with a water-to-cellulose ratio of 80:20 did water exist both in the liquid and vapor phases in the reactor at 350°C. The calculated amount of water required to give the saturated vapor pressure of 2,300 kPa at 350°C is 53 grams. Considering the amount of water recovered and that some water would be expended in forming hydrogen and carbon monoxide, it is apparent that only enough water was present to supply the vapor phase during other runs with lower water-to-cellulose ratios. Under these conditions, the pressure of the system reached a plateau as soon as the desired temperature was attained. On the other hand, in experiment 4 the pressure steadily increased during the reaction time owing to the water-gas shift reaction.

The presence of additional liquid(s) may improve the process considerably. The major factor that needs to be determined is the nature of the liquid, its boiling point, and its effectiveness in converting cellulose to oil. The water content is also important, as it will affect the overall efficiency of the reaction.
reaction. First, most substrates contain large amounts of moisture. Second, since most organic wastes are highly oxygenated, water is formed during their decomposition.

Water is also a solvent of sorts. It is true that most substrates are not soluble in water under normal conditions, but some can be dissolved in water. The presence of water in a reaction mixture may allow the reaction to proceed more efficiently.

The table in the document shows the conversion of various catalysts in the reaction of cellulose with NaCO3. The catalysts are listed in order of their effectiveness. The table includes the weight of the catalyst used, the time of reaction, and the conversion percentage. The results show that NaCO3 is the most effective catalyst, followed by H2O and CO, and then Na2CO3.

The alkaline salts may serve several purposes:

1. In the presence of carbon monoxide, they are converted to formates which react with hydrogen to form formic acid.
2. They are used as hydrogenation catalysts.
3. They are used as hydrogenation catalysts.
4. They are used as hydrogenation catalysts.

The effective conversion of cellulose into alkenes is achieved by carbonization of the cellulose. This process involves heating cellulose in the absence of oxygen, which results in the formation of carbonaceous residues. These residues can be used as fuel or as a source of carbon precursors for the production of activated carbon.

Table 5. Effect of Solvent on Operating Pressure and Cellulose Conversion

<table>
<thead>
<tr>
<th>Solvent (ml)</th>
<th>Operating Pressure (psi)</th>
<th>Cellulose Conversion</th>
</tr>
</thead>
<tbody>
<tr>
<td>40</td>
<td>120</td>
<td>63</td>
</tr>
<tr>
<td>20</td>
<td>120</td>
<td>69</td>
</tr>
</tbody>
</table>

Table 6. Effect of Catalysts on Operating Pressure and Cellulose Conversion

<table>
<thead>
<tr>
<th>Catalyst</th>
<th>Weight (g)</th>
<th>Time (min)</th>
<th>Conversion (percent)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Na2CO3</td>
<td>1.0</td>
<td>120</td>
<td>63</td>
</tr>
<tr>
<td>K2CO3</td>
<td>1.2</td>
<td>15</td>
<td>78</td>
</tr>
<tr>
<td>MgO</td>
<td>1.0</td>
<td>120</td>
<td>81</td>
</tr>
<tr>
<td>NH4OH</td>
<td>1.0</td>
<td>120</td>
<td>73</td>
</tr>
<tr>
<td>H2O</td>
<td>1.0</td>
<td>120</td>
<td>77</td>
</tr>
</tbody>
</table>

*Operating pressure 4,000 psi.* 100 percent aqueous solution of NaOH.

The alkaline salts may serve several purposes:

1. In the presence of carbon monoxide, they are converted to formates which react with hydrogen to form formic acid.
2. They are used as hydrogenation catalysts.
3. They are used as hydrogenation catalysts.
4. They are used as hydrogenation catalysts.

The effective conversion of cellulose into alkenes is achieved by carbonization of the cellulose. This process involves heating cellulose in the absence of oxygen, which results in the formation of carbonaceous residues. These residues can be used as fuel or as a source of carbon precursors for the production of activated carbon.

Although originally alkaline, the pH of the recycle aqueous phase drops to about 5 during use, probably because small amounts of organic acids are produced. This gradual decrease in conversion rate with reuse of catalysts suggests that acidic compounds may be necessary for regeneration. This should be possible by heating the solution to the temperature at which the acidic compounds are destroyed.

The most effective catalysts, however, for converting cellulose materials to oil at 850°F in high-boiling hetero cyclic nitrogen bases, such as isquinoline, discussed in the section on vehicles. These dual-role catalysts combine the roles of a catalyst and a solvent. Hydrogenation of the cellulose reduces the cellulose to an oil which is used to produce the final gas. This is an estimate and the exact amount of carbon dioxide is not known.
The soft pine used in the experiments of tables 5 and 8 contained some naturally occurring catalysts; addition of a few percent of some calcium or potassium carbonate would increase conversion to about 90 percent, but would not increase hydrogen utilization appreciably. In the absence of carbonate, however, effects of hydrocarbon conversions greater than 95 percent, and hydrogen utilization normally greater than 80 percent (table 8). It is interesting to point out the reasons for the high effectiveness of nitrogen bases as catalysts. Like ammonia, they can form salts, such as isoquinoilide formate, which may give up its formate hydrogen to the substrate more easily than the alkali formates. On the other hand, the alkali metal formates, having limited solubility in the organic phase, may decompose before they can denature all their hydrogen to cellulose fragments.

There is another intriguing possibility. Nitrogen bases have low reduction potentials and are excellent hydrogen transfer agents. Perhaps the combination of isoquinoilide and the resulting hydrocarboxylic compound then donates this added hydrogen to the cellulose. The effectiveness of anthraquinone as a solvent may be due to its content of many heterocyclic nitrogen compounds.

Effect of substrate

Water-soluble carbohydrates and hydrocarbons utilization. Isocynoline usually dissolves some water-soluble compounds (at mild alkaline conditions) can be converted to a butenone at 250 °C. Materials which have been converted to butenone at 250°C include glucose, lactose, sucrose, starch, newsprint, pine needles and twigs, and sewage sludge. Cellulose in some freshly cut trees and cellulose materials with large amounts of lignin resist attack at 250 °C, but they do react at higher temperatures.

Animal waste, once an essential fertilizer for successful farming, now creates a formidable disposal problem. The underlying reason is, undoubtedly, the high demand of nitrogen, an essential nutrient. The reactor and the liquid-gas interface area will be used to catalyze the reaction of carbon monoxide with organic materials. This will improve oil yield per reactor volume, an important plant design consideration.

<table>
<thead>
<tr>
<th>Constituent</th>
<th>As used</th>
<th>Dry, ash free basis</th>
<th>Composition of oil</th>
<th>percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Carbon</td>
<td>23.5</td>
<td>52.2</td>
<td>78.6</td>
<td></td>
</tr>
<tr>
<td>Hydrogen</td>
<td>3.5</td>
<td>6.4</td>
<td>9.5</td>
<td></td>
</tr>
<tr>
<td>Sulfur</td>
<td>2.7</td>
<td>3.3</td>
<td>4.7</td>
<td></td>
</tr>
<tr>
<td>Oxygen</td>
<td>8.0</td>
<td>1.2</td>
<td>3.7</td>
<td></td>
</tr>
<tr>
<td>Ash</td>
<td>15.1</td>
<td>34.8</td>
<td>28</td>
<td></td>
</tr>
<tr>
<td>Water</td>
<td>45.5</td>
<td>92</td>
<td>18.5</td>
<td></td>
</tr>
</tbody>
</table>

Conversion 99 percent, oil yield 47 percent.

The product from the continuous runs is generally a brownish-black oil at room temperature. Even though its density is only slightly less than that of the water, the oil is separated by centrifugation and kept for lower pressure runs. The temperature of the oil at 350 °C had an elemental composition of 76.3 percent C, 9.1 percent H, and 16.7 percent O (by difference); its heating value is 16,200 Btu per pound. The oil produced at 380 °C contained 87.7 percent C, 9.4 percent H, and 12.9 percent O. Mass, infrared, and ultraviolet spectrometric examination of the oil produced at 350 °C and 4,000 psig indicated that the oil is almost entirely aliphatic with either linear and cyclic carbons, and hydroxyl groups present. Much of the material appeared to exist in cyclic structures. Nuclear magnetic resonance examination showed that most of the hydrogens in the product were in methylene or methyl groups; a large proportion of these groups were alpha or beta to a carbonyl group or to an unsaturated carbon atom. About 4 percent of the hydrogen was "unsaturated"—probably on olefinic (rather than aromatic) carbon atoms; another 3 percent of the hydrogen occurred in the form of =OH groups. There was no indication of aldehydic hydrogen (–C=O).

The results of a simulated distillation by gas-liquid chromatography are as follows: Percent distilled—distillation weight/original weight

<table>
<thead>
<tr>
<th>Temperature °C</th>
<th>6.0</th>
<th>8.5</th>
<th>10.0</th>
<th>12.0</th>
<th>14.0</th>
<th>16.0</th>
<th>18.0</th>
<th>20.0</th>
<th>22.0</th>
<th>24.0</th>
<th>26.0</th>
<th>28.0</th>
<th>30.0</th>
<th>32.0</th>
<th>34.0</th>
<th>36.0</th>
<th>38.0</th>
<th>40.0</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>42</td>
<td>45</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

Initial bp.

CONCLUSIONS

A significant part of the energy demand of the Nation can be obtained on a renewable basis by converting nearly every kind of organic solid waste to a low-sulfur oil by treatment under pressure with carbon monoxide and water. This method of lowering carbon monoxide consumption and for operating at lower pressures has been found; these oil products are in high demand. For conversion, cellulose materials to oil. While the effects of temperature, pressure, and water on this process have not been explored, more work is required to find optimum conditions for the conversion. A continuous unit has operated successfully, and preliminary results have been obtained on the conversion of sucrose to oil.

FOOTNOTES

1. Research chemical.
2. Supervisory chemical research engineer.
3. Project coordinator.
ORDER FOR RECOGNITION OF SENATORS BYRD OF VIRGINIA, MAGNUSON, AND BYRD OF WEST VIRGINIA, AND ORDER PROVIDING FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that following the remarks by the Senator from Arkansas (Mr. McCLELLAN) tomorrow, the distinguished senior Senator from Virginia (Mr. BYRD) be recognized for not to exceed 15 minutes, that he be followed by the distinguished senior Senator from Washington (Mr. Magnuson) for not to exceed 15 minutes, and that he be followed by the junior Senator from West Virginia (Mr. BYRD), for not to exceed 15 minutes, following which there be a period for the transaction of routine morning business, with statements there-in limited to 3 minutes, the period for routine morning business not to extend beyond 10 a.m.

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

RELIEF OF WILLIAM D. PENDER

Mr. BYRD of West Virginia. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 248.

The PRESIDING OFFICER (Mr. HOLLINGS) laid before the Senate the amendment of the House of Representatives to the bill (S. 248) for the relief of William D. Pender which was to strike out all after the enacting clause, and insert:

That the Secretary of the Treasury is authorized and directed to pay, out of any money not otherwise appropriated, to William D. Pender, an employee of the Department of the Army, the sum of $3,602.69, in full satisfaction of all claims of said William D. Pender, for high commercial storage rates and the short-fuse on final action on the following:

Foreign aid?

Continuing resolution on foreign aid?

In any event, the House acts first.

The conference report on phase II economic proposal. The conference has not yet been held, but Senate conferences are ready to meet when House conferences are ready.

The foregoing items constitute the key to sine die adjournment, and the Senate stands ready and awaits the actions of the other body.

Further conference reports which may or may not be acted upon before adjournment— and which can, if necessary, be carried over to the first part of next year—are as follows: Federal credit unions are dumpy, electric reform, social security amendments, interest rates on insured mortgages, lump sum death payment.

The motion was agreed to.

RELIEF OF CERTAIN INDIVIDUALS

Mr. BYRD of West Virginia. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 113.

The PRESIDING OFFICER (Mr. HOLLINGS) laid before the Senate the amendment of the House of Representatives to the bill (S. 113) for the relief of certain individuals and organizations which were, on page 2, line 3, after "Dakota," inserted "and Mildred C. Payne."

On page 2, line 4, strike out "$256.89," and insert "$267.97,"


The motion was agreed to.

PERSONAL STATEMENT

Mr. BYRD of Virginia, Mr. President, will the Senator yield?

Mr. BYRD of Virginia. Mr. President, at 10:30 this morning, the Senate voted on a conference report. The Senator from Virginia was out of the city, arriving back a few minutes late, and as a result was not able to cast his vote on that conference report.

I ask unanimous consent that the record show that the Senator from Virginia be present, he would have voted "aye."

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

THE OUTLOOK FOR SINE DIE ADJOURNMENT

Mr. BYRD of Virginia, Mr. President, when will sine die adjournment occur?

The answer to that question depends on final action on the following:

Conference report on defense appropriations. The House acts first.

Conference report on D.C. appropriations. The House acts first.

Foreign aid?

Continuing resolution on foreign aid?

In any event, the House acts first.

The conference report on phase II economic proposal. The conference has not yet been held, but Senate conferences are ready to meet when House conferences are ready.

The foregoing items constitute the key to sine die adjournment, and the Senate stands ready and awaits the actions of the other body.

Further conference reports which may or may not be acted upon before adjournment—and which can, if necessary, be carried over to the first part of next year—are as follows: Federal credit unions are dumpy, electric reform, social security amendments, interest rates on insured mortgages, lump sum death payment.

The vote was agreed to; and (at 7 o'clock and 51 minutes p.m.) the Senate adjourned until tomorrow, Saturday, December 11, 1971, at 9 a.m.

ADJOURNMENT TO 9 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 9 a.m. tomorrow.
States Code, sections 3284 and 3298:

- Ball, Larry E.,          
- Cirone, Salvatore M.,          
- Bennett, Harry S.,          
- Berry, Phillip C.,          
- Blitter, Patrick F.,          
- Bischoff, John D.,          
- Boatwright, Leroy C.,          
- Bongiorno, Dominick J.,          
- Booton, Paul M., Jr.,          
- Bourne, Gerald H.,          
- Bradley, David R.,          
- Brethorst, William W.,          
- Brie, Carwyn W.,          
- Brooks, Robert W.,          
- Brooks, Charles R.,          
- Brooks, David L.,          
- Brooks, Mack M.,          
- Browder, Dewey A.,          
- Brown, Bertha M.,          
- Brown, Richard M.,          
- Brown, Roger F.,          
- Bryant, Scott A.,          
- Bullock, Bobby J.,          
- Bullock, William F.,          
- Caggiano, Arthur W.,          
- Callen, Paul J.,          
- Calocci, Thomas F.,          
- Campbell, Francis A.,          
- Campbell, James M.,          
- Campigli, Michael V.,          
- Carbone, Joseph D.,          
- Carey, Stephen W.,          
- Carfagna, Don E.,          
- Carpenter, William L.,          
- Casey, James T.,          
- Cecere, Robert L.,          
- Chambers, William W.,          
- Chapin, Steven W.,          
- Charlton, Donald G.,          
- Chase, Michael J.,          
- Childers, William M.,          
- Chubb, James M.,          
- Ciccoloella, Claudio,          
- Ciccoloella, Richard P.,          
- Clark, Jerry B.,          
- Coleman, John H.,          
- Collins, William P.,          
- Collinsworth, Tim A.,          
- Connors, Michael D.,          
- Cook, Robert L., Jr.,          
- Cook, Craig A.,          
- Cording, Lewis C.,          
- Corrigan, Michael R.,          
- Costa, Joseph M.,          
- Cottrell, Walter T.,          
- Craft, Troy L., Jr.,          
- Craig, David B.,          
- Croenshaw, Robert E.,          
- Crites, Harold F.,          
- Crosby, Lamar C.,          
- Cross, James B.,          
- Cruzkhan, Alice R.,          
- Culhane, Kevin V.,          
- Daniels, Richard S.,          
- Dasher, Steven A.,          
- Dauphine, Donald D.,          
- Davis, Mark W.,          
- Davis, Ralph J.,          
- Deacon, Carrell W.,          
- Deck, William R.,          
- Deming, Dennis C.,          
- Denler, Douglas P.,          
- Dickins, Ralph K., Jr.,          
- Dietz, Thomas A.,          
- Dillam, Richard E.,          
- Dorazio, Gene S.,          
- Doremus, Darrel D.,          
- Duane, Denise L.,          
- Dunn, Michael W.,          
- Duval, William G.,          
- Duval, Julius D.,          
- Early, Michael T.,          
- Ebert, Roger L.,          
- Eggers, John L.,          
- Elinson, Kenneth M.,          
- Erickson, Kenneth L.,          
- Erickson, Martin D.,          
- Ertson, Jean A.,          
- Evenson, Michael K.,          
- Evis, Robert G.,          
- Ezell, Janny E.,          
- Fagan, James D., Jr.,          
- Felling, Paul W.,          
- Fish, J. B., Jr.,          
- Flagg, Albert C., Jr.,          
- Foote, Robert D.,          
- Foreman, James E.,          
- Fritz, Patricia M.,          
- Galloway, James E.,          
- Gandara, Guillermo A.,          
- Garlock, Warren D.,          
- Garoutte, Mims D.,          
- Geis, Craig E.,          
- Gibbs, Allen D.,          
- Gibbs, Charles C.,          
- Gidej, Jaroslav,          
- Giger, John R.,          
- Glendon, Donald W.,          
- Gober, Donald F.,          
- Gorf, Forrest W.,          
- Gogol, Gordon S.,          
- Goldberg, Lewis J.,          
- Goldsmit, Robert M.,          
- Gramlich, Andrew J.,          
- Gray, Louis G.,          
- Green, Bernard W.,          
- Greer, Dan B., Jr.,          
- Grevert, Donald C.,          
- Griffin, Derek L.,          
- Griffin, Steven R.,          
- Gustafson, Karl J.,          
- Gustin, Jerry J.,          
- Gustine, James E.,          
- Haaretz, Kevia T.,          
- Hardegees, Jimmie H.,          
- Hardin, Steven L.,          
- Harker, William L.,          
- Harnage, Harold E.,          
- Harnes, George W.,          
- Harris, James W.,          
- Harris, James W.,          
- Harris, Philip A.,          
- Harris, Dennis A.,          
- Harris, James W.,          
- Hildbrand, William B.,          
- Hill, William T.,          
- Hilton, Corrandrum I.,          
- Hinkle, Lawrence G.,          
- Hinson, Robert L., Jr.,          
- Hirschman, Norma A.,          
- Hitchcock, Barry W.,          
- Nick, Harry W.,          
- Hoffmeister, Robert B.,          
- Hogan, Lawrence E.,          
- Holloway, Perry G.,          
- Hopkins, Johnny P.,          
- Hopson, Lloyd D.,          
- Horner, Charles E.,          
- Huff, Robert L.,          
- Huffman, Walter B.,          
- Hulse, Clifford B.,          
- Humphries, John L.,          
- Hunter, Cardell S.,          
- Huseman, Dana P.,          
- Huchings, Charles C.,          
- Hyatt, Scott W.,          
- Iaconis, Christopher E.,          
- Jackson, Dennis K.,          
- Jacobs, Kendall E.,          
- Jacobs, Randall, III,          
- Jacquein, William M.,          
- Jalio, Michael B.,          
- Jarvis, James A., Jr.,          
- Jessup, Eric P.,          
- Johnston, Allan G.,          
- Jones, Lewis S.,          
- Jones, Budolph M.,          
- Jones, Ulysses S.,          
- Jones, William W.,          
- Kager, Allen T.,          
- Kestling, William J.,          
- Keller, William P.,          
- Kelly, Lester A.,          
- Kennedy, Harvey H.,          
- Kernan, William F.,          
- Kevorkian, Harold H.,          
- Kietzman, Howard W.,          
- Killian, Michael J.,          
- King, Marc A.,          
- Kirby, Robert F.,          
- Kirkpatrick, William M.,
EXTENSIONS OF REMARKS

December 10, 1971

The nominations beginning Patricia Ac-ountis, to be colonel, and ending Lawrence Zimmerman, to be colonel, which nominations were received by the Senate, appeared in the Congressional Record on Dec. 1, 1971, and

The nominations beginning James L. And-erson, to be professor of physical education, U.S. Military Academy, and ending Kevin M. Scott, to be 2d lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on Dec. 1, 1971.

IN THE MARINE CORPS

The nominations beginning Carolyn J. Au-ridedge, to be lieutenant colonel, and ending Joseph P. Zullo, to be captain, which nominations were received by the Senate and appeared in the Congressional Record on Nov. 12, 1971,

SUPREME COURT OF THE UNITED STATES

William H. Rehnquist, of Arizona, to be an Associate Justice of the Supreme Court of the United States.

WHAT ABOUT THE MONEY?

HON. JAMES W. SYMINGTON
OF MISSOURI
IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1971

Mr. SYMINGTON. Mr. Speaker, I would like to call the attention of the House to an editorial dealing with the Health Manpower Act and the Nurse Training Act. The article, entitled "What About the Money?" appeared in the St. Louis Post-Dispatch, December 2, 1971.

One of the most serious problems facing this country is the lack of adequately trained and adequately paid health care personnel. The doctor, nurse, and medical technician shortage is critical. As a member of the Public Health Subcommittee of the Interstate and Foreign Commerce Committee, I have visited hospitals and have seen, firsthand, the real need for more doctors, more nurses, and more Federal dollars if we are to solve the health crisis.

If our physicians, dentists, and nurses are to be both accessible and adequately trained, the President must support appointments that call for this kind of Presidential support:

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WHAT ABOUT THE MONEY?

A significant step toward increasing the number of physicians, dentists, nurses and